

MIAMI BEACH
PLANNING DEPARTMENT
Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: July 23, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB0616-0034, f.k.a., File No. 1898. 1100 West Avenue – The Mondrian
Progress Report**

HISTORY

- October 28, 2008* The Board approved a Conditional Use Permit for a Neighborhood Impact Establishment for 1100 West Properties, LLC consisting of a restaurant and bar/lounge located throughout the garden, lobby and pool deck areas.
- August 25, 2009* The Board approved a Modification to the Conditional Use Permit (MCUP) to extend the hours of operation of the interior portion of Sunset Lounge from 2:00 AM to 5:00 AM.
- October 29, 2013* The Board approved a modification to the MCUP, modifying certain conditions pertaining to hours and entertainment for interior and exterior portions of the project.
- Feb. 25, 2014* The Board approved additional modifications to the MCUP pertaining to hours and entertainment for interior and exterior portions of the project.
- Nov. 24, 2015* The applicant appeared before the Board for a Progress Report. The Board approved a minor modification to the MCUP, and a clarification of the condition related to the maximum occupancy on the pool deck. The Board also required a Progress Report be scheduled for January 26, 2016.
- August 23, 2016* The applicant, 1100 West Investments, LLC, requested a modification to a previously issued MCUP. Specifically the applicant requesting to change the ownership/operator, pursuant to Section 118, Article IV of the City Code.
- Dec. 27, 2018* The Planning Department sent a cure letter to the applicant, 1100 West Investments, LLC, in response to outstanding code violations related to the conditions of the CUP. The cure letter advised the applicant that a progress report was scheduled for the January 22, 2019 meeting.
- Jan. 22, 2019* The Board heard and discussed the issue of non-compliance. The applicant agreed to an amendment the MCUP that would explicitly provide access to areas subject to this MCUP (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code

Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this MCUP. The Board also set a progress report hearing for March 26, 2019.

March 26, 2019 The Board discussed the issue of not allowing additional sound systems to be brought in or utilized for special events. The Board also continued the progress report to July 23, 2019.

BACKGROUND

The subject hotel is situated on West Avenue, which is primarily a high density residential area of the City. The subject building was converted into a condominium hotel in the early 2000's and is located between two high-rise residential buildings. While hotel uses and the customary accessory uses associated with hotels were allowed in the RM-3 zoning district at the time, today new hotels are not permitted in the West Avenue corridor.

Due to the overall size of the venues and the outdoor areas on the site, a CUP was required. The conditions of the CUP are structured to promote the peaceful co-existence of the hotel's accessory uses and the nearby residential uses. The reason the applicant was initially required to appear before the board is because noise violations have been issued and the venue had not permitted Code Compliance officers to access to the property to inspect when noise complaints have been made.

Additionally, when the venue was issued a special event permit for New Year's Eve, they violated the specified hours for the pool bar outlined in the special event permit and guidelines as required in Section 12-5 of the City Code.

A copy of the details and requirements for this special event permit for 12/31/2018 is attached to this report.

Below are the conditions of the CUP that are related to the warnings, violations and open offenses:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. 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
5. The applicant, ~~Morgans Hotel Group Co~~ 1100 West Investments, LLC and its affiliates, as operator of the property, now and in the future, shall abide by all the documents and statements submitted with this application for a Neighborhood Impact Establishment Conditional Use Permit.

7. (n.) Entertainment, as defined in Section 142-1361 of the Code of the City of Miami Beach, Florida, shall be prohibited on exterior portions of the property, except as may be permitted in a Special Event permit issued by the City.
22. 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.
25. 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 114-7 of the Code and such enforcement procedures as are otherwise available. Any failure by the owner, applicant or operators 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 permit.

On January 22, 2019, the CUP was modified to include the following condition:

26. The applicant agrees and shall be required to provide access to areas subject to this MCUP (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this MCUP.

