DocuSign Envelope ID: 121A55E3-1BB3-4C19-9F8A-03E918758EF4

MIAMIBEACH

PLANNING DEPARTMENT

Staff Report & Recommendation — Planning Board

TO: Chairperson and Members
Planning Board

DATE: May 28, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

DS for TRM

SUBJECT: **PB24-0659 f.k.a. PB File No. 1481-B 1905 Collins Avenue**

An application has been filed requesting a modification to a previously Conditional Use Permit for a Neighborhood Impact Establishment. Specifically, the applicants are requesting to change the owner/operator pursuant to Chapter 2, Article V, Section 2.5.2. of the Miami Beach Resiliency Code.

RECOMMENDATION

Approval with conditions

BACKGROUND

At one point, Rok Bar and Mynt Lounge were joined into one Neighborhood Impact Establishment under one Conditional Use Permit. The following is the historical sequence of events:

December 19, 2000: Mynt Lounge received a Conditional Use Permit to operate a Neighborhood Impact Establishment as a bar/lounge, with recorded music and some live entertainment but no dance floor and not to be operated as a dance hall.

May 24, 2005: Mynt Entertainment, LLC, was granted a modification to a Conditional Use Permit to increase the occupancy load due to the inter-connection with the adjacent alcoholic beverage establishment space known as Rok Bar and operate both venues as an NIE.

November 25, 2008: Mynt Holding Company, LLC, and Rok, LLC were granted a modification to a Conditional Use permit to allow for the separation of Mynt Holding Company, LLC and Rok, LLC as two separate Neighborhood Impact Establishments with two separate Conditional Use Permits. PB files 1481-A and 1481-B

June 23, 2009: Rok, LLC was granted a modification to a Conditional Use permit to increase the square footage of the second level mezzanine area by approximately 100 square feet in order to expand the area for the production and lighting equipment to be accessible only to employees.

October 28, 2014: The New Rok, LLC, was granted a modification to a Conditional Use permit to a previously issued Conditional Use Permit to change the name of the owner from Rok, LLC, to The New Rok, LLC.

DocuSign Envelope ID: 121A55E3-1BB3-4C19-9F8A-03E918758EF4

STAFF ANALYSIS

The applicant is requesting a modification to the existing Conditional Use Permit (MCUP) in order to change the ownership/operator. Specifically, to change the owner from Rok, LLC to Lipaz Schwartz, as required by Condition 4 in the CUP. No other changes are being requested at this time.

Should this request be approved, Condition 4 would be amended as follows, which includes a modification to allow the submission of an affidavit for a change of owner/operator, consistent with recent CUP approvals:

4. This Modified Conditional Use approval is granted to ~~The New Rok, LLC~~ Lipaz Schwartz as the owner/operator of the establishment. Any substantive change in the operation from a bar/lounge with dance and entertainment or change of owners or operators shall require ~~review and approval by the Planning Board as an amendment to this Conditional Use Permit~~. the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt. A progress report shall be scheduled within 60 days followed by the submission and acceptance of the affidavit.

In order to be consistent with recent CUP approvals, staff is recommending the following additional condition:

22. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.

