

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: October 24, 2017

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **File No. 1653 –1300 Ocean Drive–Cafe Cardozo– Progress Report**

#### **BACKGROUND**

*March 23, 2004*

Café Cardozo, LLC received a Conditional Use Permit (CUP) in order to operate a restaurant with an outdoor entertainment establishment in order to have musicians located on the porch.

*October 13, 2017*

At the direction of the Planning Board, a Cure Letter was issued regarding open violations and complaints about the operation of the establishment.

#### **PROGRESS REPORT**

Staff research of city records found that, within the last year, the following violations are showing in the city's records at the time of this writing:

Case Number	Main Address	Case Type	Case Status	Open Date	Closed Date
CC2017-03644	1300 OCEAN DR	Hotel operating without BTR	Notice of Violation	09/19/2017	
CC2017-03349	1300 OCEAN DR ROW	A person peddling coconuts	Notice of Violation	07/24/2017	
CC2017-02749	1300 OCEAN DR ROW	Another person peddling coconuts	Notice of Violation	05/06/2017	
CC2017-02518	1300 OCEAN DR ROW	A person peddling bottled water	Fine Owed	04/01/2017	05/08/2017
US2017-01194	1300 OCEAN DR	Work without permits	Notice of Violation	03/24/2017	
CC2017-02385	1300 OCEAN DR ROW	A person with a Styrofoam cooler	Fine Paid	03/19/2017	03/29/2017
CC2016-01397	1300 OCEAN DR ROW	A person performing magic tricks	Notice of Violation	11/17/2016	

#### **STAFF ANALYSIS**

Below is a list of the conditions of the attached Modified CUP that are related to the violations and complains discussed at the last Planning Board meeting:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall come back to the Board within 90 days from the date of approval of this Conditional Use Permit and provide a progress report. 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).

A recent inspection of the property confirmed that the establishment is closed for renovations and not operating at this time. The Board should consider periodic progress reports once the establishment is open again. The violations seem to mostly stem from the inactivity at the property as they are closed for business and may not continue once the front of the property is

activated. The CUP has conditions in place that are specific and cover the full operation. There do not seem to be any violations related specifically to the conditions of the CUP.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Board discuss the conditions of the CUP and the scheduling periodic progress reports, if necessary.

TRM/MAB/TUI

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# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

PLANNING DEPARTMENT  
Tel: 305-673-7550 Fax: 305-673-7559

October 6, 2017

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Hotel Cardozo, Inc  
420 Jefferson Ave  
Miami Beach, FL 33139

Cafe Cardozo, LLC  
1300 Ocean Drive  
Miami Beach, FL 33139

Re: Planning Board File No. 1653 –1300 Ocean Drive

Dear Sir/Madam:

A Conditional Use Permit (CUP) for an outdoor entertainment establishment was issued on March 23, 2004 to Café Cardozo, LLC. It has come to the Planning Department's attention that complaints have been made regarding the operational conditions contained in the attached conditional use permit (CUP.)

In light of the aforementioned complaints and the inconsistencies with the following conditions of approval contained in the Conditional Use Permit, **you are requested to appear at the October 24, 2017 Planning Board hearing** for a verbal progress report:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall come back to the Board within 90 days from the date of approval of this Conditional Use Permit and provide a progress report. 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).

The following warnings, violations and open offenses are still showing in the City's records as of this writing:

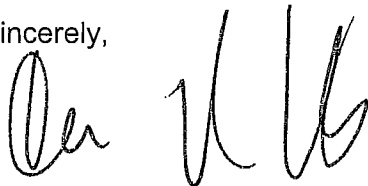
Case Number	Main Address	Case Type	Case Status	Open Date	Closed Date
CC2017-03644	1300 OCEAN DR	City Code Violation	Notice of Violation	09/19/2017	
CC2017-03349	1300 OCEAN DR ROW	City Code Violation	Notice of Violation	07/24/2017	
CC2017-02749	1300 OCEAN DR ROW	City Code Violation	Notice of Violation	05/06/2017	
CC2017-02518	1300 OCEAN DR ROW	City Code Violation	Fine Owed	04/01/2017	05/08/2017
US2017-01194	1300 OCEAN DR	Unsafe Structures	Notice of Violation	03/24/2017	
CC2017-02385	1300 OCEAN DR ROW	City Code Violation	Fine Paid	03/19/2017	03/29/2017
CC2016-01397	1300 OCEAN DR ROW	City Code Violation	Notice of Violation	11/17/2016	

Please be advised that at the time of the progress report, in accordance with the provisions of City Code Section 118-194(3), 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 and initiate modification/revocation proceedings, this issue may be placed at the next available meeting of the Board. In the event the Board takes any of the enforcement actions, the applicant shall reimburse the Planning Department for all monies expended to satisfy notice requirements and to copy, prepare or distribute materials in anticipation of the public hearing.

If a modification/revocation hearing is set at that public hearing, 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 revoke the approval, modify the conditions thereof, or impose additional or supplemental conditions.

If you have any questions, please do not hesitate to contact Ms. Tui Munday at (305) 673-7000 ext. 6320.

Sincerely,



Thomas R. Mooney, AICP  
Planning Director

TRM/TUI

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CFN 2004R0486347  
DR Bk 22403 Pgs 1055 - 1057; (3p)  
RECORDED 06/17/2004 12:09:08  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

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

**PROPERTY:** 1300 Ocean Drive  
Café Cardozo

**FILE NO:** 1653

**IN RE:** The application by Café Cardozo, LLC, requesting approval for a Conditional Use Permit for an outdoor entertainment establishment in order to have musicians located on the porch.

