



# BERCOW RADELL FERNANDEZ & LARKIN

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## VIA ON-LINE FILING

December 2, 2019

Thomas Mooney, Director  
Planning Department  
City of Miami Beach  
1700 Convention Center Drive, 2<sup>nd</sup> Floor  
Miami Beach, Florida 33139

Re: Letter of Intent for a Conditional Use Permit Associated with a Restaurant Resulting in a Neighborhood Impact Establishment for the Property Located at 455 Lincoln Road, Miami Beach, Florida.

Dear Tom:

This firm represents Opereta Ciudad Del Sol, LLC (the "Applicant"), the tenant and operator of the proposed new "Qudres - Andres Carne de Res" restaurant located at 455 Lincoln Road (the "Property"). Please consider this letter the Applicant's letter of intent in connection with a request for a Conditional Use Permit (CUP) for a Neighborhood Impact Establishment ("NIE") at the Property, including an entertainment establishment and dance hall license. Based upon these approvals, the Applicant will bring quality establishments with a range of options to the area.

Description of Property. The Miami-Dade County Property Appraiser has assigned Folio No. 02-3234-005-0100 to this Property. See Exhibit A. The Property is approximately 4,987 square feet in size, located on the northeast corner of Lincoln Road and Drexel Avenue. It is located in the CD-3 Commercial High Intensity zoning district, the Flamingo Park Local Historic District and the Miami Beach Architectural District in the National Register Historic District. It was originally constructed in 1937 as a two-story structure. In 2018, the HPB approved an elegant rooftop addition with an outdoor bar counter. See HPB18-0255.

The New World Symphony and Soundscape Park are located to the north of Property. There are retail uses to the east and west of the property. It is important to note that the Property has facades on Drexel and Lincoln Lane North. Under the James Corner Plan, each of these rights-of-ways are proposed to become pedestrian thoroughfares. The Property currently has a main entrance on the corner of the building on Lincoln Road.

Applicant's Proposal. Andres Carne De Res is a unique Colombia-based concept, serving traditional Colombian cuisine, complemented by a vibrant, world class exquisite design and upscale ambience. The Colombia-based restaurant is features a dance hall, world class steakhouse, outdoor kitchen and kid's playground and day care. With over 500 employees and up to 3,000 patrons at one time, there is no shortage of entertainment and excitement at Andres Carne De Res. The proposed Miami location of Andres Carne De Res is made up of an experienced team with many successes in Latin America and plans to bring that success to Miami Beach.

The Applicant is seeking a CUP to operate a 288 seat restaurant. Entrance to the restaurant will be through an existing entrance on Lincoln Road that will feature a wall sign with the restaurant's name. The restaurant will feature three levels of seating along with a mezzanine area that will include back of house and storage. The ground floor will feature a 104 seat interior space with a centralized bar area. There will also be outdoor seating for 54 people in the existing sidewalk café area. The remaining seating will be distributed amongst the third floor and roof deck. Please refer to the Business Operations Plan attached hereto as Exhibit B.

The restaurant will feature occasional live music, including dancing on the lower floor and will not include any entertainment on the roof deck. In addition to the live music, the restaurant will feature actors who walk around the restaurant and provide improvised and rehearsed two minute skits for the entertainment of the guests. This form of entertainment will be located throughout all floors. As a way of engaging with the community and ensuring the restaurant fits in with the area, the Applicant has started communications with the New World Symphony to find a way to include their students in the proposed entertainment including hiring the students as musician and actors.

The Applicant is working diligently to make the proposed restaurant fit in seamlessly with the existing neighborhood. Communications have been had with staff to work out a delivery schedule as well as to coordinate parking. See Exhibit B. In addition, please refer to the Transportation Demand Management Plan attached hereto as Exhibit C. In addition, the Applicant is seeking Historic Preservation Board approval for the roof top awning and a variance to operate the previously approved outdoor bar counter beyond the hours of 12:00 AM, until 3AM This project will be a great addition to the neighborhood and complies with the requirements set forth in the City's Code.

