

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: March 27, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 17-0091 fka File No. 1609. 2000 Collins Avenue, including 205-237 20th Street; 221 20th Street; 2008-2038 Collins Avenue.**

BACKGROUND

February 27, 2001

Just Around the Corner, LLC was granted a Conditional Use Permit (CUP), File No. 1493, for a multi-level parking garage with retail on the ground floor.

April 30, 2003

Just Around the Corner, LLC and POP Development, LLC requested a substantial amendment to the existing CUP (File no. 1493) with a new File No. 1609 which was approved by the Board (File No. 1609 superseded the previous order).

June 22, 2004

Just Around the Corner, LLC and POP Development, LLC applied for a Modified CUP (MCUP) File No. 1609 and were approved. The modification included the following language: Condition # 3 *"Dance halls, bars or any kind of neighborhood impact establishment shall only be permitted along Collins Avenue. Any entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for conditional use approval as agreed by the applicant."*

July 24, 2007

A new applicant, Park Place Development, LLC requested a modification to the MCUP to among other things create two new restaurant spaces, which was approved by the Board.

February 28, 2012

Park Place Development, LLC requested a modification to the MCUP to add a lounge use on 20th Street. There was a long discussion that included the intensity of the restaurants (number of seats), traffic, parking and the location of the various venues.

August 28, 2012

Park Place Development, LLC was granted a modification to the MCUP to add a restaurant and reconfigure the previously approved restaurant spaces. In order to streamline the process, and allow for future reconfigurations without returning to the Planning Board every time there is a change of floor plan.

November 24, 2015

Park Place Development, LLC and Just Around the Corner, LLC requested modifications to a previously issued Conditional Use Permit. Specifically, the applicant requested to modify a condition of the

Modified Conditional Use Permit (MCUP) in order to allow entertainment establishments on Liberty Avenue and on 21st Street.

April 25, 2017

MC GA Collins Realty, LLC, was granted a modification to the previously MCUP to change the name of the owner.

PROGRESS REPORT

The applicant was sent a Cure Letter on March 9, 2018, regarding open violations and complaints regarding the operation of several of their tenants. As a point of clarification, this is a building that covers the majority of a whole city block and as such was required to have a CUP due to the overall size and the size of the entertainment establishments contained in the development.

Since the original CUP and subsequent modifications were issued, it was found to be more manageable to issue individual CUP's for the individual spaces with entertainment, instead of modifying the original CUP for every new tenant. Even though there are separate CUP's for each entertainment establishment, PB 17-0091 remains the "master" CUP. In that regard, the "master" CUP still contains operational conditions and other conditions regarding noise violations for the entire building and areas where entertainment is not allowed.

The violations below have been issued to two tenants governed by separate CUP's and who have also received cure letters. Staff research of city records found that the following violations are showing in the city's records as of this writing:

Case Number	Main Address	Case Type	Case Status	Open Date
NC2018-06359	2000 COLLINS AVE	Noise Complaint	Notice of Violation	02/24/2018
NC2018-06356	2000 COLLINS AVE	Noise Complaint	Written Warning Notice	02/23/2018
SMA2018-00943	2000 COLLINS AVE	Special Master Appeals	Appeal of NC2018-05989	01/22/2018
SMN2018-00039	2000 COLLINS AVE	Special Master Noise Appeals	Appeal of NC2018-05967	01/22/2018
ZV2018-01573	2000 COLLINS AVE	Zoning Violation	Notice of Violation	01/20/2018

STAFF ANALYSIS

Below is a list of the conditions of the attached Modified CUP that are related to the violations and complains:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. Ninety days after the issuance of the Business Tax Receipt or after general commencement of operations, whichever comes later, the applicant shall provide a progress report to the Planning Board. 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).
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.
15. Live or recorded music, whether amplified or non-amplified, which is played at a volume that is defined as entertainment, i.e., louder than ambient background music (defined as

a sound level that does not interfere with normal conversation) shall not be permitted in any of Area #4, #5, or #6. The additional requirements in Condition No. 12 shall also apply to Area #5.

23. 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.

In light of the inconsistencies with the above MCUP conditions, as well as the absence of any documentation from the applicant advising of corrective actions or measures to ensure compliance with the MCUP in the future, the Board should consider the issue of noncompliance and consider setting a modification/revocation hearing at a future date.

