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MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: June 25, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

DS for TRM

SUBJECT: **PB21-0442. 743 Washington Avenue. Progress Report.**

HISTORY

December 16, 2008 Approval of a Conditional Use Permit (CUP) for Buddha Lounge d/b/a The Gates for a neighborhood impact establishment consisting of a restaurant and a bar/lounge with a double door vestibule and a retail component at the front entrance.

May 26, 2009 Approval of a Modification to the previously approved CUP eliminating Buddha Lounge d/b/a The Gates, and replacing Scott Robins as President of 8th Street Washington Holdings, Inc. as the operator of the neighborhood impact establishment as previously approved.

August 23, 2011 Approval of a Modification to the previously approved CUP to operate only as an entertainment establishment without food service, rather than as a restaurant and bar/lounge; and to change the name of the operator from Washington Holdings Inc. to Washington Entertainment, LLC.

February 28, 2012 Approval of a Modification to the previously approved CUP to change the name of the operator from "Washington Entertainment, LLC 743" to "Washington Entertainment, LLC."

July 27, 2021 Approval of a Modification to the previously approved CUP to change the name of the operator from "Washington Entertainment, LLC" to "Mansourandco, LLC.."

PROGRESS REPORT

On May 29, 2024, the attached cure letter was sent to "Mansourandco, LLC", the applicant for the CUP that was last modified by the Planning Board on July 27, 2021. The cure letter requested that the applicant appear before the Planning Board on June 25, 2024, for a progress report.

There have been violations and warnings regarding work done without obtaining a Certificate of Appropriates, and for the operation of the establishment contrary to the requirements of the Conditional Use Permit (CUP). These violations include the following, as of the writing of this report:

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1. **Case No. CUP2024-00074 5/18/2024.**
   CUP Condition Violation.
   Ref: Black film (tinting) has been applied to the windows in contravention of condition 13 of the City of Miami Beach Conditional Use Permit.
   Sections 142-153, 118-194, 114-8:
   Failure to operate your business in accordance with your conditional use permit.
   B.McLean 728 BWC

2. **Case No. ZV2024-05289 5/18/2024.**
   Ref: The installation of a large, gold sculpture at the center of the entrance and installation of window tints.
   Sections 114-8, 118-503, 118-533, 118-561.
   Altering a property without obtaining a Certificate of Appropriateness.
   B.McLean 728 BWC

3. **Case No. CC2024-17985 5/19/2024**.
   Violation of Section 82-151.
   A person or entity obstructing or causing to obstruct any street or sidewalk in the city or impeding the general movement of vehicular or pedestrian traffic without first obtaining a right-of-way permit.
   Ref; Line queuing outside of Vendome on the sidewalk.
   1st offense 500.00
   CCO R Santana 705
   CCA Jefferson 747
   CCAD Curitore 700
   BW Used

4. **Case No. CUP2024-00075 5/19/2024**
   Violation of: Sections: 142-153, 118-194, 114-8.
   Failure to operate your business in accordance with your conditional use permit
   Ref; Line queuing outside of Vendome on the sidewalk.
   CCO R Santana 705
   BWC used

STAFF ANALYSIS

As identified above, the property has received several violations, including for the installation of a sculpture on the property without obtaining a Certificate of Appropriateness. Additionally, violations related to the CUP have been issued for the application of window tinting and for the obstruction of the public sidewalk due to patrons queuing in front of the establishment.

The following conditions of approval contained in the CUP are applicable regarding the above noted violations:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board in 90 days after the Business Tax Receipt has been issued. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional

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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).

13. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.

15. Queuing of persons on the sidewalk shall be prohibited. Queuing shall take place within the premises, as shown in the plans submitted, and controlled by The Gates security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment.

22. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of 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 the 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 permit.

The violations noted herein pertaining to sidewalk queuing will require additional monitoring by Code Compliance. Additionally, action will need to be taken the applicant to address the exterior improvement issues noted herein. Staff recommends that the Board hear testimony from the applicant and the public, and continue the progress report to the July 30, 2024 meeting to ensure these matters are being addressed.

Should the Planning Board consider setting a public hearing for the purpose of examining the noncompliance issues noted herein, and initiate modification/revocation proceedings, this matter may be placed on the September 24, 2024 agenda of the Board as a modification/revocation hearing. Based on substantial competent evidence, the board may consider revoking the approval, modifying the conditions thereof, or imposing additional or supplemental conditions.

