

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 26, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB File No. 16-0089-626-650 Ocean Drive-Park Central Hotel**

The applicant, Park Central Partners, LLC, is requesting Conditional Use approval for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment, pursuant to Section 118, Article IV and Section 142, Article V.

RECOMMENDATION

Approval with conditions

BACKGROUND/HISTORY

February 11, 2014 The Historic Preservation Board (HPB) reviewed and approved a Certificate of Appropriateness (COA) for the partial demolition, renovation and restoration of three (3) existing buildings on Ocean Drive: the Heathcote Apartments, the Park Central Hotel and the Imperial Hotel. The project included the reconfiguration of the site, as part of a new hotel development (HPB File No. 7408).

June 19, 2017 The Historic Preservation Board approved a Certificate of Appropriateness for the introduction of an outdoor bar counter within the ground level courtyard and the installation of retractable awning structures attached to the east façades of the Park Central and Imperial Hotels.

October 10, 2017 A variance application to exceed the allowable hours of operation for the
(pending) outdoor bar counter is scheduled for review by the HPB.

ZONING/SITE DATA

Legal Description:

Lots 2, 3, 4 and 5, Block 11 of Ocean Beach Addition No. 1, according to the plat thereof recorded in Plat Book 3, Page 11 of the public records of Miami Dade County, Florida.

Zoning District:

MXE, Mixed-Use Entertainment

Future Land Use Designation:

MXE, Mixed-Use Entertainment

Surrounding Uses:

North: Hotel and restaurant uses
West: Hotel and retail uses
South: Hotel and restaurant uses
East: Lummus Park
(See Zoning/Site map at the end of the report)

THE PROJECT

The applicant has submitted plans entitled “The Park Central Hotel”, as prepared by Borges Architects + Associates, dated April 10, 2017.

The subject site consists of four (4) lots, with three (3) separate buildings: 626, 640, and 650 Ocean Drive, known collectively as “The Park Central Hotel”. The applicant is requesting approval for a neighborhood impact establishment (NIE) and outdoor entertainment establishment (OEE) that includes a covered outdoor bar area within the courtyard, front porch area, pool and pool deck area.

As shown on the plans, the applicant proposes approximately 260 seats, and an occupant content of 511 persons in total. The Letter of Intent (LOI) indicates 246 seats and an occupant content of 465 persons, but the staff report and recommendation will be based on the numbers shown on the plans.

The LOI indicates the outdoor entertainment proposed will be acoustical instruments, wind instruments, keyboards, and a DJ. The proposed hours of operation and entertainment are outlined in the analysis portion of this report.

As a clarification, the traffic evaluation was conducted with only 98 new seats because the buildings had two existing restaurants before the proposed renovation. Also, although the proposed tenants are not the applicants, disclosures for the prospective tenants have been included in the application packages for reference only.

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

1. **The Use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

Consistent–The request is consistent with the Comprehensive Plan.

2. **The intended Use or construction would not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.**

Consistent–The proposed use is not anticipated to degrade the Levels of Service (LOS) for the surrounding area below the thresholds that have been established.

3. **Structures and uses associated with the request are consistent with this Ordinance.**

Consistent–Neighborhood Impact Establishments and Outdoor Entertainment Establishments are permitted as conditional uses in the MXE zoning district. This comment shall not be considered final zoning review or approval. This and all zoning matters shall require final review and verification prior to the issuance of a Business Tax Receipt (BTR).

4. **Public health, safety, morals and general welfare would not be adversely affected.**

Partially Consistent–The proposed establishment may adversely affect the general welfare of nearby residents if noise and other issues are not controlled. Staff is recommending

measures so that any resulting adverse impact is mitigated. The facility would have to comply with all applicable laws and regulations prior to the issuance of a Business Tax Receipt.

5. Adequate off-street parking facilities would be provided.

Consistent–The project does not have any off-street parking requirements, but operationally the applicant proposes to valet cars from a valet ramp in front of the hotel with storage at an off-site parking garage located on 7th and Collins. See the traffic statements and studies provided in the board packages for a detailed description.

6. Necessary safeguards would be provided for the protection of surrounding property, persons, and neighborhood values.

Consistent–Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighbors.