STAFF RECOMMENDATION

Staff recommends that the Planning Board discuss the issue of non-compliance and continue the progress report to a date certain of April 17, 2018, to allow time for discussions between the effected parties and corrective measures to be implemented.

TRM/MAB/TUI

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

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

March 9, 2018

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

MC GA Collins Realty, LLC
C/O PGIM Real Estate
7 Giralda Farms
Madison, NJ 07940

Re: PB17-0091 fka Planning Board File No. 1609 –2000 Collins Avenue et al

Dear Sir/Madam:

A Modified Conditional Use Permit (CUP) for a change of ownership for a neighborhood impact establishment (NIE) was issued to MC GA Collins Realty, LLC on April 25, 2017. It has come to the Planning Department's attention that violations have been issued by the Code Compliance Department regarding the CUP's operational conditions.

In light of the aforementioned code violations and the inconsistencies with the following conditions of approval contained in the Conditional Use Permit, **you are requested to appear at the March 27, 2018 Planning Board hearing** for a verbal progress report:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. Ninety days after the issuance of the Business Tax Receipt or after general commencement of operations, whichever comes later, the applicant shall provide a progress report to the Planning Board. 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).
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.
15. Live or recorded music, whether amplified or non-amplified, which is played at a volume that is defined as entertainment, i.e., louder than ambient background music (defined as a sound level that does not interfere with normal conversation) shall not be permitted in any of Area #4, #5, or #6. The additional requirements in Condition No. 12 shall also apply to Area #5.

23. 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.

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

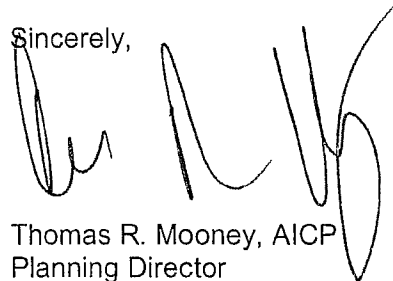
Case Number	Main Address	Case Type	Case Status	Open Date
NC2018-06359	2000 COLLINS AVE	Noise Complaint	Notice of Violation	02/24/2018
NC2018-06356	2000 COLLINS AVE	Noise Complaint	Written Warning Notice	02/23/2018
SMA2018-00943	2000 COLLINS AVE	Special Master Appeals	Appeal of NC2018-05989	01/22/2018
SMN2018-00039	2000 COLLINS AVE	Special Master Noise Appeals	Appeal of NC2018-05967	01/22/2018
ZV2018-01573	2000 COLLINS AVE	Zoning Violation	Notice of Violation	01/20/2018

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.

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

TRMTUI

F:\PLAN\PLB\GEN-CORR\CURE LETTERS\PB 17-0091 fka 1609 - 2000 Collins Ave et al - CURE LTR March 2018.docx

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

PROPERTY: 2000 Collins Avenue: Including 205-237 20th Street; 221 20th Street; 220 21st Street; 2008-2038 Collins Avenue.

FILE NO. PB 17-0091 fka File No. 1609

IN RE: The applicant, MC GA Collins Realty, LLC, requested a modification to a previously modified conditional use permit. Specifically, the applicants requested change the name of the owner, pursuant to Section 118, Article IV of the City Code.

LEGAL DESCRIPTION: Lots 1, 2, 3, 4, 6 and 8 of Block C of Amended map of Ocean Front property of Miami Beach Improvement Company Subdivision as recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

MEETING DATE: April 25, 2017

MODIFIED CONDITIONAL USE PERMIT

The applicant, MC GA Collins Realty, LLC filed an application with the Planning Director pursuant to City Code for a Modification to an existing Conditional Use Permit. 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 CD-3 - Commercial, High Intensity Zoning District;

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

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

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

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

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

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, 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 staff recommendations, as modified by the Planning Board, that a Substantial Modification to a previously approved Conditional Use Permit as requested and set forth above, be GRANTED

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subject to the following conditions to which the applicant has agreed: (~~Strikethrough~~ signifies deletions; Underlining signifies new language)