STAFF RECOMMENDATION

Staff recommends that the Planning Board discuss and continue the progress report to the July 30, 2024, meeting.

MIAMIBEACH
PLANNING DEPARTMENT
City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139
Tel: (305) 673-7550

May 29, 2024

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mansourandco LLC. DBA Vendome
C/O Gianese-Pittman, P.A.
100 Biscayne Blvd.
Suite 3070
Miami, FL 33132

Re: **Planning Board File No. PB21-0442 – 743 Washington Avenue**

Dear Sir/Madam:

A Conditional Use Permit (CUP) to operate a Neighborhood Impact Establishment was initially issued by the Planning Board on December 16, 2008. The CUP was last modified on July 27, 2021, to change the name of the operator to Mansourandco, LLC.

It has come to the Planning Department's attention that violations have been issued by the Code Compliance Department, including regarding the operation of establishment. The following warnings, violations and open offenses are showing in the City's records as of this writing:

1. **Case No. CUP2024-00074 5/18/2024.**
   CUP Condition Violation.
   Ref: Black film (tinting) has been applied to the windows in contravention of condition 13 of the City of Miami Beach Conditional Use Permit.
   Sections 142-153, 118-194, 114-8:
   Failure to operate your business in accordance with your conditional use permit.
   B.McLean 728 BWC

2. **Case No. ZV2024-05289 5/18/2024.**
   Ref: The installation of a large, gold sculpture at the center of the entrance and installation of window tints.
   Sections 114-8, 118-503, 118-533, 118-561.
   Altering a property without obtaining a Certificate of Appropriateness.
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3. **Case No. CC2024-17985 5/19/2024**.
   Violation of Section 82-151.
   A person or entity obstructing or causing to obstruct any street or sidewalk in the city or impeding the general movement of vehicular or pedestrian traffic without first obtaining a right-of-way permit.
   Ref; Line queuing outside of Vendome on the sidewalk.
   1st offense 500.00
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4. **Case No. CUP2024-00075 5/19/2024**
   Violation of: Sections: 142-153, 118-194, 114-8.
   Failure to operate your business in accordance with your conditional use permit
   Ref; Line queuing outside of Vendome on the sidewalk.
   CCO R Santana 705
   BWC used

The following conditions of approval contained in the Conditional Use Permit are applicable to the above noted violations:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board in 90 days after the Business Tax Receipt has been issued. The Board reserves the right to modify the Conditional Use approval at the time of a 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).

13. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.

15. Queuing of persons on the sidewalk shall be prohibited. Queuing shall take place within the premises, as shown in the plans submitted, and controlled by The Gates security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment.

22. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of 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 the 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 permit.

In accordance with Condition No. 1 of the CUP, **you are requested to appear at the June 25, 2024 Planning Board hearing** for a verbal progress report.

Please be advised that at the time of the progress report, in accordance with the provisions of Section 2.5.2.5 of the Land Development Regulations of the City Code (LDR's), the Planning Board may consider setting a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings.

Should the Planning Board consider setting a public hearing for the purpose of examining the noncompliance issues noted herein, and initiate modification/revocation proceedings, this matter may be placed on the September 24, 2024 agenda of the Board as a modification/revocation hearing. If a future public hearing is set, the board may consider the issue of noncompliance and the possible modification or revocation of the approval. Based on substantial competent evidence, the board may consider revoking the approval, modifying the conditions thereof, or imposing additional or supplemental conditions.

If you have any questions, please do not hesitate to contact Michael Belush at (305) 673-7000 ext. 26258 or via email at MichaelBelush@MiamiBeachFL.gov.

Sincerely,

Thomas R. Mooney, AICP
Planning Director

TRM\MB

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PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 743 Washington Avenue

FILE NO: PB21-0442 f.k.a File No. 2053 (f.k.a. File No. 1906)

IN RE: An application has been filed requesting modifications to a previously issued conditional use permit for a Neighborhood Impact Establishment with Entertainment. Specifically, the applicant is requesting modifications to the ownership/operator, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: Lot 14 Block 33 of OCEAN BEACH ADDITION #1, according to the plat thereof, recorded in Plat Book 3, Page 11 of the public records of Miami-Dade County, Florida.

