

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

PROPERTY: 1575 Alton Road - Restaurants and bakery

FILE NO. PB20-0360

IN RE: A conditional use permit for a Neighborhood Impact Establishment with Entertainment with an occupant content in excess of 200 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: LOTS 11 AND 12, BLOCK 65, COMMERCIAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 6, PAGE 5 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

MEETING DATE: July 27, 2020

CONDITIONAL USE PERMIT

The applicant, Groot Firestone Diner, LLC, requested a Conditional Use Permit, pursuant to Chapter 118, Articles IV and V, for a Neighborhood Impact Establishment (NIE) with a combined maximum occupant content in excess of 200 persons with entertainment, pursuant to Section 142, Article V. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the CD-2, Commercial High Intensity District zoning district; and

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

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan; and

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



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

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, as approved by the Planning Board, and accepted by the applicant, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

1. This Conditional Use Permit is issued to Groot Firestone Diner, LLC, as owner/operator of the subject Neighborhood Impact Establishment, with an occupancy load exceeding 199 and including indoor entertainment. Any change of operator or fifty percent (50%) or more stock ownership shall require the new owners or operators to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owners and/or operators and acknowledging acceptance of all conditions established herein, prior to the issuance of a new Business Tax Receipt.
2. The Board hereby imposes and the Applicant agrees to the following operational conditions for all permitted and accessory uses, and the applicant shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
 - a. The project authorized by this Conditional Use Permit includes the development and operation of the proposed restaurants, which shall be subject to the following conditions:
 - i. Restaurant 'A' shall be limited to the following hours of operation:
 - a. Sunday – Tuesday: 10:00 AM to 2:00 AM
 - b. Wednesday – Saturday: 10:00 AM to 5:00 AM

The outdoor areas shall be closed no later than 12:00 AM, and any allowable background music shall cease by 11:00PM each night.
 - ii. Restaurant 'B' shall be limited to the following hours of operation:
 - a. Sunday – Tuesday: 8:00 AM to 11:00 PM
 - b. Wednesday – Thursday: 8:00 AM to 2:00 AM
 - c. Friday – Saturday: 8:00 AM to 6:00 AM

The outdoor areas shall be closed no later than 12:00 AM on Wednesday – Saturday, and no later than 11:00 PM on Sunday – Tuesday). Any allowable background music shall cease by 11:00PM each night.
 - iii. Up to 75 seats may be located on the exterior of the premises, on private property, as proposed.

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- iv. The maximum occupancy load of the combined restaurants shall not exceed 525, or such lesser number as approved by the Fire Marshall.
 - v. Entertainment, as defined in City Code Section 114-1, shall be strictly prohibited in all outdoor areas.
 - vi. The only entertainment permitted on the property shall consist of one DJ in each of the two restaurants, who shall only be permitted to operate within the interior of the building. Days/hours of operation for the DJ shall be limited to the following:
 - a. Restaurant 'A', Wednesday – Saturday, 11:00 PM to 5:00 AM
 - b. Restaurant 'B', Wednesday – Saturday, 8:00 PM to 1:00 AM.

Only the house sound system for each restaurant shall utilized. The use of a third party/portable speakers shall not be permitted at any time.
 - vii. A full menu shall be made available for each restaurant during all hours of operation.
 - viii. The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system and have password protected security on all controls at all times. The equipment and installation plan for the sound system, including the location of all speakers and sound level controls shall be submitted for the review and approval of the Planning Department. Before entertainment is approved and added to the Business Tax Receipt (BTR), a field visit with the applicants and Planning staff shall be required to verify the sound system operations.
 - ix. All operable windows, including but not limited to the proposed folding glazing system facing Alton Road of 'Restaurant A', shall be closed at all times that entertainment is occurring. Ingress and egress for patrons and staff shall be limited to the existing swing doors during this time.
 - x. Televisions, and projectors shall not be located anywhere in the exterior areas of the property.
 - xi. After normal operating hours the establishment shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein between the establishment's closing time and 8:00 AM.
 - xii. No alcohol shall be offered for sale or consumed on the premises between the hours of 5:00 AM and 8:00 AM.
 - xiii. A dance floor or dedicated dance area for patrons shall be prohibited, and a Business Tax Receipt for a dance hall shall not be issued.
 - xiv. A maximum of three (3) special event permits may be issued in a calendar year.
- b. Deliveries may only occur between 6:00 AM and 2:00 PM, daily.