PROGRESS REPORT

The approved CUP is rather lengthy in its regulations of uses and requirements. The following is a summary of the critical requirements as it pertains to music and entertainment:

1. Only background music that does not interfere with normal conversation is permitted, which must utilize the approved house sound system.
2. Live music is only permitted as part of a special event permit that may only be issued for a private non-commercial party or a charitable event, and limited to more than one day a month. Percussion instruments shall not be used and music must not interfere with normal conversation.

Any music or entertainment that is played or as a result of a live performance may not interfere with normal conversation, and this includes in the immediate area where the music is played.

In response to the Board, below is a complete record search of noise compliance since the March 26, 2019 meeting.

NOISE COMPLAINTS

The following noise complaints were documented but no violation was issued:

NC2019-11425 Noise complaint 05/29/2019 – No Violation Issued

Description/notes: loud

Arrived at 7:40 PM

Departed at 8:40 PM

Music was not loud or excessive.

I was dispatched to this loud music complaint. Upon arrival I met with the hotel manager Mr. Eddie Rodriguez, and inspected the pool area at the rear of the property. The music was not loud or excessive. There was a large group of people at the pool area and Mr. Rodriguez, stated that they were all guest of the hotel and they had a gathering at the pool area. I spoke with Ms. Lynette, and informed her of the event and since it was a private group event and it did not constitute as a Special Event.

I met with the complainant and confirmed the music was not loud or excessive. I also informed the complainant about the group event.

After concluding the investigation I met with the general manger of the hotel Mr. Robert Festinger, and reminded him of the CMB noise ordinance and the conditions of their CUP permit.

BWC was used.

V. Maharaj/708 - Maharaj, Vijma

NC2019-10874 Noise complaint 04/01/2019 – No Violation Issued

Description/notes: Loud Music

*LOUD MUSIC COMING FROM THE MONDRIAN HOTEL BY THE POOL DECK
by Burrows, Lacoia - 9:52:33 PM*

Departed at 10:20 PM

Music was not loud or excessive.

I was dispatched to this loud music complaint. I met with Mr. Juan at the front desk and informed him of the complaint. Mr. Juan told me that a resident from the neighboring property called prior to my arrival, and they had their security spoke with one of their guest that was out by the pool area with a speaker.

I inspected the pool area and there was music in one of the cabana. The music was not loud or excessive. The couple immediately turned off the music. After concluding my investigation I contacted the complainant and informed him of the outcome.

BWC was used.

Maharaj, Vijma - 4/01/2019 10:19:19 PM

On March 26, 2019, the Board discussed the issue of not allowing additional sound systems to be brought in or utilized for special events. Below are the CUP Conditions related to this issue:

- 7n. Entertainment, as defined in Section 142-1361 of the Code of the City of Miami Beach, Florida, shall be prohibited on exterior portions of the property, except as may be permitted in a Special Event permit issued by the City.
10. Only the sound system operated and controlled by hotel management shall be permitted. Any extraneous or independent sound system that may be brought by DJs, promoters, performers or any other individuals shall be strictly prohibited.

Staff clarified that even if a special permit is issued, the applicant cannot bring any additional sound system based upon the CUP requirement. Staff is proposing to address this in condition number 10 with the following clarification:

10. Only the sound system operated and controlled by hotel management shall be permitted. Any extraneous or independent sound system that may be brought by DJs, promoters, performers or any other individuals shall be strictly prohibited, including for special event permits issued by the City.

STAFF RECOMMENDATION

Staff recommends that the Planning Board discuss the issue of non-compliance, including the staff recommended clarification to Condition No. 10, as well as the timing of future progress reports.

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

PROPERTY: 1100 West Avenue

FILE NO: PB0616-0034, fka File No. 1898.

IN RE: The application for a modification to a previously issued Conditional Use Permit to change the ownership/operator, pursuant to Section 118, Article IV of the City Code.

LEGAL

DESCRIPTION: Lots 7 and 8 and north 50 feet of Lot 9, Alton Beach Realty Co., as recorded in Plat Book 6, Page 12 of the Public Records of Miami-Dade County, Florida, as described in Declaration of Condominium recorded in Official Records Book 25780, Page 0498 of the Public Records of Miami-Dade County, Florida.

