

# MIAMI BEACH

## PLANNING DEPARTMENT

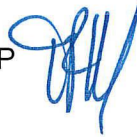
### Staff Report & Recommendation

### Planning Board

TO: Chairperson and Members  
Planning Board

DATE: February 27, 2018

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 17-0171 - 1052 Ocean Drive – The Palace Bar & Restaurant**

The applicant, Palace Bar LLC, is requesting conditional use approval for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment, with an occupant content in excess of 200 persons pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

#### **RECOMMENDATION**

Approval with conditions

#### **BACKGROUND (1052 Ocean Drive)**

*November 13, 2001: A Certificate of Appropriateness to partially demolish, alter and modify three (3) existing buildings and to construct a new four (4) story building at 1042 Ocean Drive was approved by the HPB. (HPB File No. 1253)*

*July 8, 2003: Modifications to the original Certificate of Appropriateness were approved by the HPB including the construction of a rooftop pool at 1042 Ocean drive, and including operational conditions imposed on the rooftop pool area.*

#### **HISTORY (Palace Venue at 1200 Ocean Drive)**

November 25, 2008: A Conditional Use Permit was granted for The Palace in its prior location located at 1200 Ocean Drive for the operation of an outdoor entertainment establishment. According to the staff report, the venue had been operating at 1200 Ocean Drive for approximately 20 years as of 2008.

#### **ZONING / SITE DATA**

Legal Description:

Lot 2 and 3, Block 15, "Ocean Beach Addition No.2", according to the plat thereof, as recorded in Plat Book 2 at page 56 of the public records of Miami-Dade County, Florida.

Zoning:

MXE (Mixed-Use Entertainment)

Future Land Use Designation:

MXE (Mixed-Use Entertainment)

Surrounding Uses:                      North:              Hotel and restaurant uses  
   West:              Commercial and parking building  
   South:             Hotel and Commercial uses  
   East:              Lummus Park  
   (See Zoning/Site map at the end of the report)

### **THE PROJECT**

The applicant has submitted plans entitled "The Palace Bar & Restaurant" as prepared MCG Architecture + Planning, dated December 19, 2017. The applicants are seeking a conditional use permit in order to operate the existing space with a proposed interior restaurant seat count of 101, outdoor seat count of 72 (private property), an occupant load of 199, and a sidewalk café with 30 seats.

The proposed entertainment component will consist of both a DJ and live entertainment which will take place both indoors and outdoors.

### **COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:**

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Section 118, Article IV, Sec. 118-191 and Sec. 118-192 (a):

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. The MXE future land use category allows eating and drinking establishments.

2. **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.**

**Consistent** – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.

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

**Consistent** – Entertainment, Outdoor Entertainment and Neighborhood Impact Establishments are permitted as conditional uses in the MXE Zoning District and are consistent with the Land Development Regulations. These comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a Business Tax Receipt (BTR).

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

**Partially Consistent** – The proposed project may adversely affect the general welfare of nearby residents and businesses if delivery, waste removal, and other operations are not controlled. Staff is recommending conditions to mitigate the potential negative impacts. 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 will be provided.**

**Consistent** – There is no parking on-site. Parking for patrons of the venue will be by self-parking, or patrons can also use valet ramps nearby. The space where the venue is located has a Parking Impact Fee account (PIF#422) that will have to be transferred to Palace Bar LLC. upon BTR approval.

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

**Partially Consistent** – Staff is recommending conditions to mitigate any adverse impacts on the surrounding neighbors.

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

**Consistent** – The proposed uses for the project are permitted in the MXE zoning district. While there are other conditional uses and large venues in the area, adverse impacts are not expected from the geographic concentration of such uses, if the impacts are properly controlled.

**NEIGHBORHOOD IMPACT ESTABLISHMENT REVIEW GUIDELINES**

In accordance with Sec. 142-1362 of the Miami Beach City Code, in reviewing an application for a neighborhood impact establishment, the Planning Board shall apply the following supplemental review 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.**

**Consistent-** The LOI and the operations plan submitted with the application detail the proposed operation associated with the project. 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.**

**Consistent-** There is no parking on site. Parking for the patrons of the venue will be by self-parking and valet parking is also available for the building with the valet station located on Ocean Drive.

**(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.**

**Partially Consistent** – The operational plan indicates that there will be staff located on the sidewalk when the performances are taking place, however it is not clear how the restaurant is going to control large groups of people waiting to get entry without queuing or blocking the

sidewalk, see analysis in this report. Staff is recommending that any queuing take place on private property.

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

**Partially Consistent** – The Operational plan and the Palace Individual Security plan mention procedures when the shows are taking place on the proposed ‘catwalk’ which is located on the public right-of-way and the barricades that are on the street. However, the security plan for the rest of the establishment when the shows are not occurring is not clear. Patron age restrictions will be enforced by applicant’s staff, see analysis in this report.