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall appear before the Planning Board for a progress report within 90 days from the Issuance of the Business Tax Receipts (BTR) for any new alcoholic beverage establishment. 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 ~~Pare Place Development, LLC and Just Around the Corner, LLC~~ MC GA Collins Realty, LLC as owners of the property described herein. Any change of ownership, including 50% or greater for each entity, shall require review 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 to modify the previously approved Conditional Use Permit which includes Neighborhood Impact Establishments.
6. An operation plan for each alcoholic beverage establishment shall be submitted to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion or Business Tax Receipt, whichever occurs first.
7. Security personnel and other restaurant staff shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
8. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
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, prior to the applicant obtaining a building permit, and any other fair share cost before the Certificate of Occupancy for the proposed restaurants.
10. Any additional dance hall, stand-alone bar, or entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for a separate conditional use approval as agreed by the applicant.

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11. Notwithstanding condition No. 11 above, ~~Pare Place Development, LLC and Just Around the Corner, LLC~~ MC GA Collins Realty, LLC shall be enabled to allocate, divide or subdivide the commercial spaces within the property for different uses and re-allocate parking spaces according to need without having to amend the Permit every time one of these re-allocations, divisions or sub-divisions of spaces takes place, as long as it is not one of the uses specified in the Permit that require Planning Board approval. Any re-allocation, division or subdivision of the commercial spaces shall be limited to the number of parking spaces provided within the garage and shall be submitted to Planning Department staff for review and re-certification that enough parking spaces remain available for all uses within the building. The total number of restaurant seats for the entire property shall not exceed 592.
12. Live or recorded music, whether amplified or non-amplified, which is played at a volume that is defined as entertainment, i.e., louder than ambient background music (defined as a sound level that does not interfere with normal conversation) shall not be permitted in Area #5 (the open courtyard), and shall not be audible in the adjacent properties or in the residential units of the project, and in no instance shall the low-volume background music be permitted past midnight. Area #5 shall in no circumstance operate as a bar, nightclub, discotheque, or dance hall.
14. Sound shall be contained within the courtyard and shall not create a disturbance to the adjacent property.
15. Live or recorded music, whether amplified or non-amplified, which is played at a volume that is defined as entertainment, i.e., louder than ambient background music (defined as a sound level that does not interfere with normal conversation) shall not be permitted in any of Area #4, #5, or #6. The additional requirements in Condition No. 42 13 shall also apply to Area #5.
16. Should any of the remaining commercial/retail spaces be aggregated to create a larger alcoholic beverage establishment, such establishment shall be limited to the number of parking spaces provided within the garage. In this case, the applicant shall return to the Planning Board to evaluate impact of the larger venue and address issues such as, but not limited to the number of seats, the kind of operation, potential noise, etc. This review shall be a modification to the Conditional Use Permit and shall be properly advertised for a public hearing.
17. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the parking facility.
18. The applicant shall continue to offer a \$5.00 discounted rate for two hours, for parking tickets validated by any of the cultural venues in the immediate area (Bass Museum, Miami City Ballet, and Public Library) for as long as the existing surplus number of parking spaces do not become required parking for the accessory commercial uses within the building.
19. The required parking spaces for the residential and commercial uses on site shall be reserved in the garage to service such uses and shall not be used by valet operators to service off-site uses.

20. The parking garage approved included in this Conditional Use Permit shall be valet only; self-parking is prohibited. ~~The excess parking spaces generated by this project shall~~ remain available by valet service to the general public on a first-come, first-serve basis for as long as the existing surplus number of parking spaces do not become required parking for the accessory commercial uses within the building.
21. The operator of the parking garage shall be responsible for operating this facility in an orderly, clean and quiet manner so that neighboring residents are not disturbed. The sounding of car alarms, playing of radios or any kind of audio system (including by the valet attendants), automobile horns, and screeching of tires shall be prohibited. Two signs, one addressing City Code provisions regarding car alarms, and one prohibiting the screeching of tires and sounding of horns (see attached examples), shall be posted on the site so they are plainly visible by users of the facility.
22. Without in any manner limiting the general rights of the Planning Director or the Planning Board to recall the owner or operator or to modify this Conditional Use Permit, 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 of the accessory uses proposed for the project should there be valid complaints (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise.
23. 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.
24. 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.
25. This modified Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County within a reasonable time after receipt at the expense of the applicant. No building permit, certificate of use, certificate of occupancy, certificate of completion or business tax receipt shall be issued until this requirement has been satisfied.
26. 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.
27. 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.