MEETING DATE: ~~February 28, 2012~~ July 27, 2021

MODIFIED CONDITIONAL USE PERMIT

The applicant, 743 Washington Entertainment, LLC, filed an application with the Planning Director to modify the Conditional Use Permit pursuant to Section 118-193 of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the proposed modification 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 record for this matter:

That the property in question is located in the CD-2 Commercial, Medium Intensity Zoning District;

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

That the majority of surrounding uses are commercial and residential uses;

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 Ordinance;

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That the public health, safety, morals, and general welfare will not be adversely affected when the conditions of approval are in compliance;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values if the following conditions are met.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, that the modifications to the Conditional Use Permit be GRANTED, as provided below: Underlining = new language; ~~Strikethrough = deleted language~~.

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board in 90 days after the Business Tax Receipt has been issued. The Board reserves the right to modify the Conditional Use approval at the time of a 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. This Conditional Use Permit is issued to ~~743 Washington Entertainment, LLC~~ Mansourandco, LLC as operator of this entertainment establishment. ~~Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.~~ Any change of operator or 50% (fifty percent) or more stock ownership shall require 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 prior to the applicant's submission and staff's acceptance of the affidavit.

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

4. Security personnel shall take measures to enforce the Patron Age Restriction of the City Code during all hours of operation.

5. The hours of operation for this entertainment establishment shall be as follows:

    - Monday - Wednesday: 10:30 AM to 5:00 AM
    - Thursday - Sunday: 5:00 PM to 5:00 AM

6. As shown on the plans, the existing double door vestibules shall be maintained at the main entrance of the establishment.

7. A revised floor plan that shows the seating arrangement shall be submitted to staff for review and approval prior to obtaining a building permit or Certificate of Completion, Certificate of Occupancy or Business Tax Receipt. In addition, as proffered by the applicant, security personnel shall be posted in close proximity to all doors, including the rear exit door.

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8. The garbage holding room opening towards the alley shall be enclosed and air conditioned in order to contain malodorous garbage and to avoid any garbage escaping to the alley.

9. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division. A final concurrency determination shall be conducted prior to the issuance of a Certificate of Occupancy or Certificate of Completion. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving the Business Tax Receipt.

10. The applicant shall coordinate with the Parking Department and the Transportation Manager the location of valet drop-off/pick up and sufficient spaces for the queuing of vehicles waiting to be serviced by the valet operator.

11. Once the applicant enters into a contract with the valet operator, a valet staffing plan and a vehicle storage plan shall be submitted to staff for review and approval.

12. The applicant shall submit for staff review and approval specific noise attenuation measures inclusive of interior proofing prior to the issuance of a Business Tax Receipt.

13. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.

14. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.

15. Queuing of persons on the sidewalk shall be prohibited. Queuing shall take place within the premises, as shown in the plans submitted, and controlled by The Gates security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment.

16. The applicant shall be responsible for maintaining the frontage and exterior of the building and the property in excellent condition, including keeping the sidewalk, curb and gutter in front and side of the building in a clean and sanitary condition, free of all refuse, at all times. When sweeping the sidewalk in front of the establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately. In addition, at the end of business each day sidewalks shall be swept and hosed down.

17. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation or the occupant load should there be issuance of written warnings and/or notices of violation about loud, excessive, unnecessary, or unusual late night noise.

18. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended, 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.

19. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit.

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20. Within a reasonable time after applicant's receipt of this Modified Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No building permit or certificate of completion shall be issued until this requirement has been satisfied.

21. 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.

22. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of 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 the 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 permit.

23. 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.

24. 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: 8/15/2021 | 6:59 PM EDT

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:
BY: _____
CB1FD35D154F4AE
Rogelio Madan, AICP
Chief of Chief of Community Planning & Sustainability
FOR THE CHAIRMAN

STATE OF FLORIDA
)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 13th day of August, 2021, by Rogelio Madan, Chief of Community Planning &

DS

Sustainability 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: Lipica F
Notary Public, State of Florida
My Commission Expires: February 16, 2024
Commission Number: GG 926762

[NOTARIAL SEAL]

Approved As To Form:
Legal Department 8/15/2021 | 11:35 AM EDT (DocuSigned by: 8D8CB88CCAB846C)

Filed with the Clerk of the Planning Board on 8/20/2021 | 1:26 PM EDT (DocuSigned by: Jessica Gonzalez 19FC3F3E9D654A5)

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