

# 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: **PB 19-0271. Aka File No. 2042. 2000 Collins Avenue.** (spaces 11 and 12 along 20<sup>th</sup> Street).

An application has been filed requesting a modification to a previously issued conditional use permit for a Neighborhood Impact Establishment consisting of an alcohol beverage establishment, entertainment establishment and dance hall with an occupant content exceeding 200 persons. Specifically, this application includes a change of ownership.

#### RECOMMENDATION

Approval with Conditions.

#### HISTORY

February 28, 2012 Approval of a Conditional Use Permit (CUP) for a neighborhood impact establishment consisting of an alcoholic beverage establishment, entertainment establishment, and dance hall with an occupant content of more than 200 persons.

July 28, 2015 The Planning Board approved modifications to the Conditional Use Permit (MCUP) to change the owner/operator from Ocean First Group, LLC., to Zilkatur, LLC.

#### ZONING / SITE DATA

**Legal Description:** Lot 1, 2, 3, 4 and the east 25.5 feet of Lot 6, 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.

**Zoning:** CD-3, Commercial high intensity zoning district

**Surrounding Uses:**

North:	Collins Park
West:	Hotel
South:	Hotel and apartment building
East:	Hotel and apartment building

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

## **THE PROJECT**

The Letter of Intent (LOI) indicates that no changes to the operation and no changes to the previously approved CUP are proposed.

The applicant submitted an updated disclosure that reflects the new ownership.

## **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 would not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.**

**Consistent**— As previously approved, the proposed use would not exceed the established thresholds for levels of service. The parking operation would be valet only. A valet traffic circulation analysis was submitted with the original application.

3. **Structures and uses associated with the request are consistent with this Ordinance.**

**Consistent**— As previously approved, Neighborhood Impact Establishments are permitted as conditional uses in this zoning district.

4. **Public health, safety, morals and general welfare would not be adversely affected.**

**Partially Consistent**— The proposed establishment may adversely affect the general welfare of nearby residents if noise and traffic issues are not controlled. A sound study, traffic impact study and valet circulation analysis were submitted with the original application. The facility would have to comply with all applicable laws and regulations for licensure.

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

**Consistent**— As previously approved, All the required parking for this establishment is provided within the valet-only garage attached to the structure. The establishment would provide valet parking only for patrons. A valet circulation analysis, as well as a traffic study was submitted with the original application.

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

**Consistent**— As previously approved, measures to mitigate adverse impacts are included in the prior conditions of approval.

7. **The concentration of similar types of uses would 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 entertainment uses in the area. No adverse impact is anticipated on the adjacent pre-existing uses as a result of this request. Provided the business is operated in accordance with the CUP.

#### **NEIGHBORHOOD IMPACT ESTABLISHMENT REVIEW GUIDELINES**

In accordance with Section 142-1362 of the Miami Beach City Code, in reviewing an application for an outdoor entertainment establishment, open air entertainment establishment or a neighborhood impact establishment, the Planning Board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to chapter 118, article IV:

1. **An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.**

**Consistent** – An updated business/ operational plan will be required prior to the issuance of a new BTR.

2. **A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, self park, shared parking, after hour metered spaces and the manner in which it is to be managed.**

**Consistent** – As previously approved, parking will be provided in the garage that is connected to the structure. The garage is a valet-only operation and a valet circulation analysis has been provided with the original application.

3. **An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises will be controlled.**

**Consistent** – As previously proposed, patrons would queue in the main entrance vestibule and the sidewalk, controlled by stanchions and security personnel.

4. **A security plan for the establishment and any parking facility.**

**Partially Consistent** – An updated security plan will be required prior to the issuance of a new BTR. The adjacent garage is a separate entity that has its own operation plan.

5. **A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.**

**Consistent** – A traffic circulation analysis and valet operation plan were previously submitted, which outline traffic and valet circulation for the site.

6. **A sanitation plan which addresses on site facilities as well as off premises issues resulting from the operation of the establishment.**

**Consistent** – As previously approved, there are existing sanitation facilities for the other operations within the site which will be used by the applicant.

