

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

PROPERTY: 336 21st Street

FILE NO. PB 18-0229

IN RE: The applicant, Plymouth Hotel LLC, is requested Conditional Use approval for an Outdoor Entertainment Establishment as defined in Section 142-1361 pursuant to Chapter 118, Article IV, and Chapter 142, Article III of the City Code.

LEGAL DESCRIPTION: Lots 5 and 7, of Block E, of the amended map of the ocean front property of the Miami Beach Improvement Company, according to the Plat Book 5, Pages 7 and 8, of the Public Records of Miami-Dade County Florida.

MEETING DATE: November 27, 2018

CONDITIONAL USE PERMIT

The applicant, Plymouth Hotel LLC, requested a Conditional Use Permit, pursuant to Chapter 118, Articles IV and V, for an Outdoor Entertainment Establishment, pursuant to 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 RM-2, Residential Multifamily Medium Intensity zoning district within the Museum Historic District; and

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

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; and

MB

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

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

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, as approved by the Planning Board, and accepted by the applicant, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

1. This Conditional Use Permit is issued to Plymouth Hotel LLC, as owner and operator of an Outdoor Entertainment Establishment consisting of a hotel, restaurant, bar, and pool deck area. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
2. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property applicants, operators, and all successors in interest and assigns. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, 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 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 the proposed outdoor entertainment establishment with the criteria listed below:
 - i. The indoor restaurant and bar area may operate until 5:00 AM, seven (7) days per week, as currently authorized on the hotel's Business Tax Receipt (BTR.)
 - ii. Up to 160 seats may be located in the indoor area.
 - iii. Up to 56 seats may be located in the outdoor seating area on the pool deck. That number does not include the sunbathing type recreation chairs shown

on the plans around the pool.

- iv. All outdoor room service or event operations shall cease by 12:00 AM Sundays to Thursdays, and 2:00 AM Fridays and Saturdays.
 - v. Entertainment, as defined by City Code, shall not be permitted in the indoor areas.
 - vi. Ambient background music, played by a DJ. or non-amplified live performances by string instruments are allowed on the pool deck only. All other outdoor areas are not allowed to have entertainment. The music may start at 10:00 AM and shall not operate past 10:00 PM, Sunday-Thursday, and 10:00 AM to 12:00 AM, Fridays and Saturdays, unless such hours are extended through the variance process.
 - 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. Before entertainment is approved and added to the Business Tax Receipt (BTR), a field visit with the applicants sound engineer and Planning staff shall verify that the volume limits on the sound system are set at a level that is not audible at the edges of the property that abut residential properties.
 - viii. Televisions shall not be located anywhere in the exterior areas of the property.
- b. Deliveries may only occur between 5:00 AM and 8:00 PM, seven days per week.
 - c. Delivery trucks shall only be permitted to park within the loading areas authorized by the parking Department.
 - d. Delivery trucks shall not be allowed to idle in the loading zone area.
 - e. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - f. Trash collections may occur daily between 8:30 AM and 10:00 AM.
 - a. 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.

mb

-
- 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. Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors shall be contained within the premises. Owner agrees to install an exhaust system, if required by code, for the kitchens of any commercial restaurants on the premise that will substantially reduce grease and smoke that would otherwise escape to the surrounding area. This may include the installation of a fan in connection with kitchen exhaust systems within the interior of the building in order to reduce noise levels at the exhaust outlet substantially in compliance with the plans as approved or in the alternative any such exhaust system shall be located along the west side of the property not directly adjacent to the southernmost or northernmost property lines.
 - k. 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.
 - l. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - m. As proposed by the applicant, a minimum of three (3) security staff shall be posted at the patron entrance and exit points to the pool deck. Security staff shall monitor whether the patrons are guest at the hotel, patron circulation, and occupancy levels in order to adjust crowds according to occupant loads.
 - n. Patrons shall not be allowed to queue on any public rights-of-way or the exterior premises. Security staff shall monitor the crowds to ensure that they do not interfere with the free-flow of pedestrians on the public sidewalk.
 - o. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
- 4. A contract with a valet operator shall be submitted or the Planning Department for review and approval prior to obtaining a final Certificate of Occupancy or Business Tax Receipt, whichever occurs first.
 - 5. The Planning Board shall retain the right to call the owner or operator, both now and in the future, back before the Board and modify this Conditional Use Permit, including the hours of operation and/or the occupant load of the restaurant, as well as modifications to the parking operations, should there be valid complaints or violations (as determined by Code Compliance) about valet operations and loud, excessive, unnecessary, or unusual noise.

6. The applicant shall address the following Concurrency and Parking requirements, as applicable:
 - a. Prior to the issuance of a Business Tax Receipt (BTR), the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as may be determined as determined by the Concurrency Management Division.
 - b. A final concurrency determination shall be conducted prior to the issuance of a BTR. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any BTR for outdoor entertainment.
7. 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.
8. 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).
9. 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.
10. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
11. 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.
12. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
13. 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

MB

Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

14. 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.
15. The number of valet attendants shall be sufficient to ensure that there will be no queuing of vehicles on any public rights-of-way.

Dated this 10th day of DECEMBER, 2018.

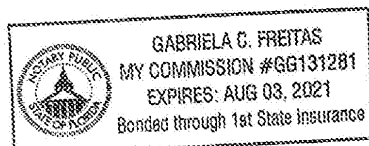
PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

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

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 10th day of December, 2018, by Michael Belush, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



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

Approved As To Form:

Legal Department

[Signature] 12/10/18

Filed with the Clerk of the Planning Board on

Jessica Gualdy (12/11/18)

MB