MEETING DATE: August 23, 2016, January 22, 2019

MODIFIED CONDITIONAL USE PERMIT

The applicant, 1100 West Investments, LLC, filed an application with the Planning Director for a Conditional Use Permit pursuant to Section 118-193 of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the request for Conditional Use 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 record for this matter:

That the property in question is located in the RM-3, Residential High Intensity zoning district;

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 City Code;

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 if the following conditions are met.

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 which were amended by the Board, that the modification to the

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Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions to which the applicant has agreed: Strikethrough denotes deleted words; underlining denotes new language:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. 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 Modified Conditional Use Permit is issued to 1100 West Investments, LLC as owner of the property and its affiliates as operator of property. Subsequent owners or operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein. Any change to the ownership interests in 1100 West Investments, LLC exceeding twenty-four (24%) percent of the ownership interests in 1100 West Investments, LLC, shall be deemed to create a "subsequent owner" of the property requiring said owner to appear before the Board to affirm their understanding of the conditions listed herein.
3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
4. The applicant, 1100 West Investments, LLC and its affiliates, as operator of the property, now and in the future, shall abide by all the documents and statements submitted with this application for a Neighborhood Impact Establishment Conditional Use Permit.
5. With respect to the operation of the property, 1100 West Investments, LLC and its affiliates, are in addition to the applicant, responsible for compliance with the conditions.
6. The maximum number of people that shall be permitted at any one time in each of the interior and exterior areas of each of the lounge, pool bar, and restaurant shall be as set forth on Page A-1.0, dated April 19, 2007 and signed September 25, 2008 of the site plans submitted as part of the Application.
7. The applicant, West Investments, LLC shall comply with all of the following operational conditions:
 - a. The hours of operations shall be as proposed by the applicant:
 - (i) Restaurant 7:00 a.m. until midnight, except on weekends and holidays they shall be 2:00 a.m. indoors and 12:00 a.m. outdoors.
 - (ii) Sunset Lounge: 11:00 a.m. until 5:00 a.m. seven days per week in the air-conditioned interior area: 11 a.m. until 2:00 a.m. seven days per week on the pool deck portion: provided that security personnel are posted at each of the access points to the outdoor terrace and pool deck at 2:00 a.m. with the responsibility of preventing access to those areas after 2:00 a.m.

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- (iii) Pool Bar counter: 9:00 a.m. until 10:00 p.m. Sunday through Thursday and until 11:00 p.m. Friday and Saturday, as well as the Sunday that is closest in time to each of the following holidays: Thanksgiving, Christmas, New Year's Eve, Labor Day, Memorial Day, July 4th and Easter, provided the applicant obtains a variance from the Board of Adjustment. Otherwise, the bar counter shall close from 8:00 PM until 9:00 AM seven days a week.
- (iv) All exterior clean-up activities relating to the restaurant, sunset lounge and pool bar counter operations, including the depositing of trash and recycling, shall cease one (1) hour following the close of daily operations at 2:00 a.m. seven days a week and all exterior set-up activities for said venues shall not commence before 6:30 a.m. in the covered areas and 8:00 a.m. in the uncovered areas of the pool deck.
- b. 1100 West Avenue shall install landscaping in the area near the north and south property lines in order to create a transition between the Property and the neighbors to the north and south, and in order to attempt to create a sound buffer and reasonable artificial light buffer. The type, size and quantity of the landscaping will be subject to City staff review and approval.
- c. 1100 West Avenue shall install and maintain sound buffering panels along its north and south property lines in order to create additional sound buffering, subject to City review and approval.
- d. The outdoor bar that is located close to the Mirador North property line, shall be moved to the area near the south boundary of the Property, the exact location of which will be at 1100 West's sole discretion but no closer than south of the east/west median line as defined as Line A on Exhibit B (copy attached).
- e. After 8:00 P.M, and before 8:00 AM, all tables and chairs that are used for meal service in the rear of the Property shall be confined to the covered areas. Lounge chairs or day beds with accessory tables are allowed around entire pool area for lounge or bar service. No service shall occur on the Pool Deck after 11:00 PM except for table service in the cabanas. North and south cabanas service will be limited to groups of 6 or less individuals and food service will end at 12:00 Midnight and drink service at 2:00 AM.
- f. 1100 West Avenue will make the south service entrance the property's primary service access. Additionally, 1100 West Avenue will build and use a trash room only on the South side of its property; all access to the trash room for pickup and delivery shall be along the south side of 1100 West. In the event of an emergency or other extraordinary event or circumstance beyond the control of the applicant, such as war, strike, riot, crime or act of nature, the limitation shall not apply.
- g. Unless required by law, and no reasonable alternative could be found, no additional mechanical equipment will be located near the north or south areas of the Property.