Satisfaction of Conditional Use Permit Review Criteria. The Applicant's request satisfies the two different sets of review guidelines for a Neighborhood Impact Establishment (NIE) as follows:

**Conditional Use Standards in Section 118-192(a) of the Code of the City of Miami Beach (the "Code").**

- (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** - Restaurants and entertainment establishments are consistent with the comprehensive plan and the CD-3 zoning district permits neighborhood impact establishments through the conditional use process.

- (2) **The intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.**

**CONSISTENT** - The proposed restaurant will not result in an impact that will exceed the threshold levels of service for this commercial corridor.

- (3) **Structures and uses associated with the request are consistent with these land development regulations.**

**CONSISTENT** - The existing structure and proposed restaurant are consistent with the commercial corridor and the City's land development regulations (LDRs).

- (4) **The public health, safety, morals, and general welfare will not be adversely affected.**

**CONSISTENT** - The Applicant is a reputable property owner who has always worked to provide the neighborhood with the best uses. Similarly, the proposed tenants have been successful restaurateurs in Colombia. This commercial corridor has numerous businesses but lacks in quality restaurants. The intended use for the space is appropriate for this commercial corridor of Miami Beach. In addition, the proposal will activate the Drexel and Lincoln Lane North facades, consistent with the City's proposed project to create a pedestrian path in between Lincoln Road and Soundstage Park.

The Applicant has met with the New World Symphony to ensure there is no interruptions to the Soundscape events. These discussions have gone so far as

finding ways to include viewing areas on the property and potential for providing a form of catering for visitors to the Soundscape Park.

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

**CONSISTENT** - The property is located in the Lincoln Road corridor, which is the heart of Miami Beach. The Property is within walking distance to many area parking facilities as there is ample off-street parking in the surrounding neighborhood, including several parking lots and garages, and metered on-street self-parking. The Applicant further anticipates that many patrons will arrive by foot or taxi or will utilize Uber and Lyft services. It is important to note that there is no parking requirement for restaurant uses along Lincoln Road pursuant to section 130.33 of the Code. Nevertheless, the Applicant is proposing to utilize the valet parking provided through the Lincoln Road Valet Parking Concession Agreement. The proposed valet locations are determined by the valet company and the terms of the Concession Agreement.

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

**CONSISTENT** - The Applicant is taking every measure to ensure that all the necessary safeguards are in place to protect neighboring properties. The Applicant will carefully control and monitor the music within the establishment. Furthermore, the Applicant's staff will maintain patron areas and adjacent rights of way to protect the surrounding areas. Patrons will not be permitted to queue on the rights-of-ways and will be directed to the waiting area.

The roof deck will not feature any entertainment. All entertainment will be located inside on the lower floor. The double door vestibule adjacent to Lincoln Road will help to reduce any noise from spilling and a staff member at the entrance will work to ensure that both doors are not open at the same time.

**(7) The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.**

**CONSISTENT** - While numerous businesses exist in the neighborhood, the area is lacking in quality eating establishments. As such, there will not be any negative impact on the surrounding uses.

**Neighborhood Impact Establishment and Entertainment Establishment Review Guidelines in Section 142-1362(a) of the Code - supplemental review guidelines.**

- (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** -The tenant provided a detailed business operations plan, which is attached hereto as Exhibit "B," and details the proposed operations.

- (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** - The property is located in the Lincoln Road corridor within walking distance to many area parking facilities. There is ample off-parking in the surrounding neighborhood, including several parking lots and garages, and metered on-street self-parking. The Applicant further anticipates that many patrons will arrive by foot or taxi, or Uber and Lyft services. Nevertheless, the Applicants will work with the valet services available through the Lincoln Road Valet Parking Concession Agreement to ensure valet service is available to its patrons.

