

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: January 22, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 18-0238 1766 Bay Road**

The applicant, Golden Era Holdings, LLC, is requesting a Conditional Use for a restaurant exceeding 100 seats and 125 occupants, pursuant to Section 142-303 (b) and 118, Article IV of the City Code.

RECOMMENDATION

Approval with conditions

ZONING/SITE DATA

Legal Description:

The East 1/2 of Lot 9 and all of Lots 10, in Block 16 Island View Subdivision, according to the Plat thereof, as recorded in Plat Book 6, Page-115, of the Public Records of Miami Dade County, Florida.

Zoning:

CD-2, Commercial Medium Intensity Zoning District

Future Land Use Designation:

CD-2, Commercial Medium Intensity Zoning District

Surrounding Uses:

North	Office, retail and restaurant uses
East:	Industrial uses
South:	Industrial and office uses
West:	Park and marina uses

(See Zoning/Site map at the end of the report)

THE PROJECT

The applicant, Golden Era Holdings, LLC, submitted plans entitled "Golden Era Holdings, LLC", as prepared by Ruben Juan Pujol, dated December, 2018. The plans illustrate the layout of three separate areas of a proposed restaurant/bar venue in an existing restaurant/bar space. The three layouts reflect a total of 120 seats divided into three areas labeled "The Gilded Lily Café," and the "Blue Dalia Cantina" on the ground floor, and the "Privado Lounge" on the second floor. As a point of reference, the applicant also shows 23 seats in the sidewalk café area on public property, but those seats are not part of the application for this Conditional Use Permit (CUP). The restaurant is not proposing entertainment, which is a prohibited use in the Sunset Harbour Neighborhood.

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 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 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 – Restaurants with 100 seats or more and over a 125 occupant content as determined by the Fire Marshall are permitted in the CD-2 zoning district as a Conditional Use.

4. **Public health, safety, morals and general welfare will 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.

5. **Adequate off-street parking facilities will be provided.**

Partially Consistent – The required parking for a 120 seat restaurant has been provided partially onsite. The parking deficiency not accommodated on site, can be satisfied through an annual payment into the Parking in Lieu fee program. The applicant is not proposing valet parking at this time and staff expects many patrons may walk, arrive by taxi, or ride sharing service. There is also a public parking garage less than one block away.

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

Consistent – Staff will recommend 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.**

Partially Consistent – There are several restaurants with bars in the area. Adverse impacts are not anticipated.

STAFF ANALYSIS

The subject property has had a 120 seat restaurant and bar on the site since December 2003,

but due to the time lapse between the last tenant's (Burger & Beers) departure and the applicant's application for a building permit, the project lost its non-conforming status. The City Code now requires that restaurants in the Sunset Harbour Neighborhood with over 100 seats and an occupant content of more than 125 persons, but less than 199 persons and a floor area in excess of 3,500 square feet obtain a CUP.

Additionally, stand alone bars and entertainment establishments are prohibited in the Sunset Harbour Neighborhood and there are also restricted alcoholic beverage hours (2:00 AM). The current applicant is aware of the code changes and has modified their proposed program, hours, and floor plans to comply with the new regulations.

The occupant content for the subject space was previously 279 persons, and at this time, an occupant content of 199 persons is the maximum allowed to be authorized through the CUP process. The applicant proposes to reduce the occupant content to 199, through modifications to the floor plans.

Also, the kitchen is located on the second floor of the building and must remain open and serving full meals for all the times that patrons can order alcoholic beverages. This is required so that a stand-alone bar is not created by the absence of the restaurant component at certain times of the night.

Parking

The proposed project requires one (1) parking space for every four (4) seats which equals 30 parking spaces required by City Code Sec. 130-32 (the sidewalk café seats do not have a parking requirement per City Code.) The required parking has partially been provided on site in the surface parking area on the same lot. The remaining deficiency will be met by an annual Parking in Lieu fee payment. The applicant is not proposing valet parking for its patrons at this time and will be required to return to the Board if proposed in the future. Furthermore, many patrons may walk, bicycle, arrive by taxi, or ride sharing car service. Additionally, the Sunset Harbour public parking facility is less than a block away.

Loading and Garbage

The building that contains this restaurant has a surface parking lot located on the west side of the lot. The surface parking lot provides an area for trash pick-up and off-street loading which is accessed through a driveway on 18th Street. The locations of the loading zone and trash area are shown on page LS-1 of the proposed plans. Additionally, there is an alternative on-street loading area designated by the Parking Department directly across the street on the north side of 18th Street that can be accessed.