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- h. During all operating hours of the marina, the marina will be staffed by an attendant and will be under 24 hour surveillance. No loudspeakers shall be affixed to marina facilities except as may be required for fire or building code purposes, or necessary for operation of a marina. Any such amplification devices shall be utilized solely for marina operations, not for entertainment or non-operational purposes.
- i. No speakers shall be affixed to and located on the exterior of the premises, except as may be required for fire or building code purposes, and except for the ground installed speakers such as the Bose FreeSpace 360P Series II Loudspeaker (or substantial equivalent) as described in The Audio Bug, Inc.'s report dated September 19, 2008, intended to limit noise disbursement with the intent to distribute sound within a limited radius of each speaker, with sound projected downward or laterally not vertically. Additional speakers may be added to more evenly distribute sound, provided that:
- (i) Such speakers are consistent with the type of speakers described in the aforementioned report,
 - (ii) The location of such speakers are consistent with The Audio Bug, Inc.'s design plan for the pool deck dated September 10, 2013, and
 - (iii) The volume of the music shall not exceed background levels. For purposes of this provision, "background levels" shall mean levels that do not interfere with normal conversation.
- With the exception of the covered areas in the exterior of the Property (including the cabanas), no audio amplified equipment shall be operated on the Pool Deck later than 10:00 p.m. Sundays through Thursdays and 11:00 p.m. Fridays and Saturdays. Audio amplified equipment may also be played until 11:00 p.m. on the Sunday that is closest in time to each of the following holidays: Thanksgiving, Christmas, New Year's Eve, Labor Day, Memorial Day, July 4th and Easter. With respect to said covered areas, no audio amplified equipment shall be operated beyond 2:00 a.m. No speakers shall be located on the property boundaries and all speakers shall be placed in such a way that they direct sound inward away from the neighboring properties.
- j. In the exterior common areas, the use of percussion instruments shall not be permitted on the premises, outdoors on the premises, or on open air portions of the premises, or within any rooms or facilities operating on the premises with doors or windows that open directly onto the exterior except as explicitly permitted under a Special Event permit.
- k. Portable audio or amplified equipment, (inclusive of loudspeakers, radio receivers, television sets, musical instruments, or other machines or devices for the producing or reproducing of sound) shall not be permitted on the pool deck or rooftop. But television sets will be allowed if their sound systems use the sound system described in paragraph 7(i).
- l. No outdoor live music shall be permitted at any time, except as may be permitted