**LEGAL DESCRIPTION:** Lots 7 and 8, Block 18, Ocean Beach Addition No. 2, according to the Plat thereof, as recorded in PB 2-56 of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** March 23, 2004

**CONDITIONAL USE PERMIT**

The applicant, Café Cardozo, LLC, filed an application with the Planning Director for a Conditional Use Permit pursuant to Chapter 118, Article IV, "Conditional Use Procedure" of the Code of the City of Miami Beach, Florida. Notice of the request for a Conditional Use Permit 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 MXE – Mixed Use Entertainment zoning district;



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

That necessary safeguards are 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 recommendation, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall come back to the Board within 90 days from the date of approval of this Conditional Use Permit and provide a progress report. 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. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a Certificate of Use.
3. This Conditional Use approval is issued to Café Cardozo, LLC, as operator of the restaurant, for the outdoor entertainment in the front terrace of the Cardozo Hotel. Any change of operator shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board, in advance, to affirm their understanding of the conditions listed herein.
4. The live outdoor entertainment shall be unamplified and limited to a maximum of three (3) musicians, with music played at ambient level only that will not interfere with normal conversation. No stage structure or special stage lighting is permitted, and no smoke machines may be employed. No dancing shall be permitted on the patio or other outdoor areas; dancing shall be limited to the inside of the building.
5. The volume of recorded music shall be controlled by the restaurant 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. The hours of operation for the live entertainment shall be from 10:00 a.m. to 11:00 p.m. Sunday through Thursdays; and 10:00 a.m. to 12:00 midnight Fridays and Saturdays.
7. Violation of the Miami-Dade County Code Section 21-28 (a/k/a "noise ordinance") shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Sec. 118-194 of the City Code.
8. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if required, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.
9. The applicant shall be responsible for maintaining the areas adjacent to the facility in excellent condition, including keeping the sidewalk, curb and gutter in front of the building in a clean and sanitary condition, free of all refuse at all times.
10. Queuing or gathering of pedestrians on the sidewalk in front of the establishment in order to listen to the musical performance without entering the premises shall be prohibited. In the event that there is queuing of people on the sidewalk restricting the free-flow of pedestrians, the operator shall be required to have staff take action to remove such crowds from the sidewalk and shall not be permit the crowd to spill uncontrolled into the street area.

11. The clear pedestrian path on the sidewalk in front of the establishment shall be no less than that which is required by the City's Sidewalk Cafe Ordinance. In the event that there is queuing of patrons in this area which impedes the clear path, the operator shall be required to remove tables and chairs from the sidewalk area to allow the free flow of pedestrian traffic.
12. The outdoor music performance approved by this Conditional Use permit shall be accessory to the normal operation of the restaurant operated by the applicant at this location. Tables and chairs with food and beverage service must be present on the front porch area at all times during any music performance.
13. This Conditional Use Permit shall be recorded in the Public Records of Dade County at the expense of the applicant.
14. 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.

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 114-7 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 permit.

Dated this 30TH day of MARCH, 2004.

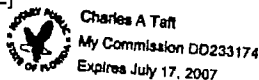
PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: Jorge G. Gomez  
Jorge G. Gomez, AICP, Planning Director  
FOR THE CHAIRMAN

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 30TH day of MARCH, 2004, by Jorge G. Gomez, AICP, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

(NOTARIAL SEAL)



Notary: Charles A. Taft  
Print Name: CHARLES A. TAFT  
Notary Public, State of Florida  
My Commission Expires:  
Commission Number:

Approved As To Form:  
Legal Department (filed 3-29-04)

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# OFFICE OF THE PROPERTY APPRAISER

## Summary Report

Generated On : 10/5/2017

Property Information	
Folio:	02-3234-008-0510
Property Address:	1300 OCEAN DR Miami Beach, FL 33139-4210
Owner	HOTEL CARDOZO INC
Mailing Address	420 JEFFERSON AVE MIAMI BEACH, FL 33139-6503
PA Primary Zone	6501 COMMERCIAL - MIXED USE ENTERTAINMENT
Primary Land Use	3921 HOTEL OR MOTEL : HOTEL
Beds / Baths / Half	41 / 41 / 0
Floors	3
Living Units	41
Actual Area	Sq.Ft
Living Area	Sq.Ft
Adjusted Area	23,484 Sq.Ft
Lot Size	13,000 Sq.Ft
Year Built	1939



Assessment Information			
Year	2017	2016	2015
Land Value	\$7,800,000	\$7,800,000	\$7,800,000
Building Value	\$1,600,000	\$1,459,000	\$1,400,000
XF Value	\$0	\$0	\$0
Market Value	\$9,400,000	\$9,259,000	\$9,200,000
Assessed Value	\$9,400,000	\$9,259,000	\$9,075,000

Benefits Information				
Benefit	Type	2017	2016	2015
Non-Homestead Cap	Assessment Reduction			\$125,000
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description
OCEAN BEACH ADDN NO 2 PB 2-56 LOTS 7 & 8 BLK 18 LOT SIZE 100.000 X 130 OR 15646-0931 TO 36 0992 4

Taxable Value Information			
	2017	2016	2015
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$9,400,000	\$9,259,000	\$9,075,000
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$9,400,000	\$9,259,000	\$9,200,000
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$9,400,000	\$9,259,000	\$9,075,000
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$9,400,000	\$9,259,000	\$9,075,000

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
09/01/1992	\$0	00000-00000	Sales which are disqualified as a result of examination of the deed
01/01/1991	\$0	00000-00000	Sales which are disqualified as a result of examination of the deed
12/01/1975	\$525,000	00000-00000	Sales which are disqualified as a result of examination of the deed

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:





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