**7. A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance.**

**Consistent** – With the original application, a noise attenuation study was prepared by The Audio Bug, Inc. which contained a number of recommendations. The subject space has two access doors to 20th Street each proposed with vestibules. The eastern most door will be the main ingress door and the other one will be for emergencies. There are other emergency doors that lead to internal service corridors in the building.

**8. Proximity of proposed establishment to residential uses.**

**Partially Consistent** – There is a residential condominium component within this mixed use structure. In addition, there are hotel uses to the west, south and east, as well as residential units within some of the adjacent hotel uses. There are commercial uses, existing and proposed, on the ground floor of the structure.

**9. Cumulative effect of proposed establishment and adjacent pre-existing uses.**

**Partially Consistent** – There are several entertainment uses in the area. No adverse impact is anticipated on the adjacent pre-existing uses as a result of this request. Provided the business is operated in accordance with the conditions of the CUP.

**STAFF ANALYSIS**

The City Code requires that Neighborhood Impact Establishment and Outdoor Entertainment Establishments obtain a CUP. The section of the code that pertains to this requirement is below:

*Sec. 142-243. - Conditional uses.*

*The conditional uses in the RM-3 residential multifamily, high intensity district are day care facility; stand-alone religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages; accessory outdoor entertainment establishment; accessory neighborhood impact establishment; and accessory openair entertainment establishment as set forth in article V, division 6 of this chapter.*

The existing CUP condition associated with this request (change of ownership) is:

1. This Modified Conditional Use Permit is issued to Ocean First Group, LLC Zilkatur, LLC as operator of this Neighborhood Impact Establishment consisting of an alcoholic beverage establishment, entertainment establishment, and dance hall with an occupant content of more than 200 persons. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.

To streamline the processes in the future, staff is recommending that applicants no longer be required to file an application to modify the CUP when a change of ownership occurs. In place of this application an affidavit will be submitted with the following revised condition:

1. This Modified Conditional Use Permit is issued to ~~Zilkatur, LLC~~ MC GA Collins Realty, LLC as operator of this Neighborhood Impact Establishment consisting of an alcoholic beverage establishment, entertainment establishment, and dance hall with an occupant content of more than 200 persons. ~~Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein~~ Any changes in ownership of 50% (fifty percent) or more stock ownership, or the equivalent, shall require the new owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Business Tax Receipt.

As of the writing of this report there are no open violations related to the Conditional Use Permit.

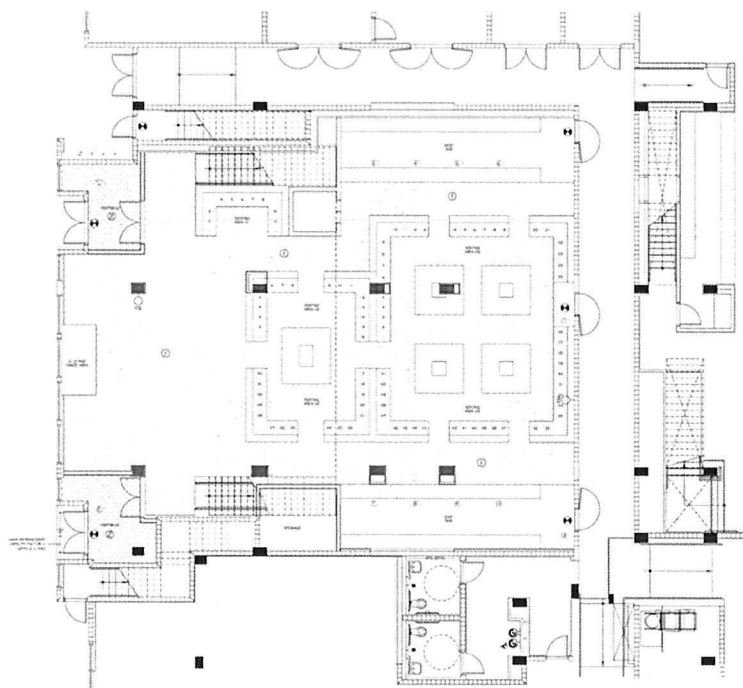
For reference the details of the operation are provided below:

### **Operation**

The lounge occupies two adjacent spaces within the 2000 Collins Avenue structure on the first and second levels along 20<sup>th</sup> Street. Directly above and to the west are four floors of parking garage; a pool deck on the top floor of the garage; retail spaces are located to either side along 20<sup>th</sup> Street and condominium units are east of the lounge, starting on the third floor. The regular hours of operation are 10:00 p.m. to 5:00 a.m. The use of the space may also be used for private events such as corporate events, meetings and the like. A staff of approximately 100 employees includes approximately 25 security personnel when the venue is at maximum capacity.