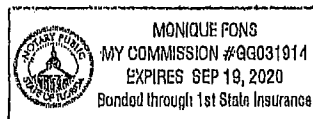
Dated this 3rd day of MAY, 2017.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

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

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 3rd day of MAY, 2017, by Michael Belush, Chief of Planning and Zoning for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



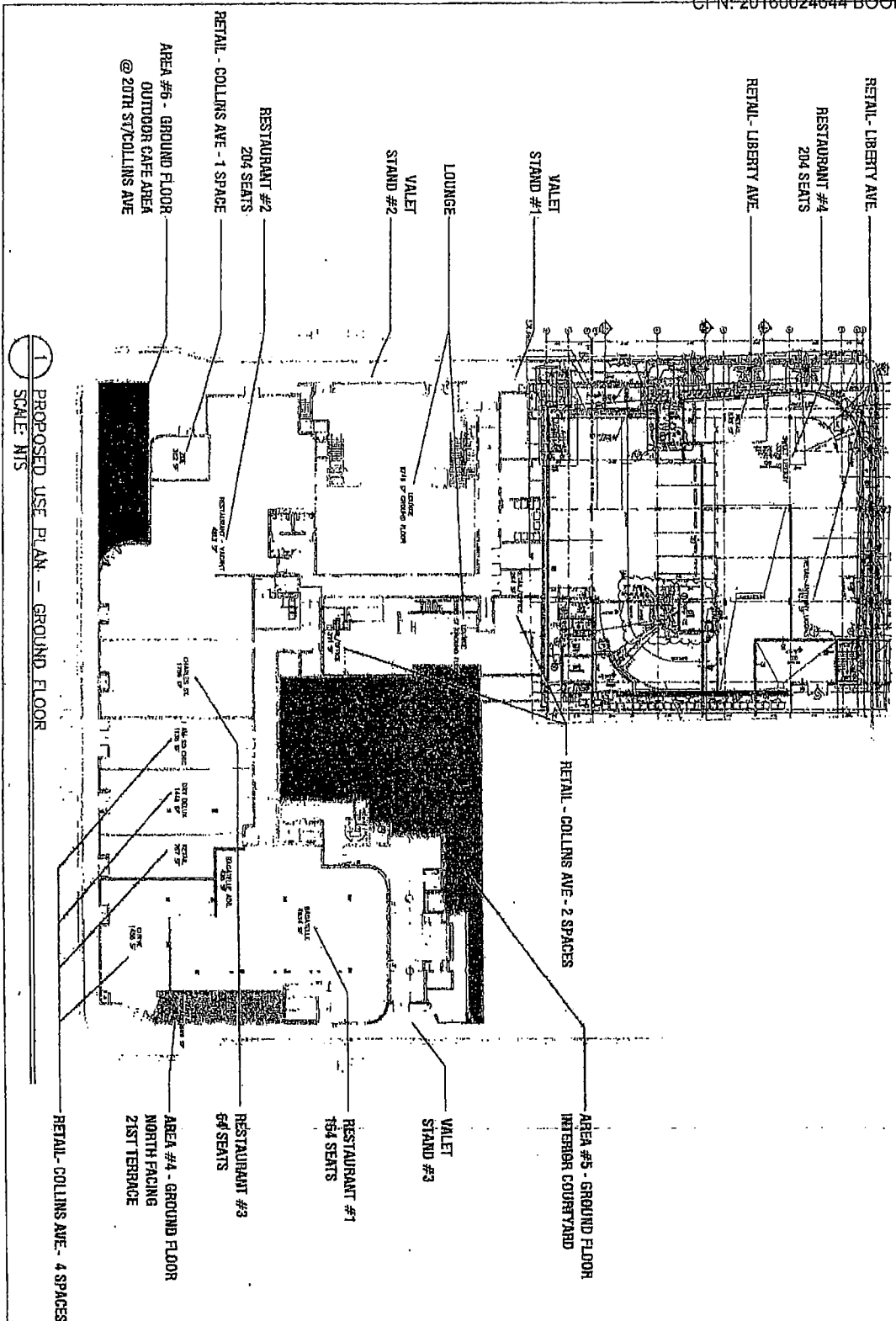
{NOTARIAL SEAL}

Monique Fong
Notary:
Print Name MONIQUE FONGS
Notary Public, State of Florida
My Commission Expires: 9/19/2020
Commission Number:

Approved As To Form:
Legal Department (Ge. Abuel) 5/3/17

FILED WITH THE CLERK OF THE PLANNING BOARD ON 05/03/2017 (MB)

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TITLE OF SHEET	
CONDITIONAL USE PLAN	
PROJECT NO.	ISSUE DATE
	AUGUST 2015
SHEET NUMBER	
A-2.0	

BOULON CONDOMINIUMS
CONDITIONAL USE PLAN
2000 COLLINS AVE.
MIAMI BEACH, FLORIDA, 33139

REVISIONS		
REVISION	DATE	NO.

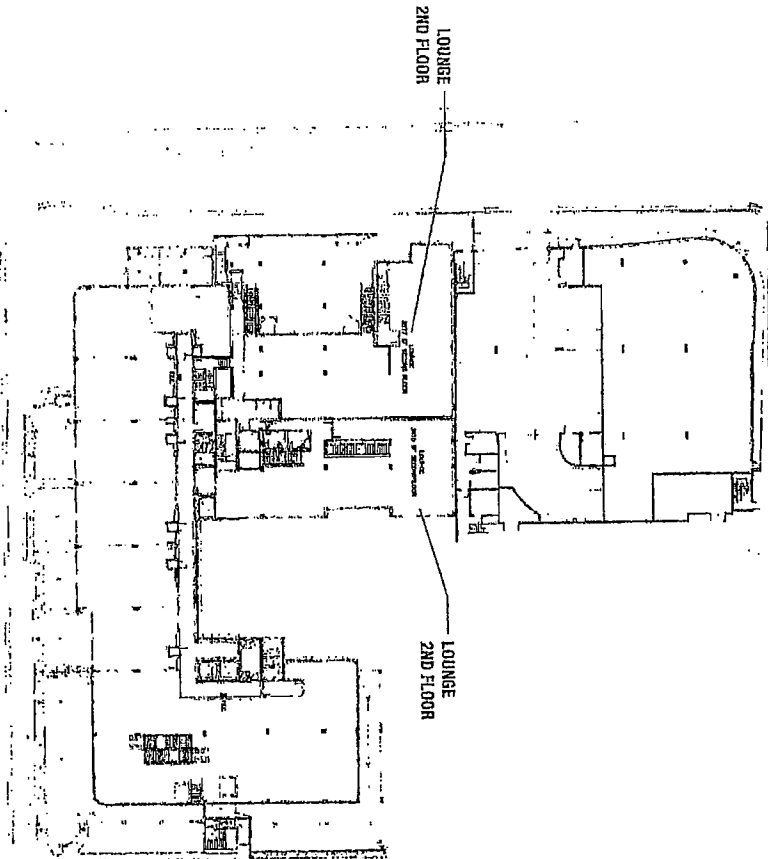
M3 Design + Construction

8.6.15

WORKED WITH: AIA
1000 BAYVIEW BLVD.
SUITE 400
MIAMI BEACH, FLORIDA 33139
TEL: 305.358.1111
FAX: 305.358.1111
EMAIL: M3DESIGN@GMAIL.COM

M3

1 PROPOSED USE PLAN - SECOND FLOOR
SCALE: 1/8" = 1'-0"



TITLE OF SHEET		BOULAN CONDOMINIUMS CONDITIONAL USE PLAN 2000 COLLINS AVE. MIAMI BEACH, FLORIDA, 33139	REVISIONS		M3 Design + Development 2000 COLLINS AVE., SUITE 400 MIAMI BEACH, FLORIDA 33139 PHONE: 305-410-1511 EMAIL: M3DESIGN@GMAIL.COM
CONDITIONAL USE PLAN			REVISION	DATE	
PROJECT NO.	ISSUE DATE				
SHEET NUMBER					
A2.1					

Handwritten initials: MB