7. The concentration of similar types of uses would not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

Not Consistent–There are multiple Neighborhood Impact Establishments (NIE's) and Outdoor Entertainment Establishments in the area; a list of NIE's and Outdoor Entertainment Establishments approved by the Board in the area is provided in the analysis. The addition of more entertainment associated with this proposal, particularly when combined with the manner in which other, similar establishments are operating may have a negative impact on the surrounding area.

NEIGHBORHOOD IMPACT ESTABLISHMENT REVIEW GUIDELINES

In accordance with Sec. 142-1362 of the Miami Beach City Code, in reviewing an application for an outdoor entertainment establishment, open air entertainment establishment or a neighborhood impact establishment, the Planning Board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to chapter 118, article IV:

(1) An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.

The LOI submitted with the application details the proposed operation of the venue. Also, see analysis in this report.

(2) A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, self-park, shared parking, after-hour metered spaces and the manner in which it is to be managed.

The project does not have any off-street parking requirements, but operationally the applicant proposes to valet cars from a valet ramp in front of the hotel with storage at an off-site parking garage located on 7th Street and Collins Avenue. See the traffic statements and traffic studies included in the Board packages for a detailed description of the valet plan.

- (3) **An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises would be controlled.**

The LOI states that all staff will be trained to guide guests through the property, monitor to prevent queuing, and any obstructions to the passage of patrons and the public. See the LOI for more details.

- (4) **A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.**

The Operation Plan states that the number of security personnel will depend on the day to day operations and needs of the hotel. Details on how the applicant plans on enforcing the patron age restrictions were not provided.

- (5) **A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated**

A full traffic study was not required because staff anticipates that many of its patrons will be staying at the hotel or hotels nearby and/or will arrive on foot, but an evaluation of circulation and valet routes were provided by Traf Tech Engineering and are included in your board packages.

- (6) **A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.**

The applicant proposes that trash pick-up will be part of the hotel operation and conducted at the rear of the properties facing west on Ocean Court (alley.) There is an enclosed trash room area shown on the plans at the rear of the property facing the alley where trash can be stored inside the structure and a loading space shown. See the submitted photographs of the area and plan for the exact locations.

- (7) **A noise attenuation plan which addresses how noise would be controlled to meet the requirements of the noise ordinance.**

The applicant provided a sound study prepared by Eduard Dugger + Associates, PA, and a peer review from Arpeggio Acoustic Consulting, LLC. The sound study suggested that the acoustical measurements taken of underlying level of noise coming from the street and other existing conditions would not result in the project having an acoustical impact on the surrounding neighborhood or residential properties. Arpeggio agreed that there will be ambient sound levels that could overshadow most of the proposed music, but was not entirely convinced that the properties at the rear of the hotel would not be affected. See the attached report and the responses.

- (8) **Proximity of proposed establishment to residential uses.**

The proposed venue is surrounded by other hotels and commercial uses. There are approximately three residential building within 320 feet of the proposed pool deck. One residential building located at 533 Collins Avenue just south of 6th Street to the south west of

the property, approximately 318 feet, is a senior living facility. Due to the proximity to residential uses, staff is recommending conditions to mitigate any potential negative impacts from the operations of this proposed project on surrounding properties.

(9) Cumulative effect of proposed establishment and adjacent pre-existing uses.

There are multiple NIE's and Outdoor Entertainment Establishments within blocks of this property. There is a list of NIE's and Outdoor Entertainment Establishments approved by the Board in this area provided in the analysis. Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighbors.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1)** A recycling or salvage plan for partial or total demolition shall be provided.

Not Applicable

- (2)** Windows that are proposed to be replaced shall be hurricane proof impact windows.

Not Applicable

- (3)** Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Not Applicable

- (4)** Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

Not Applicable

- (5)** Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.

Not Applicable

- (6)** The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.

Not Applicable

- (7)** Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

Not Applicable

- (8)** Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

Not Applicable

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

- (10) Where feasible and appropriate, water retention systems shall be provided.

Not Applicable

STAFF ANALYSIS

Operation

There are three main areas that constitute the food and beverage areas on the subject property: the pool deck area which is behind 626 Ocean Drive; the courtyard area which is between 626 and 640 Ocean Drive; and the bar café at 650 Ocean Drive. The total occupancy of the combined areas is approximately 511 persons which constitutes a Neighborhood Impact Establishment (NIE). Additionally, two of the three areas are almost entirely outdoors: the pool deck and the courtyard bar lounge.