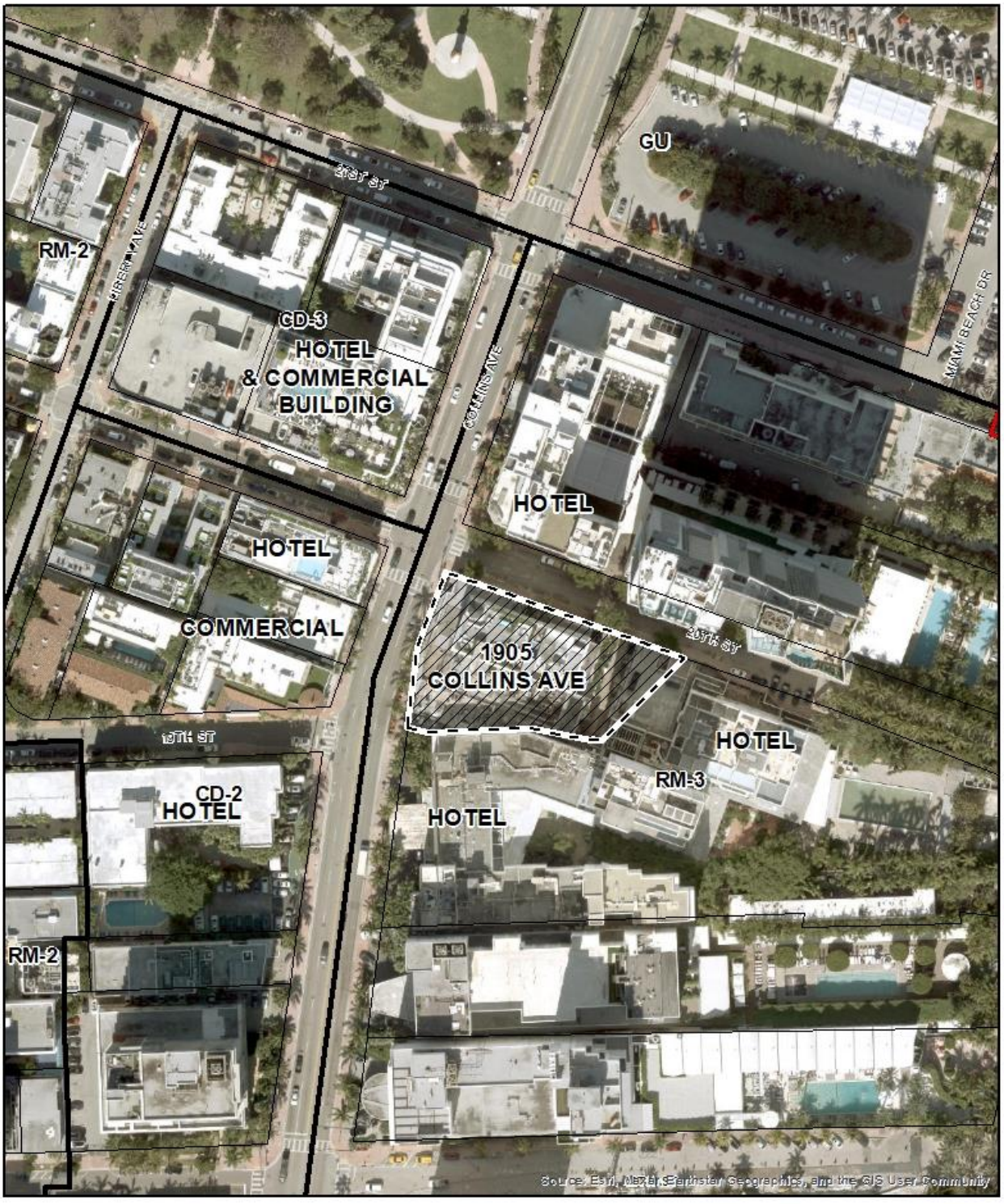
These proposed new conditions have been incorporated into a revised MCUP (see attached). The rest of the conditions remain the same.

STAFF RECOMMENDATION

In view of the foregoing analysis, staff recommends that the application be approved subject to the conditions enumerated in the attached Draft Order.

DocuSign Envelope ID: 121A55E3-1BB3-4C19-9F8A-03E918758EF4

ZONING/SITE PLAN



MIAMIBEACH
PLANNING DEPARTMENT
1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 P 305.673.7550 www.miamibeachfl.gov

0 25 50 100 150 200 250 Feet

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 1905 Collins Avenue

FILE NO. PB24-0659 f.k.a. PB File No. 1481-B

IN RE: An application requesting a modification to a previously Conditional Use Permit for Neighborhood Impact Establishment. Specifically, the applicants requested to change the owner/operator pursuant to Chapter 2, Article V, Section 2.5.2. of the Miami Beach Resiliency Code

LEGAL DESCRIPTION: Lot 3 and a portion of Lot 2, Block B, Ocean Front Subdivision, as recorded in PB 5-7; and part of Lot 7, Block 1, Alton Beach First Subdivision, as recorded in PB 2-77 of the public records of Miami-Dade County, Florida.

MEETING DATE: October 28, 2014; May 28, 2024

MODIFIED CONDITIONAL USE PERMIT

The applicant, Lipaz Schwartz ~~The New Rok, LLC~~, filed an application with the Planning Director for a Modification to a previously issued Conditional Use Permit for a Neighborhood Impact Establishment. Specifically, the applicants are requesting to change the name of the owner/operator, pursuant to Chapter 2, Article V, Section 2.5.2 of the Miami Beach Resiliency Code. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the RM-3 - Residential Multi Family, High Intensity Zoning District;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact and the staff report and analysis, which are adopted herein, including the recommendations, that the Conditional Use Permit be modified as requested, upon the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of the progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).