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- in a valid Special Event permit issued by the City with prior notice to the adjoining properties upon application for such a permit and prior to its issuance. No such permit shall include the use of percussion instruments, as described in subsection 7(j), unless it is explicitly approved by the Special Event Permit. Any such Special Event Permit shall be for a private noncommercial party or charitable event and shall be limited to no more than one day in any given month and during national holidays.
- m. Rooftop use shall be solely for unit owners, their lessees, invitees and guests, and hotel guests.
 - n. Entertainment, as defined in Section 142-1361 of the Code of the City of Miami Beach, Florida, shall be prohibited on exterior portions of the property, except as may be permitted in a Special Event permit issued by the City.
 - o. Commercial fireworks shall not be permitted on the property, except as may be permitted during events held pursuant to a Special Event Permit issued by the City.
 - p. Temporary lighting equipment used in connection with events or productions on the Pool Deck shall be placed in such a way to minimize spillover onto neighboring properties. In no event shall such lighting be turned on between midnight and 7:00 a.m. seven days a week, except as may be permitted in a Special Event permit issued by the City.
 - q. 1100 West shall install signage on the property instructing vehicular traffic to refrain from noise from honking truck, car horns, and car alarms, subject to the review and approval of staff.
 - r. In addition to the limitations specified herein, to the extent permitted by law, the 1100 West and successors and assigns shall prohibit on the premises noise that is prohibited under the City of Miami Beach noise ordinance, Chapter 46, Article IV, as it may be amended from time to time.
8. The installation plan for the updated sound system, including the location of all the speakers and sound system controls shall be submitted to staff for review and approval prior to obtaining a building permit.
 9. When the sound system is completely installed, but before operations begin, it shall be tested under the supervision of Mr. Donald J. Washburn, president of The Audio Bug, Inc., but before the Business Tax Receipt has been issued, to ensure that all aspects of the system's performance comply with The Audio Bug, Inc.'s report dated September 19, 2008 as well as The Audio Bug, Inc.'s design plan for the pool deck dated September 10, 2013. Operations shall not begin until staff has received and approved in writing a final written report by Mr. Washburn which states that as tested, the system complies with all the aforementioned reports and supporting materials.
 10. Only the sound system operated and controlled by hotel management shall be permitted. Any extraneous or independent sound system that may be brought by DJs, promoters, performers or any other individuals shall be strictly prohibited.

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11. Hotel security personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of the lounge.
12. Prior to the issuance of a Certificate of Occupancy or Certificate of Completion, 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. A final concurrency determination shall be conducted prior to the issuance of a Certificate of Occupancy or Certificate of Completion. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving the Business Tax Receipt.
13. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
14. The westbound approach of the 11th Street and West Avenue intersection shall be re-stripped by adding a thru-arrow to the existing painted left-turn arrow in order to show the allowed through-movement into the project.
15. The landscaping that may be proposed for the edge along the sidewalk shall not exceed a maximum height of two feet in order to provide adequate sight distance at the north (exit) driveway. Any revision to the landscaping plan shall be submitted to staff for review and approval.
16. A "DO NOT ENTER" sign facing the street, shall be installed at the north driveway. In addition, removable bollards shall be installed so that a right-turn only movement is permitted. Bollards may be removed during special events to allow the flow of traffic with security personnel or off-duty officers directing traffic.
17. The applicant shall coordinate with the Public Works Department any proposed street improvements, including but not limited to the re-stripping of the 11th Street and West Avenue intersection.
18. Food and beverage service to boat patrons shall be permitted, except that no food and beverage sales shall be provided to vessels docked at the south marina. No other services shall be provided to vessels docked on the property. The applicant shall satisfy the required parking for a commercial marina by either providing the required spaces, or paying a fee in lieu of providing the required parking.
19. Access to the open rooftop area on the top floor, located between two groups of units, facing east, shall be limited to unit owners, their lessees, their respective social invitees and their guests, and hotel guests. In the open rooftop area, none of the following shall be permitted at any time: (a) any musical instrument or any sound-producing device, instrument, system, or component of any kind, or (b) any social or commercial event or function of any kind, or (c) flashing or spinning lights.
20. The maximum number of persons on the Pool Deck shall not exceed 299 persons, except during special events. For purposes hereof, the term "Pool Deck" shall mean as designated on Exhibit "A," attached hereto and incorporated herein, as the "Pool Deck." Without limitation, the Pool Deck shall exclude any covered areas in the exterior of the Property. Any expansion of the MCUP approved site and/or floor plan shall require the review and approval of the Planning Board.

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21. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation or the occupant load should there be complaints about loud, excessive, unnecessary, or unusual late night noise.
22. 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.
23. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant, and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
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. 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 114-7 of the Code and such enforcement procedures as are otherwise available. Any failure by the owner, applicant or operators 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 permit.
26. The applicant agrees and shall be required to provide access to areas subject to this MCUP (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this MCUP.
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 23rd day of JANUARY, 2019.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Blush

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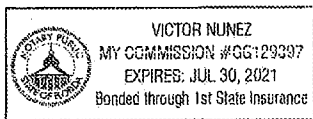
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Michael Belush, Chief of Planning and Zoning
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE .)