There are two sets of doors to gain access to the venue from 20<sup>th</sup> Street; however the main entrance would be through the eastern most set of doors; vestibules were built for the two sets of doors in order to contain noise that may escape. In-house security personnel was charges with crowd control and internal security. People waiting for admission may wait in the vestibules as capacity may permit, or queue on the sidewalk to be controlled by security personnel and stanchions.

See floor plans below:



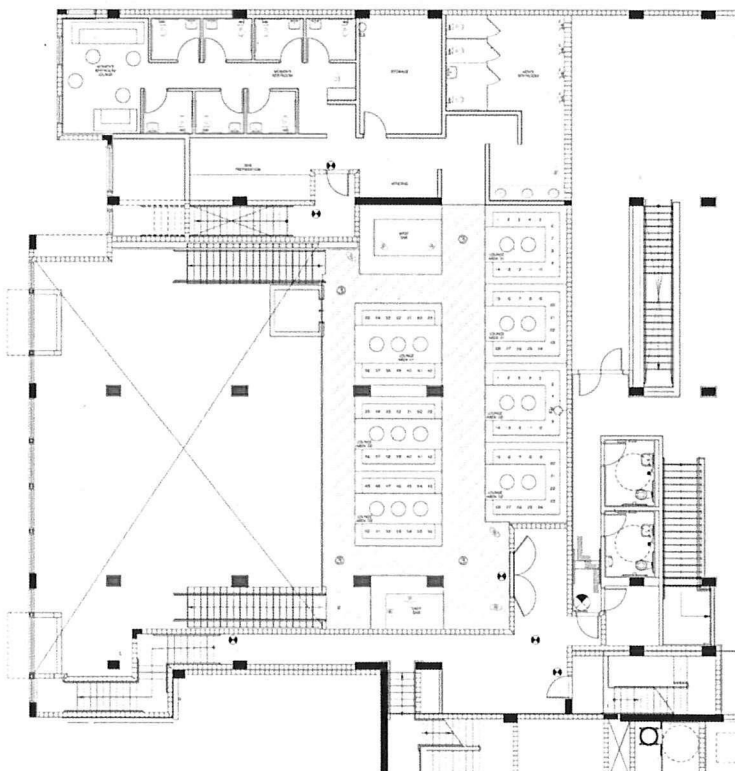
1. PROPOSED FIRST FLOOR FURNITURE PLAN  
SCALE: 1/8" = 1'-0"

FURNITURE CALCULATION	
FLOOR	AREA
FIRST FLOOR	10,000
SECOND FLOOR	10,000
THIRD FLOOR	10,000
FOURTH FLOOR	10,000
FIFTH FLOOR	10,000
SIXTH FLOOR	10,000
SEVENTH FLOOR	10,000
EIGHTH FLOOR	10,000
NINTH FLOOR	10,000
TOTAL FLOOR AREA	90,000

FURNITURE CALCULATION	
FLOOR	AREA
FIRST FLOOR	10,000
SECOND FLOOR	10,000
THIRD FLOOR	10,000
FOURTH FLOOR	10,000
FIFTH FLOOR	10,000
SIXTH FLOOR	10,000
SEVENTH FLOOR	10,000
EIGHTH FLOOR	10,000
NINTH FLOOR	10,000
TOTAL FLOOR AREA	90,000

OCCUPANT LOAD BY ZONE AND NUMBER OF FLOORS	
FLOOR	AREA
FIRST FLOOR	10,000
SECOND FLOOR	10,000
THIRD FLOOR	10,000
FOURTH FLOOR	10,000
FIFTH FLOOR	10,000
SIXTH FLOOR	10,000
SEVENTH FLOOR	10,000
EIGHTH FLOOR	10,000
NINTH FLOOR	10,000
TOTAL FLOOR AREA	90,000

