

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

PROPERTY: 835-855 Alton Road

FILE NO. PB 0416-0007, f.k.a., File No. 2332

IN RE: The applicant, DIT Global Inc., requested a Conditional Use approval for a change of use from a residential building to a Neighborhood Impact Establishment with an occupant content of 300 or more persons, pursuant to Chapter 118, Article IV, and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: Lots 9 and 10 of Block 122 of the Lenox Manor Subdivision, according to the plat thereof, as recorded in Plat Book 7 at page 15 of the public records of Miami-Dade County, Florida.

MEETING DATE: June 28, 2016

CONDITIONAL USE PERMIT

The applicant, DIT Global Inc., filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact Establishment consisting of restaurant with an occupant content of more than 300 persons, 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 CD-2 - Commercial, Medium 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 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 Business Tax Receipt (BTR). . The progress report shall include, but not be limited to, updated information on traffic conditions surrounding the site and valet operations. 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 DIT Global Inc., as owner of the Neighborhood Impact Establishment consisting of a restaurant, bar, outdoor café and an outdoor courtyard area. Any change of operator or 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 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 an approximately 362 seat restaurant, restaurant, bar, outdoor café and an outdoor courtyard area with the criteria listed below:
 - i. The areas covered by this CUP shall have a maximum occupant content of approximately 847 persons or any lesser such occupant content as determined by the Fire Marshal.
 - ii. The indoor portions of the project may operate Sunday–Thursday closing at

1:00 AM and Friday and Saturday closing at 2:00 AM and the outdoor areas may operate Sunday–Thursday closing at 11:00 AM and Friday and Saturday closing at 12:00 AM.

- iii. This venue shall not have a DJ or music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation).
 - iv. 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. Delivery trucks shall only be permitted to make deliveries from city authorized and designated commercial loading zones.
 - c. Delivery trucks shall not be allowed to idle in the loading zone.
 - d. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - e. Deliveries and waste collections shall occur daily between 7:00 AM and 5:00 PM.
 - f. 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.
 - g. 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.
 - h. 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.
 - i. Garbage dumpster covers shall be closed at all times except when in active use.
 - j. Restaurant personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
 - k. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.

- l. 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
 - m. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - n. Special Events may not occur on the premises.
- 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 building permit or Business Tax Receipt (BTR) whichever occurs first.
- 10. The applicant shall provide a minimum of four (4) valet runners during non-peak operating hours and twelve (12), or more valet runners during peak times, in order to ensure that valet operation do not impact traffic flow along 9th street with queuing of vehicles. Additionally, the valet operators shall adhere to the route set forth in the valet operations analysis prepared by Kimley-Horn and Associates, Inc. avoiding Lenox Avenue except between 8th and 9th Streets.
- 11. The applicant shall provide an updated traffic report after six (6) months of operation. The purpose of this report will be to verify the validity of the assumptions made as part of the traffic impact analysis and the valet operations analysis.
- 12. 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.
- 13. 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.
- 14. 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.
- 15. 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.