The requested hours of operation are as follows:

1. Interior 7:00 AM to 5:00 AM, 7 days a week
2. Outdoor Seating Areas 9:00 AM to 5:00 AM, 7 days a week
3. Outdoor Bar Counter 10:00 AM to 2:00 AM, 7 days a week*

*The operation of the outdoor bar counter is the subject of a variance application to the Historic Preservation Board (HPB.) The HPB application is scheduled to be reviewed by the HPB on October 10, 2017.

The requested hours of the entertainment are as follows:

Area		Live Music (Acoustic, Keyboard, & Wind)	DJ	Recorded Ambient Music
1.	Interior	7:00am to 5:00am, 7 days a week	7:00am to 5:00am, 7 days a week	7:00am to 5:00am, 7 days a week
2.	Courtyard (pool deck & lounges areas)	9:00am to 2:00am, 7 days a week	9:00am to 2:00am, 7 days a week	7:00am to 5:00am, 7 days a week
3.	Front Porch	9:00am to 2:00am, 7 days a week	-	7:00am to 5:00am, 7 days a week

After reviewing the submitted plans documenting the applicant's desired outdoor operation, staff has concerns about whether entertainment on the front porch area of the 640 Ocean Drive's café bar is appropriate. While the courtyard is less problematic due to its location between buildings on

three sides that can help buffer the noise level, the placement of an entertainment component so close to the sidewalk and sidewalk café at 650 Ocean Drive could become obtrusive, both because of noise and impeded pedestrian flow.

Furthermore, due to the sidewalk conditions and its relation to the patio and the sidewalk café, staff is recommending a prohibition on the hostess stand and menu board being placed in the public right of way. Since there is ample space in the patio area, patrons can be greeted on private property rather than on the sidewalk which causes a bottle neck on pedestrian traffic.

Additionally, the pool deck and pool deck bar are behind 626 Ocean Drive, which is situated in an area close to the property line to the southwest. Directly across the alley to the west is a hotel with rooms adjacent to the alley. There is also a residential building in the area, which provides senior housing, located to the southwest of this property at 533 Collins Avenue. Staff recommends conditions to be placed on the proposed operation, as outlined in the draft CUP, to help mitigate any negative impacts from the pool and pool bar area on the surrounding properties.

Sound

A sound study to evaluate the potential impacts of noise generated by the proposed venue on adjacent neighbors was commissioned by the applicant and prepared by Eduard Dugger + Associates, PA, (included in the application). ED+ A concluded that “the Park Central Hotel will not have an acoustical impact on surrounding neighborhood, particularly at existing residential properties.”

The peer review of the sound study conducted by Arpeggio Acoustic Consulting, LLC concluded that “The sound study prepared by ED+A provides valuable information related to ambient sound levels in the area and presents a clear picture of the establishment and environs. However, further consideration and information related to the aforementioned topics is warranted in order to reach conclusions related to potential impact upon the surrounding neighborhood.”

After further inputs from ED+A, Arpeggio concluded that:

1. There should be some assurance (e.g., sound level limiter) to ensure that levels don't impact the residential building in question.
2. Additionally, the guestrooms at the rear of the Metropole Hotel (assuming these are guestrooms) will not be subject to noise along Collins Avenue. We are unconvinced that the guestrooms at the rear of Metropole, just on the other side of the alley from the pool deck, would not be impacted. Without being familiar with the construction of the guestrooms (particularly the windows), we cannot say whether there will be impact inside the guestrooms.

Also, the following are the Board approved NIE's and Outdoor Entertainment Establishments on Ocean Drive:

Address	Business	CUP	PB File No.
900 Ocean Drive	Mango's	NIE	1387
960 Ocean Drive	Oceans Ten	NIE	1467
1020 Ocean Drive	Clevelander	NIE	1456
1200 Ocean Drive	The Palace	OEE	1901
1236 Ocean Drive	Il Giardino	OEE	1361
1300 Ocean Drive	Café Cardozo	OEE	1653

Sanitation and Deliveries

Waste and recycling collection and deliveries would take place from the rear of the building facing the alley within a loading area shown on the plans and occur between 7:00 AM and 5:00 PM. There is an air-conditioned trash room and area at the rear of the property facing the alley where trash is stored. See the submitted photographs of the area and plan for the exact location.