- (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** - The main entrance to the facility will be located along Lincoln Road. Once through the entrance doors, the patrons will be stand within an elegant entrance and move through the double door vestibule. The size of the entry space will assist in maintaining the flow of patrons into the facility. Additionally, front door personnel will direct guests into the waiting area before directing guests to their seats on the first, third, or roof top area, allowing the continuous flow in and out of the venue without the need for any outdoor queuing.

- (4) A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.**

**CONSISTENT** - All staff will be trained in security measures and will be required to request proof of age from any patron who appears thirty (30) years of age or younger. Additionally, there will be postings notifying the patrons that proof of age will be requested.

- (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** - While the Applicant expects that most of its patrons will visit the facility either on foot or by taxi, a Transportation Demand Management Plan has been provided. See Exhibit C.

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

**CONSISTENT** - The Property currently houses a separate, air-conditioned, enclosed garbage room along the northern portion of the subject space, which is completely contained within an interior alley area. Garbage collections will occur along on the interior portions of the Property and will not take place prior to 8:00 AM or after 5:00 PM. The Applicant will contract with a Miami Beach approved waste service provider to provide daily services to the restaurant.

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

**CONSISTENT** -To achieve long-lasting success, the Applicant understands and is committed to providing a quality operation for the patrons and the surrounding neighborhood. To this end, the roof deck will not feature entertainment. All entertainment will be located inside on the lower floor. The double door vestibule will help to reduce any noise from spilling and a staff member at the entrance will work to ensure that both doors are not open at the same time.

- (8) **Proximity of proposed establishment to residential uses.**

**CONSISTENT** - The Property is located within a heavily trafficked commercial corridor and the closest residential uses are buffered from the Property by Lincoln Road, Lincoln Lane South, commercial uses, and the Miami Beach Community Church. Therefore, the proposed NIE will not have any impact on the residential uses.

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

**CONSISTENT** - While this commercial corridor has numerous businesses, it is lacking in quality eating establishments and has very few NIE's. The proposed establishment should fill that need for the local community and will not create an overconcentration of large establishments in the area. Currently, Timeout Market, and Lincoln Eatery are the closest neighborhood impact establishments. The proposed restaurant varies dramatically in use and will not have a negative cumulative effect in relation to adjacent pre-existing uses.

Sea Level Rise and Resiliency Criteria. The proposed renovations will make for a more resilient building. The proposed project advances the sea level rise and resiliency criteria in Section 133-50(a) as follows:

**(1) A recycling or salvage plan for partial or total demolition shall be provided.**

The Applicant will provide a recycling or salvage plan during permitting.

**(2) Windows that are proposed to be replaced shall be hurricane proof impact windows.**

Windows will be hurricane impact windows.

**(3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.**

Operable windows will be provided.

**(4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.**

The Applicant's previously approved ~~proposed~~ landscape plan is resilient as it will serve to be comprised of native and Florida-friendly plants that are appropriate for the area.

**(5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.**

Not applicable.

**(6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height up to three (3) additional feet in height.**

No new construction.

**(7) As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.**

All critical mechanical and electrical systems will be located above BFE.

**(8) Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard.**

Not applicable no new construction.

**(9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.**

Proper precautions will be taken to protect the Property from potential floods.

**(10) As applicable to all new construction, stormwater retention systems shall be provided.**

Given the nature of the proposed development, providing a water retention system is not feasible.

**(11) Cool pavement material or porous pavement materials shall be utilized.**

No new construction.



- (12) **The design of each project shall minimize the potential for heat island effects on-site.**

The Applicant is incorporating previously approved landscaping.

Conclusion. The tenants have successfully operated a similar establishments in other countries and are seeking to provide the same type of quality establishment to Miami Beach. This facility will fit the needs of the community. Granting of the modifications to the CUP and allowing for the NIE and entertainment establishment will not have any adverse impact on the surrounding community, but rather provide a benefit. We respectfully request your recommendation of approval of this request. If you have any questions or comments with regard to the application, please give me a call at (305) 377-6231.

Sincerely,



Michael W. Larkin

cc: Robert Behar, Esq.