NOT FOR CONSTRUCTION



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

FURNITURE CALCULATION	
FLOOR	AREA
FIRST FLOOR	10,000
SECOND FLOOR	10,000
THIRD FLOOR	10,000
FOURTH FLOOR	10,000
FIFTH FLOOR	10,000
SIXTH FLOOR	10,000
SEVENTH FLOOR	10,000
EIGHTH FLOOR	10,000
NINTH FLOOR	10,000
TOTAL FLOOR AREA	90,000

FURNITURE CALCULATION	
FLOOR	AREA
FIRST FLOOR	10,000
SECOND FLOOR	10,000
THIRD FLOOR	10,000
FOURTH FLOOR	10,000
FIFTH FLOOR	10,000
SIXTH FLOOR	10,000
SEVENTH FLOOR	10,000
EIGHTH FLOOR	10,000
NINTH FLOOR	10,000
TOTAL FLOOR AREA	90,000

OCCUPANT LOAD BY ZONE AND NUMBER OF FLOORS	
FLOOR	AREA
FIRST FLOOR	10,000
SECOND FLOOR	10,000
THIRD FLOOR	10,000
FOURTH FLOOR	10,000
FIFTH FLOOR	10,000
SIXTH FLOOR	10,000
SEVENTH FLOOR	10,000
EIGHTH FLOOR	10,000
NINTH FLOOR	10,000
TOTAL FLOOR AREA	90,000

NOT FOR CONSTRUCTION

There is a valet-only parking garage within the building where the parking requirements for this venue are satisfied. In addition, when additional parking is needed, patrons have additional options in close vicinity, such as on-street parking or the surface parking lot on 21<sup>st</sup> Street. Because of the nearby multiple hotels, it is anticipated that many patrons will arrive by walking or taxi.

A business/operation plan that includes full details of the operation, as well as security and crowd control, will have to be submitted to staff for review and approval prior to the issuance of the BTR.

### **Traffic and Valet Circulation Analysis**

The TIS, conducted by Kimley-Horn (KH) determined that the peak traffic period occurred on Saturday night from 10:45 p.m. to 12:45 a.m., and that 252 net new trips would be generated during this peak hour for the entire site inclusive of the 2 restaurants. The Saturday peak hour of this generator ("drinking place") was estimated to be 63 net new trips.

The operating conditions of the four study intersections during the study peak hour – 20<sup>th</sup> Street and Collins Avenue; 21<sup>st</sup> Street and Collins Avenue; 20<sup>th</sup> Street and Liberty Avenue; 21<sup>st</sup> Street and Liberty Avenue; and the garage driveway – are expected to operate at LOS A and B, with the exception of east bound and west bound 20<sup>th</sup> Street and Collins Avenue (D); east and west bound 21<sup>st</sup> Street and Collins Avenue (E). The TIS concludes that the project is not expected to adversely impact traffic operation below adopted standards of LOS D or better.

As a point of information the TIS and valet analysis was commissioned by Park Place Development, LLC for its requested modifications, but it is inclusive of this venue within the mixed use building.

KH prepared a valet operation analysis for the development, which will be served by two valet drop-off and pick-up locations – on 20<sup>th</sup> Street in close proximity to the entrance of the proposed bar/lounge and one within the parking garage – as well as a passenger loading zone on 21<sup>st</sup> Street, which will serve the residential units. The parking garage is currently being served and will be served in the future by valet service only; no self-parking will be available.

The valet operation analysis determined that 252 valet trips are expected to be generated during the Saturday peak hour. Results based on the analysis calculations showed that 4 valet attendants are required under average demand conditions and 7 attendants would be needed during the Saturday peak hour

### **RECOMMENDATION:**

In view of the forgoing analysis, staff recommends approval of the modified Conditional Use Permit, in accordance with the conditions in the attached order.