- (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.**

**Consistent-** A traffic study was not required, as there is no substantial increase in occupancy from the former restaurant located within the same space.

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

**Consistent-** The operations plan contains a “Deliveries and Sanitation Plan” section that explains that the refuse collection takes place from the existing enclosed space located on the west end of the building and it will take place daily from 7:00 a.m. to 12:00 p.m.

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

**Partially Consistent-** The applicant provided a sound study prepared by Eduard Dugger + Associates, PA, and a peer review was performed by Arpeggio Acoustic Consulting, LLC. The entertainment component will consist of a DJ, entertainment and live outdoor entertainment with outdoor speakers. As required by the City Code, no speakers will be located within 20 feet of the property line along Ocean Drive.

The sound study conclusion mentions that the entertainment operations presented at Palace will comply with the requirements of the Code. Sound output can be controlled by the management, and outdoor and indoor sound are controlled independently.

Arpeggio comments point to issues with data presentation and citation of prior sound studies, omission details relating to interior venue and unknown impact of patron-generated noise from the patio (see attached sound study peer review).

Arpeggio concluded that the sound study report prepared by ED+A provides valuable information but lacks the information necessary from which one can draw a definitive conclusion that there will be no impact upon adjacent areas.

Due to the concerns expressed, staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighbors, see analysis in this report.

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

**Consistent-** The proposed venue is surrounded by other hotels and commercial uses, and staff is recommending conditions to mitigate any potential negative impacts from the operations of this venue on surrounding properties.

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

**Partially Consistent-** 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**

## **ANALYSIS**

### **Project Description and Operations**

The applicant, Palace Bar LLC., is the tenant of the space located on the ground floor (previously occupied by Amarrillo restaurant).

The proposed bar and restaurant includes indoor and outdoor entertainment with a proposed interior restaurant seat count of 101, outdoor seat count of 72 (on private property) occupant load of 199, and a sidewalk café with 30 seats (The sidewalk café is subject to Public Works approval and is only shown on plans as a reference).

If the occupancy remains under 200, the venue will not be classified as a Neighborhood Impact Establishment. However, the application was advertised as a Neighborhood Impact Establishment in an abundance of caution, in case the final occupancy load exceeds this threshold.

The requested hours of operation are as follows:

Monday through Sunday: 8:00 a.m. to 5:00 a.m.

Hours of performances:

Monday through Sunday: 6:00 p.m. to 12:00 a.m.

Saturday and Sunday brunch: 11:30 a.m. to 5:00 p.m.

Brunch for holidays that do not fall on Saturday or Sunday and other events including White Party, Winter Party and Gay Pride: 11:30 a.m. to 5:00 p.m.

### **Valet Parking and Access**

Patrons arriving as passengers in automobiles or for valet drop off will use the valet station located on Ocean Drive. Access to the property for pedestrians is from Ocean Drive through a main entrance located on the ground floor.

### **Deliveries and Sanitation**

The refuse collection takes place from the existing enclosed space located on the west end of the building and it will occur daily from 7:00 a.m. to 12:00 p.m. The operation plan indicates that the restaurant will utilize the existing loading dock for delivery and receiving, located on Ocean Court, from 7:00 a.m. to 2:00 p.m. See Delivery and Sanitation Analysis. As indicated to the Planning Board at the January meeting, an additional loading zone has been authorized by the Parking Department to be located on 11<sup>th</sup> Street.

### **Sound**

Eduard Dugger + Associates, PA, commissioned by the applicant, conducted a sound study. Arpeggio Acoustic Consulting, LLC, commissioned by the City and paid for by the applicant, conducted a peer review.

Arpeggio concluded that the sound study report prepared by ED+A provides valuable information but lacks the information necessary from which one can draw a definitive conclusion that there will be no impact upon adjacent areas.

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

Address	Bussiness	CUP	PB File No.
900 Ocean Drive	Mango's	NIE	1387
960 Ocean Drive	Ocean Ten	NIE	1467
1020 Ocean Drive	Cleverlander	NIE	1456
1060 Ocean Drive	I lov305	NIE	PB17-0158
1236 Ocean Drive	il Giardino	OEE	1361
1300 Ocean Drive	Café Cardozo	OEE	1653

### Code Compliance

There are two Code Cases related to Noise with descriptions provided below:

1. NC2018-06082 01/28/18 Status: Closed (No Violation Issued)
2. NC2017-05322 12/03/17 Status: Open (Written Warning Notice):

Violation Notes from Code compliance:

*A proactive inspection, Ocean Dr., 5th to 15th St., attached to City of Miami Beach Police Department (CMB-PD) Sergeant K. Espada, was conducted on Saturday, 02DEC2017, 10:22 PM to 1:40 AM. The patrol was carried out in a marked CMB-PD police vehicle, as well as Code Compliance vehicle 1652. These were our findings:*

*At 11:14 PM, during a foot patrol on Ocean Dr., an inspection for noise was conducted at 'Palace' bar, 1052 Ocean Dr. I stood 100 feet to the east of the address, the music was clearly audible and excessively loud. I then went to the Code vehicle to write the Written Warning and have Dispatch create a noise case for this inspection and a second inspection at 1024 Ocean Dr. At 12:51 AM, 03DEC2017, I returned to 1052 Ocean Dr. with CMB-PD Sergeant K. Espada and spoke to the Manager-on-duty, Lucas Almeida. I stated to Mr. Almeida my name and position with the City of Miami Beach. I stated that an inspection revealed that the music coming from their business was plainly audible at 100 feet, loud and excessive. I stated that it was a Written Warning, carrying no fines. Mr. Almeida signed, dated, and received a copy of the written warning. Body worn camera footage captured of the investigation. CCO AL Pena 746*

*Sergeant Espada and I conducted multiple circuits of Ocean Dr., between 5th and 15th streets. All other east facing establishments complied with City of Miami Beach noise Code. The detail ended at 1:40 AM. At 11:14 PM, during a foot patrol on Ocean Dr., an inspection for noise was conducted at 'Palace' bar, 1052 Ocean Dr. I stood 100 feet to the east of the address, the music was clearly audible and excessively loud. I then went to the Code vehicle to write the Written Warning and have Dispatch create a noise case for this inspection and a second inspection at 1024 Ocean Dr. At 12:51 AM,*

*03DEC2017, I returned to 1052 Ocean Dr. with CMB-PD Sergeant K. Espada and spoke to the Manager-on-duty, Lucas Almeida. I stated to Mr. Almeida my name and position with the City of Miami Beach. I stated that an inspection revealed that the music coming from their business was plainly audible at 100 feet, loud and excessive. I stated that it was a Written Warning, carrying no fines. Mr. Almeida signed, dated, and received a copy of the written warning.*

*Body worn camera footage captured of the investigation.  
CCO AL Pena 746*

*Sergeant Espada and I conducted multiple circuits of Ocean Dr., between 5th and 15th streets. All other east facing establishments complied with City of Miami Beach noise Code. The detail ended at 1:40 AM.*

In order to address concerns related to noise, staff is recommending that outdoor performances cease at 11:00 pm nightly, and with the exception of the duration of performances, the volume of the speakers on the outdoor terrace shall be at an ambient volume and not interfere with normal conversation. In addition, it is recommended that no later than 11:00 pm nightly, the volume on the interior sound system shall be adjusted to ensure that sound levels on the exterior do not exceed a level that would interfere with normal conversation at the eastern property line with the doors open.

### **Summary**

Although operational plans were submitted showing entertainment and security procedures occurring on the sidewalk/public right of way, such operations in the public right-of-way have only been authorized by the City with a Special Event Permit on a temporary basis.

This Conditional Use Permit application is for outdoor entertainment only on private property. All other outdoor entertainment and security/crowd control operations on the sidewalk and the street (e.g. barricades blocking off-street parking) is not under the purview of the Planning Board. Unless the Special Event Permit is extended or re-issued on a recurring basis, use of the public right-of-way for other than the standard operation of a sidewalk café, is not permitted

Staff would note that the new location of this venue is in the middle of the block, surrounded by other restaurants where pedestrian traffic is high and the sidewalk is more narrow with the included sidewalk cafe. Even without performances on the public sidewalk, the City should evaluate the impact of performances occurring on the private outdoor terrace and the potential for crowds to block the public use of the sidewalk during performances. A reduction in the extent of outdoor café seating may be warranted to ensure that pedestrian traffic does not spill out into the vehicular lanes of Ocean Drive.

As indicated above, staff is concerned with the potential issues related to sound from the interior and exterior of the venue as noted in the review prepared by Arpeggio Consulting, Inc. However there are measures that can be further taken to mitigate sound. For the interior operations, volume control of the sound system, location of speakers, and keeping the exterior doors closed can mitigate negative impact. If the sound becomes a problem outside, a double door vestibule could be also constructed in the future to further mitigate sound spillage on the exterior.

Due to the operation and sound concerns expressed herein, staff recommends that a progress report be presented to the Board in 30 days.



**Note:** As of 12/18/2017 the City authorized the Palace to temporarily operate pursuant to the existing BTR for 1052 Ocean Drive, subject to the approval of the Outdoor Entertainment Establishment by the Planning Board.

**RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the application for a Conditional Use Permit be approved, subject to the conditions enumerated in the attached draft order, which address the inconsistencies noted in the aforementioned Conditional Use review criteria.

TRM/MAB/AG

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### ZONING/SITE PLAN





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

**PROPERTY:** 1052 Ocean Drive – The Palace

**FILE NO.** PB 17-0171

**IN RE:** The applicant, Palace Bar LLC, is requesting conditional use approval for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment, with an occupant content in excess of 200 persons pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

**LEGAL**

**DESCRIPTION:** Lot 2 and 3, Block 15, "Ocean Beach Addition No.2", according to the plat thereof, as recorded in Plat Book 2 at page 56 of the public records of Miami-Dade County, Florida.

**MEETING DATE:** February 27, 2018

**CONDITIONAL USE PERMIT**

The applicant, Palace Bar LLC, filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact 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 Palace Bar LLC, as tenant/operator, of this Neighborhood Impact Establishment consisting of a restaurant with outdoor entertainment. 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. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
6. The Applicant agrees to the following operational conditions for the entire facility:
  - A. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed 101 interior seats, outdoor seat count of 72 (private property) and potential sidewalk café (subject to the review and approval of the Public Works Department) with up to 30 seats, with the criteria listed below:
    - i. The CUP shall have a maximum occupant content (including within the interior and exterior portion located on private property) of approximately 220 persons or any lesser such occupant content as determined by the Fire Marshal.
    - ii. The indoor portions of the venue may remain open:  
Monday through Sunday from 8:00 a.m. to 5:00 a.m.
    - iii. The outdoor portion of the venue located on private property may remain open:

Monday through Sunday from 8:00 a.m. to 2:00 a.m.

- iv. Indoor entertainment, to include a DJ and or live shows as specified in the application, may operate Monday through Sunday from 11:30 am to 3:00 am.
- v. Except for the actual ingress and egress of patrons and staff, and except during actual live performances, the doors to the establishment shall remain closed.
- vi. The outdoor entertainment and performance operations on private property may operate:

Monday through Friday: 6:00 pm to 11:00 pm.

Saturday and Sunday: 11:30 am to 11:00 pm.

National Holidays that do not fall on Saturday or Sunday and other City recognized Special Events including White Party, Winter Party, and Gay Pride: 11:30 am to 11:00 pm.

Any entertainment/crowd control/circulation plan on public property shall require the review and approval of a Special Event permit or other City authorized approval as determined by the City Manager.

- vii. 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. Within 60 days of this approval, the sound system in the facility shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department for review, to verify that it is operating as designed.
  - viii. No later than 11:00 pm nightly, the volume on the interior sound system shall be adjusted to ensure that sound levels on the exterior do not exceed a level that would interfere with normal conversation at the eastern property line with the doors open.
  - ix. The volume on the exterior outdoor terrace sound system shall not exceed a level that would interfere with normal conversation, except during times of actual live performances as authorized in condition 6.vi. above.
  - x. Televisions shall not be located anywhere on the exterior areas of the property.
- B. The applicant shall comply with the requirements of the Ten Point Plan for Ocean Drive adopted as of the February 27, 2018 meeting date.
- 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 10:00 AM.
- G. Loading and deliveries from the alley shall at no time block the passage of any other vehicles along the alley.
- H. 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.
- I. 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. An air conditioned trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that no more than one pick up of garbage per day will be necessary.
- 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 host/hostess stand, podium and menu board shall be prohibited in the public right of way, and shall be placed on private property.

7. The applicant shall amend the Business Tax Receipt (BTR) to reflect the correct number of seats in private property and set up the existing Parking Impact fee account (PIF 422) to their BTR approval.
8. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
9. 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.
10. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Business Tax Receipt.
11. 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.
12. The Developer's Traffic Engineer shall collect all necessary data and conduct a signal warrant analysis no later than 60 days from approval of this application. Such signal warrant analysis shall be submitted to the Transportation Department for review and approval.
13. Prior to receiving approval for construction, the applicant shall identify locations, acceptable to the Transportation Department and Public Works Department, for bicycle racks to be installed in the Public Right-of-Way. The applicant shall furnish and install the bicycle racks in accordance with the standards outlined in the City of Miami Beach Public Works Manual.
14. 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.
15. 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.

16. 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.
17. 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.
18. 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.
19. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
20. 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.
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.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
Michael Belush, AICP  
Chief of Planning and Zoning  
For Chairman

STATE OF FLORIDA            )  
COUNTY OF MIAMI-DADE    )

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



{NOTARIAL SEAL}

Approved As To Form:  
Legal Department ( )

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

Filed with the Clerk of the Planning Board on \_\_\_\_\_ ( )