The foregoing instrument was acknowledged before me this 23 day of JANUARY, 2019, 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.



[Signature]
Notary:
Print Name
Notary Public, State of Florida
My Commission Expires: JULY 30, 2021
Commission Number: GG 129397

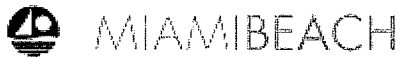
{NOTARIAL SEAL}

Approved As To Form:
Legal Department ([Signature]) 1/23/19

Approved As To Form: Legal Department ()

Filed with the Clerk of the Planning Board on [Signature] 1/24/19)

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Special Events Permit

Department of Tourism, Culture & Economic Development
Office of Film & Event Production Management

Permit Number: 201993

Date: 7/2/2019

Event: Mondrian New Year's Eve_GT

The producer of the following event has met the necessary requirements pursuant to the Special Events Permit Requirements and Guidelines of the City of Miami Beach:

Event: Mondrian New Year's Eve_GT

Permittee: MONDRIAN SOUTH BEACH

Contact: James Diggs **Phone:** 786-502-6400 **Mobile:** 305-514-1500 **Fax:** 305-514-1955

Address: 1100 West Avenue Miami Beach FL -33139 USA

Onsite Contact: James Diggs **Mobile:** 786-502-6400

Begin Event Date	End Event Date	Start Hour	End Hour	Load-In Date	Begin Hour	End Hour	Load-out Date	Begin Hour	End Hour
12/31/2018	1/1/2019	8:00 PM	2:00 AM	12/31/2018	8:00 AM	6:00 PM	1/1/2019	7:00 AM	6:00 AM

Event Location 1: Mondrian, 1100 West Avenue

Neighborhood: West Avenue

Event Description: The purpose of this special event is to allow 1100 West Investment, LLC, dba Mondrian South Beach to host an Annual New Year's Eve Celebration on the pool deck, restaurant and lounges of Mondrian South Beach. The event will include DJ entertainment, countdown, and fireworks at midnight.

Event Elements: This event permit allows for the Mondrian Hotel to host a New Year's Eve event on December 31, 2018, at 8:00pm to January 1, 2019 at 2:00 am. The entertainment includes enhanced DJ music in and around the pool deck areas until midnight followed by Fireworks. Afterward all events activities will transition inside to the Sunset Lounge, which operates under the Mondrian Hotels existing license. Pool bar may not be extended beyond 8:00 pm as per CUP. Property must adhere to current CUP at all times. Additional mobile bar in pool area may be set up in the pool deck areas until midnight only. There are no temporary structures approved under this Special Event Permit. As part of the event set up a two foot riser will be installed for production purposes only, the public is not allowed at anytime. The riser does not require a Building permit. The Fire Department's approval of the event's master site plan is subject to onsite inspection and issuance of temporary occupant load certificate. Applicant must post temporary occupant load certificate for Fire Department inspection. Fire Department will approve Fireworks permit. There will be no special use of West Avenue or 11 Street, inclusive of load in and load out, as part of this event. No public uses or street closures permitted as part of this permit. Load in may not occur on active lanes of traffic. No public queuing on the beachwalk of front sidewalk of the hotel. Commercial sign-offs obtained from adjacent properties. Noise ordinance is in effect at all times.

Estimated Attendance: 999

City Services: Off-duty office notification 305-673-7823.
Fire Department has staffed according to the event needs.
Event staffing includes off-duty Police officers handling all load-in and load-out activities and all public safety and traffic needs for this event.
Fire Department has staffed according to the event needs.

Sanitation Clean Up: Event is contained within private property. The applicant is responsible for any sanitation needs on public property.

Parking Plan: Event is contained within private property. The applicant is responsible for any sanitation needs on public property.

No reserved meters approved for this event.