### ZONING AND LOCATION MAP





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

**PROPERTY:** 2000 Collins Avenue – (spaces 11 and 12 along 20<sup>th</sup> Street)

**FILE NO:** PB19-0271 Aka file No. 2042

**IN RE:** An application has been filed requesting a modification to a previously issued conditional use permit for a Neighborhood Impact Establishment consisting of an alcohol beverage establishment, entertainment establishment and dance hall with an occupant content exceeding 200 persons. Specifically, this application includes a change of ownership.

**LEGAL**

**DESCRIPTION:** Lot 1, 2, 3, 4 and the east 25.5 feet of Lot 6, 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:** February 28, 2012; July 28, 2015; July 23, 2019

**MODIFIED CONDITIONAL USE PERMIT**

The applicant, MC GA Collins Realty, LLC, filed an application with the Planning Director to modify a previously approved Conditional Use Permit to change the name of the operator from Zilkatur, LLC, to MC GA Collins Realty, LLC pursuant to Section 118 Article IV. of the City Code. 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 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 the staff recommendations, and accepted by the applicant, that the Modification to the previously approved Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions: Underlining denotes new language and ~~strikethrough~~ denotes stricken language from the previous Order.

1. The Planning Board shall maintain jurisdiction of this Modified Conditional Use Permit. The applicant shall provide a progress report to the Board in 90 days after the revised Business Tax Receipt has been issued. 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 ~~Zilkatur, LLC~~ MC GA Collins Realty, LLC as operator of this Neighborhood Impact Establishment consisting of an alcoholic beverage establishment, entertainment establishment, and dance hall with an occupant content of more than 200 persons. ~~Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein~~ any changes in ownership of 50% (fifty percent) or more stock ownership, or the equivalent, shall require the new owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Business Tax Receipt.
3. Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
4. The conditions of approval for this Modified Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
5. The hours of operation shall be as proposed by the applicant, Sunday through Saturday from 10:00 p.m. to 5:00 a.m. However, the establishment shall close at 5:00 a.m. and keep closed the place of business and not allow any patron or other persons, other than those employed by the establishment, to remain therein between the hours of 5:00 am and 8:00 am.
6. As requested by the applicant, the patron occupant load shall be a maximum of 707 people, or any lesser number as may be determined by the Fire Marshall. The applicant shall obtain a final occupant load from the City before the issuance of a Business Tax Receipt
7. A full business/operation plan for any change of owner/operator that includes details of the operation, as well as security and crowd control, shall be submitted to staff for review and approval prior to the CO or issuance of a new BTR, whichever occurs first.
8. Security staff shall take measures to strictly enforce patron age restrictions in the City Code around the clock.
9. All "wet T-shirt," "thong" or "bikini" events shall be prohibited.

10. Sound transmission tests on the curtain wall facing 20<sup>th</sup> Street shall be conducted prior to the finalization of the sound attenuation design for the establishment. A final sound transmission report which includes the performance of sound systems and sound attenuation devices shall be submitted to staff for review and approval prior to a Temporary Certificate of Occupancy, or final Certificate of Occupancy, whichever occurs first.
11. Business identification signs shall be limited to sign copy indicating the name of the establishment only, subject to historic preservation staff review and approval.
12. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
13. The City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division shall make the determination of the project's fair-share mitigation cost. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.
14. The applicant shall obtain a Certificate of Occupancy prior to the issuance of a Business Tax Receipt.
15. 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.
16. In the event that there is queuing of people on the sidewalk, stanchions shall delineate the area to allow for the free-flow of pedestrians. Security staff shall monitor the crowds to ensure that they do not interfere with the free-flow of pedestrian on the public sidewalk.
17. Security staff shall monitor patron circulation and occupancy levels during the hours of operation.
18. 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.
19. 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.
20. 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.

21. 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.
22. ~~Within a reasonable time after applicant's receipt of this Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No building permit or certificate of completion shall be issued until this requirement has been satisfied~~ The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
23. 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.
24. 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 \_\_\_\_\_ day of \_\_\_\_\_, 2019

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

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

STATE OF FLORIDA           )  
COUNTY OF MIAMI-DADE   )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 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}

Notary:

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



Approved As To Form:

Legal Department on \_\_\_\_\_ ( )

Filed with the Clerk of the Planning Board on \_\_\_\_\_ ( )

Underlining denotes new language

~~Strikethrough~~ denotes stricken language from the previous Order.