Parking

The project does not have any off-street parking requirements, but operationally the applicant proposes to valet cars from a valet ramp in front of the hotel with storage at an off-site parking garage located on 7th Street and Collins Avenue. See the traffic statement and studies for the description of the valet routes.

Traffic

At the time of this writing, the Transportation Department is analyzing the traffic statements and studies submitted with this application and will provide a separate memorandum.

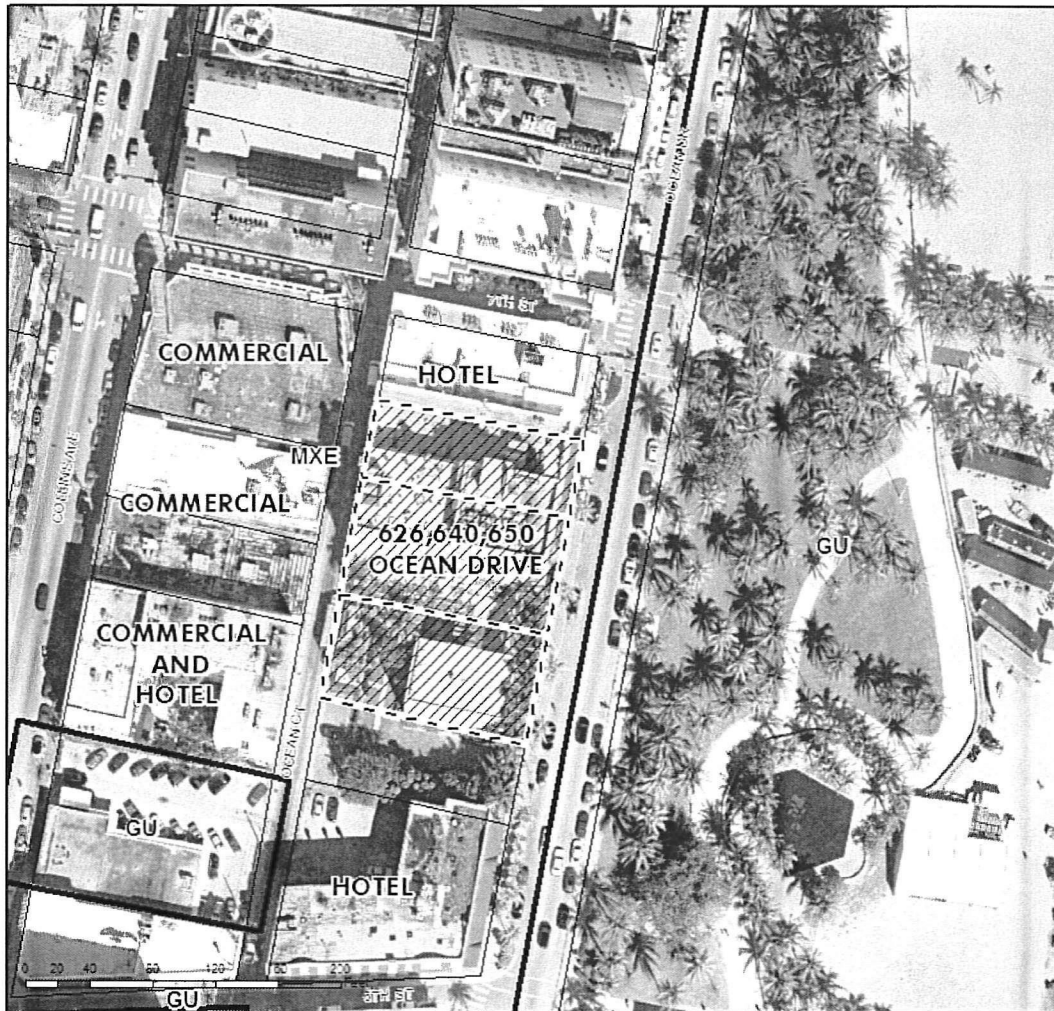
STAFF RECOMMENDATION

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

TRM/MAB/TUI

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ZONING/SITE MAP



City of Miami Beach Planning Board
PB 16-0089
626, 640 and 650 Ocean Drive

The applicant, Park Central Partners LLC, is requesting conditional use approval for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment, pursuant to Section 118, Article IV of the City Code.