Permit Conditions:

****THIS PERMIT MUST BE POSTED IN A CONSPICUOUS LOCATION. Failure to do so may result in a citation.**

NOISE/ EVENT ENTERTAINMENT:

****This Special Events permit does not override or allow for violation of the Miami Dade County Noise Ordinance. Applicant shall abide by the Miami Dade County Noise Ordinance and City of Miami Beach ARTICLE IV NOISE section of the City Code.**

****Sound checks MAY NOT BE PERFORMED before 11:00am.**

****Outdoor entertainment includes enhanced DJ music in and around the pool deck areas until midnight .After the fireworks show, the event/entertainment will move inside to the Sunset Lounge.**

****The Applicant has been advised; that a special events permit does not give allowance to violate the noise ordinance.**

OCCUPANCY:

****A temporary occupant load is PENDING, to be issued by the City's Fire Department. Once issued, applicant must post the certificate for inspection.**

BUILDING PERMITS/ CONDITIONS:

****There are no temporary structures approved under this temporary structures.**

****Allowed temporary structures which DO NOT require a building permit – portable generators rated at 5000 watts or less (must be enclosed by a fence or barricade, must have sound muffled to abide by noise ordinance; must include absorbent padding under it if on sand or grass; all cabling must be ADA compliant). A 30" or less riser (for production purposes only; the public is not allowed on it at any time); tents measuring 120' square feet total or less with three foot separation from each other or any structures if no electrical use involved; ten feet if electrical use involved.**

****Any temporary structures not listed as part of this permit that are erected at the event site must have the approved building permit and requisite special inspector forms posted on the structure and available for inspection at all times. Failure to do so is a violation of this Special Event permit.**

EXTENSIONS/ PROVISIONS:

****No use of public space is approved via this permit.**

****This permit does not grant liquor extension beyond the venue's licensed hours or locations.**

****There will be no special use of West Avenue, inclusive of load in and load out, as part of this event.**

****Any commercial filming on public property; whether produced, coordinated or approved by the permittee; within or relevant to the approved event area, must have an approved Miami Beach film permit. All drone (UAS) uses are prohibited in event area, whether above public or private property, and cannot be permitted by film permit in public event activations. Allowance of drone uses by permittee is a violation of this permit.**

INSPECTIONS:

****The Permitted hereby expressly grants and authorizes, pursuant to the issuance of this Special Event Permit, unrestricted access to the Private Property set forth herein for any governmental official with the City of Miami Beach, which includes but is not limited to, its Police Officers, Fire Inspector(s) and Paramedics or any other Fire Department Official, Building Inspector(s), Code Compliance Officers, or any Special Events Field Monitor(s). Any City Official set forth herein shall have the unrestricted access to the Private Property, and will have the authority to conduct any appropriate inspections pertaining to, or related with, any aspect of the Special Event activities identified within this permit.**

****The Permitted hereby acknowledges and affirms that the failure to permit an inspection of the Private Property by the City of Miami Beach shall result in the immediate termination of the Special Event activities.**

STREET CLOSURES/ LANE REDUCTIONS/ ROW PERMITS:

****There are no street closures approved as part of this permit.**

****Unless otherwise stated in this permit, no closure, lane reduction or traffic holds are permitted Monday – Friday from 7:00 am to 10:00 and 3:30 pm to 7:00 pm**

SIGN-OFF'S/ NEIGHBORHOOD REVIEW:

****Residential/Commercial sign-offs obtained from Mirador 1200 and 1000, West Avenue.**

OTHER/ DISCLAIMER:

****Fireworks issued for barge offshore from the Mondrian. Fireworks permitted through Fire Department permit. Any such uses in aid of this permit are subject to same conditions as this permit and forfeiture of deposit if not enacted properly.**

****The City of Miami Beach reserves the right to amend this Special Events Permit at its discretion.**

****Should any of the Special Event Permit conditions be violated in any way, the applicant/producer will be cited and may forfeit the security deposit.**

APPROVED BY:

Jimmy L. Morales, City Manager

MK/HS/LN/SR/GT

Permit Number: 201993

TERMS AND CONDITIONS OF SPECIAL EVENTS PERMIT

AUTHORITY: This Permit is issued by the authority of the City Manager (the 'Permitter'), for the purpose of special events on public property, or private property where such event would not normally be allowed, pursuant to the Special Events Permit Regulations and Guidelines, as codified in City of Miami Beach Ordinance No. 2001-3302, as same may be amended from time to time (the Guidelines).