2. The applicant shall resolve outstanding violations, fines and liens prior to the issuance of a Modified Certificate of Use or Occupational License, whichever may apply.

3. The conditions of approval for this Modified Conditional Use Permit are binding on the applicant, the property owners, and all successors in interest and assigns.

4. This Modified Conditional Use approval is granted to ~~The New Rok, LLC~~ Lipaz Schwartz as the owner/operator of the establishment. Any substantive change in the operation from a bar/lounge with dance and entertainment or change of owners or operators shall require ~~review and approval by the Planning Board as an amendment to this Conditional Use Permit~~. the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt. A progress report shall be scheduled within 60 days followed by the submission and acceptance of the affidavit.

5. All special events promotions, if any, shall be the strict responsibility of the owner/operator, The ~~New Rok, LLC~~ Lipaz Schwartz. Any deviation from this condition shall be deemed a modification of the final order and requires Planning Board approval. The volume of music shall be controlled by management only; DJs shall be prohibited from manipulating volume controls. Non-compliance with this condition shall be deemed a violation of the Permit and subject to the remedies as described in Sec. 118-194 of the City Code.

6. Vestibules shall be created at the main entrance to further mitigate sound from traveling out to the right-of-way. This feature may require a redesign of the entrance features and shall be submitted to staff for review and approval. The exterior of the vestibule surround and entrance doors shall be clear and transparent. The interior of the vestibules shall be decorated to present an acceptable appearance through the transparent glass doors and surround at all hours of the day.

7. Business identification signs shall be limited to sign copy indicating the name of the establishment only, subject to design review staff approval. Street flyers and handouts shall not be permitted.

8. **All** performances, if any, shall be limited to the interior of the bar/lounge and shall not be visible through the windows from the public right-of-way. Window treatment may be opaque with

horizontal clear see-through bands, subject to a Certificate of Appropriateness review and approval by staff.

9. The hours of operation shall be as requested by the applicant, from 9:00 p.m. to 5:00 a.m., seven days a week, and as proposed by the applicant, no one under the age of 21 shall be permitted inside the premises. Non-compliance with this condition shall be deemed a violation of the final order and subject to the remedies as described in Sec. 118-194 of the City Code.

10. The Planning Board shall retain jurisdiction to call the operators back before them without the requirement of a modification hearing as provided for in Section 118-194(c) and impose new conditions, modify the hours of operation, other noise conditions, or the occupant load should there be issuance of written warnings and/or notices of violation (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual late night noise.

11. A violation of Section 46-152, Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended and as these sections may in the future be renumbered, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.

12. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan) by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.

13. Stanchions shall be required along the entrances for the queuing of patrons. In the event that there is queuing of people on the sidewalk impeding the free-flow of pedestrians on the sidewalk, the operator shall be required to have staff take action to remove such crowds from the sidewalk.

14. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the area of the street on Collins Avenue, in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.

15. A building permit to separate the two establishments shall be obtained within one (1) year of this public hearing, and the project completed in accordance with the requirements of the Florida Building Code.

16. Non-compliance with any of the conditions specified herein shall be deemed a violation of this Modified Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code, including but not limited to revocation of this Permit.

17. The applicant shall be allowed to construct an approximately 100 square foot addition to the second level lighting and production area for the purpose of expanding that area as proposed, subject to all applicable permits from the City. This area shall be accessible to the applicant's employees only.

18. The executed Modified Conditional Use Permit shall be recorded in the Public Records of Miami Dade County, Florida at the expense of the applicant and returned to the Planning Department. No building permit, certificate of use, certificate of occupancy, certificate of completion or business tax receipt shall be issued until this requirement has been satisfied.

19. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

20. The establishment and operation of this Modified Conditional Use shall comply with all the aforementioned conditions of this approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

21. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

22. That the applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP

Dated this _____ day of _____, 2024.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Michael Belush, AICP
Planning and Design Officer
for the Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Michael Belush, Planning and Design Officer for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

_____
Notary:
Print Name
Notary Public, State of Florida
My Commission Expires:
Commission Number:

{NOTARIAL SEAL]

Approved As To Form:
Legal Department: _____ ( )

Filed with the Clerk of the
Planning Board on: _____ ( )