Conclusion

After reviewing the request, staff does not have an objection to a continued restaurant and bar operation proposed at this location with the reduced hours of alcohol service. Staff has proposed a number of conditions to address the operational concerns of the neighborhood.

STAFF RECOMMENDATIONS

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

TRM/MAB/TUI

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ZONING AND LOCATION MAP



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

PROPERTY: 1766 Bay Road

FILE NO. PB 18-0238

IN RE: The applicant, Golden Era Holdings, LLC, requested a Conditional Use for a restaurant exceeding 100 seats and 125 occupants, pursuant to Section 142-303 (b) and 118, Article IV of the City Code.

LEGAL DESCRIPTION: The East 1/2 of Lot 9 and all of Lots 10, in Block 16 Island View Subdivision, according to the Plat thereof, as recorded in Plat Book 6, Page-115, of the Public Records of Miami Dade County, Florida.

MEETING DATE: January 22, 2019

CONDITIONAL USE PERMIT

The applicant, Golden Era Holdings, LLC, filed an application with the Planning Director pursuant Section 118, Article IV and Section 142, Article V. 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 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 Golden Era Holdings, LLC, as operator, for a restaurant with alcoholic beverages. The subject establishment shall always be licensed as a single restaurant serving full meals at all times. Any change of operator or fifty percent (50%) or more stock ownership shall require the new owners or operators to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owners and/or operators and acknowledging acceptance of all conditions established herein, prior to the issuance of a new Business Tax Receipt.
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. Prior to the issuance of a Building Permit for the improvements proposed herein, the applicant shall submit a revised site plan and floor plan. At a minimum, such plans shall include the following:
 - a. An air conditioned trash room(s)/garbage room(s), which shall be large enough or sufficient in number so that more than one pick up of garbage per day will not be necessary. The location, dimensions and access points of such trash/garbage room(s) shall be subject to the review and approval of staff.
 - b. A high-level trash/garbage compacting device may be located in the air-conditioned trash/garbage holding room within the facility.
 - c. The number of seats within the confines of the property shall not exceed 120.
5. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, 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. The restaurant and bar shall close by 2:00 AM, seven days per week. The outdoor portion shall close by 12:00 AM (midnight) daily.
 - b. At all times the establishment is open, food service with a full menu and operating kitchen shall be required throughout the venue.
 - c. The patron occupant content shall be a maximum of 199 persons, or as determined by the Fire Marshall, whichever is lower.
 - d. The number of seats within the confines of the property shall not exceed 120.
 - e. Entertainment shall be prohibited at all times.

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- f. Special events pursuant to the Miami Beach City Code, may not be held on the premises and the applicant agrees that it will not seek or authorize applications for such permits.
 - g. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - h. Any queuing of patrons shall occur within the property or inside the restaurant only. Security staff shall monitor the crowds to ensure that they do not obstruct the sidewalk.
 - i. Security staff shall monitor patron circulation and occupancy levels and shall take measures to strictly enforce patron age restrictions in the City Code at all times.
 - j. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and the areas of the street adjacent to the property. When sweeping the sidewalk in front of the establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately. In addition, at the end of business each day sidewalks shall be swept and hosed down.
 - k. Waste removal and trash pick-up shall take place between 7:00 AM to 9:00 AM.
 - l. Delivery vehicles shall only be permitted to make deliveries from 7:00 AM to 3:00 PM.
 - m. Delivery trucks shall not idle in the loading zone.
6. The applicant shall submit a Transportation Demand Management (TDM) Plan for employees of the restaurant. This plan shall encourage the utilization of alternative modes of transportation to commute to and from work. The restaurant shall designate a staff person to coordinate the development and implementation of the TDM Plan with the city. The TDM Plan should include a reporting system to be able to track the effectiveness of the Plan and make adjustments for improvements as necessary.
7. If in the future, the applicant wants to provide a valet parking operation for the site, the applicant shall return to the Planning Board with a valet parking analysis as a modification to the CUP. Depending on the outcome of the review, the Board may impose some specific mitigation measures as necessary.
8. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a BTR to operate this entertainment establishment.
9. 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.
10. 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.

- Dated this _____ day of _____, 2019.

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

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

Filed with the Clerk of the Planning Board on _____ ()