

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

PROPERTY: 2000 Collins Avenue – (spaces 11 and 12 along 20th 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.

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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.

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10. Sound transmission tests on the curtain wall facing 20th 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.

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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. 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.
25. 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 26th day of July, 2019

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

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

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

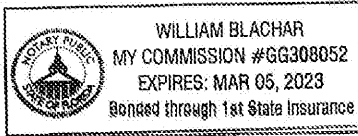
The foregoing instrument was acknowledged before me this 26th day of July, 2019, by Michael Belush, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

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{NOTARIAL SEAL}

William Blachar

Notary:

Print Name

Notary Public, State of Florida

My Commission Expires:

Commission Number:

Approved As To Form:

Legal Department on Dick Hallegas (7/25/2019)Filed with the Clerk of the Planning Board on Jesse Guly (7/26/19)Underlining denotes new language~~Strikethrough~~ denotes stricken language from the previous Order.

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