MIAMI BEACH
PLANNING DEPARTMENT

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**PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA**

PROPERTY: 626-650 Ocean Drive

FILE NO. PB 16-0089

IN RE: The applicant, Park Central Partners, LLC, requested Conditional Use approval for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment, pursuant to Section 118, Article IV and Section 142, Article V

LEGAL DESCRIPTION: Lots 2, 3, 4 and 5, Block 11 of OCEAN BEACH ADDITION NO. 1, according to the plat thereof recorded in Plat Book 3, Page 11 of the public records of Miami Dade County, Florida.

MEETING DATE: September 26, 2017

CONDITIONAL USE PERMIT

The applicant, Park Central Partners, LLC, filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment pursuant to Chapter 118, Article IV, and Chapter 142, Article V of the City 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 MXE, Mixed-Use Entertainment 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, 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 Conditional Use Permit be GRANTED, as provided below:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR. 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 Park Central Partners, LLC, as owner of the Neighborhood Impact Establishment and Outdoor Entertainment Establishment consisting of a restaurant, lobby lounge, indoor bar, outdoor courtyard area, outdoor bar, pool deck and pool deck bar. Any change of operator or 50% (fifty percent) or more stock ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
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. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.
5. Final design and details of the proposed courtyard area, outdoor bar, and awnings shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Historic Preservation Board.
6. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
7. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
 - A. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed 260 seat project with the criteria listed below:
 - i. The food and beverage areas of the hotel covered in the CUP shall have a maximum occupant content of approximately 511 persons or any lesser such occupant content as determined by the Fire Marshal.
 - ii. The indoor portions of the project may operate until from 7:00 AM until 5:00

AM and all other areas excluding the outdoor bar counter, pool deck and pool deck bar shall not operate past 2:00 AM.

- iii. Entertainment of any kind shall be prohibited in the outdoor porch and sidewalk café area in the front of the project's three buildings.
 - iv. The pool deck and the bar area shall not be allowed to have live performers, and any outdoor entertainment from a DJ shall be played at an ambient level as background music that will not interfere with normal conversation. The ambient level music played by a DJ may start at 11:00 AM and shall not operate past 12:00 AM (midnight), seven days per week.
 - v. As proposed by the applicant, the courtyard area may have a DJ or a maximum of two wind or string instruments and a keyboard, whether amplified or non-amplified, which is played at a volume limited by the below condition (vi.)
 - vi. The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system and have password protected security on all controls at all times. The equipment and installation plan for the sound system, including the location of all speakers and sound level controls shall be submitted for the review and approval of the Planning Department. 60 day after opening, the sound systems in the facility shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department for review.
- B. The applicant shall comply with the requirements of the Ten Point Plan for Ocean Drive.
 - C. Delivery trucks shall only be permitted to make deliveries from city authorized and designated commercial loading zones.
 - D. Delivery trucks shall not be allowed to idle in the loading zone.
 - E. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - F. Deliveries and waste collections may occur daily between 7:00 AM and 5:00 PM.
 - G. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
 - H. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
 - I. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to

accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.

- J. Garbage dumpster covers shall be closed at all times except when in active use.
 - K. Restaurant and bar personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
 - L. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
 - M. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day
 - N. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - O. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.
 - P. Any future sidewalk café shall be subject to Public Works approval and the Ocean Drive Sidewalk Café Design Guidelines, if applicable. Such approvals shall be granted prior to the installation of any sidewalk café furniture, including but not limited to chairs, tables, and umbrellas.
 - Q. The hostess stand, podium and menu board shall be prohibited in the public right of way and should be placed in the front porch area in front of 640 and 650 Ocean Drive. There shall not be any queuing or a staffed podium in front of 626 Ocean Drive.
8. 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, prior to obtaining a Certificate of Occupancy or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing. Without exception, all concurrency fees, mitigation fees and concurrency administrative costs shall be paid prior to the issuance of a Certificate of Occupancy or Business Tax Receipt.
9. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Business Tax Receipt.

10. A Traffic Demand Management (TDM) plan shall be submitted, reviewed and approved by the Transportation Department prior to the issuance of a Business Tax Receipt.
11. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this entertainment establishment.
12. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.
13. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load should there be valid complaints about loud, excessive, unnecessary, or unusual noise. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.
14. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, 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.
15. 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.
16. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
17. 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 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.
18. 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.

Dated this _____ day of _____, 2017.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