PERMIT REQUIRED: This Permit is a public record and must be maintained and available for inspection at all times at the location on which the Event occurs. This Permit may not be assigned, altered, and/or the terms of this Permit varied from by the Permittee without the prior written consent of the City of Miami Beach. This Permit shall not be valid unless approved and executed by the City Manager.

COMPLIANCE WITH PERMIT AND LAWS: Permittee agrees to comply with the terms and conditions of this Permit; the Guidelines (as may be amended from time to time); and with all applicable Federal, State, and local laws, regulations, ordinances, and rules. Non-compliance shall be subject to enforcement by the City, through and including, but not limited to, City Police, Code Compliance Officers, Fire Inspectors, or such other authorities (whether City, State, or Federal) having jurisdiction, and may further result in revocation of this Permit and/or cancellation, suspension, or early termination of the Event. The Permitter, or an authorized representative, may modify, suspend, or revoke this Permit, at his/her sole discretion, including, but not limited to, such cases where the Permitter finds that Permittee's activities and/or the Event is contrary to the health, safety and welfare of any person, or that said activities are or will cause damage to real or personal property.

INSURANCE: This Permit is granted subject to Permittee providing the City any and all applicable Certificate(s) of Insurance, including general liability insurance, for bodily injury, death, property damage, and personal injury. All Insurance Certificate(s) must name the City of Miami Beach as additional insured and policyholder.

INDEMNIFICATION: In consideration of the City's approval of this Permit, and the granting of the privilege herein, Permittee waives all claims against the City of Miami Beach, its officers, agents and employees, for loss or damages caused by, arising out of, or in any way connected with the granting of this Permit or of the Event. Permittee agrees to indemnify, defend and hold harmless the City of Miami Beach, its officers, agents and employees, from any and all alleged claims, loss, damage or liability caused by, arising out of, or in any way connected with the granting of this Permit or of the Event.

RISK: Permittee acknowledges that its use of any City of Miami Beach facilities and/or property for purposes of this Permit and/or the Event, is at its own risk and expressly waives any right to make or prosecute claims or demands against the City of Miami Beach for any loss, injury or damage which Permittee or its officers, agents, employees, guests, invitees, and any other persons or entities related to or associated with the Permittee and/or Event may sustain in the exercise of the permissions granted, or by reason of any defect, deficiency or impairment which may occur from time to time from any cause or the utilities or other services furnished, or for any loss resulting from fire, water, wind, civil commotion, riot, landslide, or acts of God. Permittee further understands and agrees that all City property and facilities are offered in their 'as is' condition with no representation or warranty, express or implied.

REMOVAL OF MATERIALS: The Permittee shall clean up and restore the Event location and all City property and facilities hereon and/or related hereto as they were prior to the Event taking place, including, but not limited to, the removal of all temporary structures, equipment, trash and garbage removal, and any other restoration of City property and facilities, as deemed necessary by the City. All such work shall be completed within the time specified in the Permit (i.e. load-out date), unless the City agrees in writing, that this may be done at a later time. In the event the Permittee fails to comply, the City of Miami Beach may remove and restore same, and Permittee shall pay any costs incurred. Permittee agrees to pay the City of Miami Beach for damage to City of Miami Beach property and facilities resulting from operations undertaken by Permittee.

VENUE: This Agreement shall be enforceable in Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any and all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Dade County, Florida. CITY AND CONCESSIONAIRE HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT CITY AND CONCESSIONAIRE MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE CONCESSION AREA(S).

Commencement of activity under this permit by a permittee or its agents, employees or subcontractors constitutes acceptance of the terms and conditions of this permit. The permittee shall further ensure that all employees, sponsors and guests of the special event comply with the terms and conditions of this permit. All activity under this permit shall also be in compliance with all applicable federal, state, county and municipal laws. This permit may be revoked at any time.