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- c. Delivery trucks shall only be permitted to load and unload within the alley or other city designated freight loading zones.
- d. Delivery trucks shall not be allowed to idle in loading zones, including the alley.
- e. Delivery trucks shall not block other vehicles from fully traversing through the abutting alley at any time.
- f. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
- g. Trash collections may occur daily between 6:00 AM and 2:00 PM.
- h. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
- i. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick-up of garbage per day will not be necessary.
- j. Garbage dumpster covers shall be closed at all times except when in active use.
- k. Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors shall be contained within the premises. Owner agrees to install an exhaust system, if required by code, for the kitchens on the premise that will substantially reduce grease and smoke that would otherwise escape to the surrounding area. This may include the installation of a fan in connection with kitchen exhaust systems within the footprint of the building in order to reduce noise levels at the exhaust outlet substantially in compliance with the plans as approved.
- l. Exterior speakers may only be permitted for fire or life safety purposes, and/or for background music played at a volume that does not interfere with normal conversation (i.e. at an ambient volume level).
- m. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
- n. As proposed by the applicant, security staff shall be onsite between 9:00 PM to closing. Security staff shall monitor patron circulation and occupancy levels in order to adjust crowds according to occupant loads.
- o. Patrons shall not be allowed to queue on any public rights-of-way or on the exterior of the premises. Security staff shall monitor the crowds to ensure that they do not interfere with the free-flow of pedestrians on the public sidewalk.
- p. The Operators shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all

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times.

3. The applicant shall coordinate with the Parking Department to designate a minimum of two (2) spaces for passenger loading along 16th Street.
4. The Applicant shall coordinate with the Parking Department and Transportation Department to submit a comprehensive Transportation Demand Management (TDM) Plan to the Transportation Department for review and approval prior to receiving a Temporary Certificate of Occupancy
5. The Applicant shall assign personnel to manage loading operations to reduce potential conflicts with pedestrians in crosswalks, and ensure that blocking of the alley to for the passage of vehicles does not occur at any time.
6. The Planning Board shall retain the right to call the owner or operator, both now and in the future, back before the Board and modify this Conditional Use Permit, including the hours of operation and/or the occupant load of the restaurant, as well as modifications to the parking operations, should there be valid complaints or violations (as determined by Code Compliance) about valet operations and loud, excessive, unnecessary, or unusual noise.
7. The applicant shall address the following Concurrency and Parking requirements, as applicable:
 - a. A Method of Transportation (MOT) shall be submitted to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
 - b. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as may be determined as determined by the Concurrency Management Division.
 - c. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.
 - d. Prior to the issuance of a Building Permit, calculations for required parking for the project shall be determined by the Planning Department. A final determination for the required parking shall be conducted prior to the issuance of a Certificate of Occupancy or Business Tax Receipt, whichever comes first. If required, a one-time fee in lieu of providing the required parking on site, as determined by staff, shall be paid prior to the issuance of the Certificate of Occupancy.
8. 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.
9. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR for the first restaurant to obtain such. Details of the loading

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operations, including size and frequency of vehicles, as well as full utilization details of the valet operation, shall be submitted for review as part of this progress report. 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).

10. 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.
11. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.
12. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
13. 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.
14. 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.
15. 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.
16. 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.
17. The applicant agrees and shall be required to provide access to areas subject to this Conditional Use Permit (not private residences or hotel rooms) for inspection by the City (i.e. Planning Department, Code Compliance Department, Building Department, and Fire Department staff), to ensure compliance with the terms and conditions of this Conditional Use Permit. Failure to provide access may result in revocation of the Conditional Use Permit.



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Dated 8/6/2020 | 7:59 AM EDT

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY:

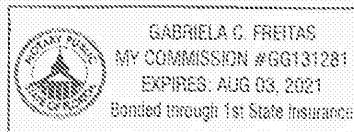
Michael Belush
Michael Belush, AICP
Chief of Planning and Zoning
for ChairmanSTATE
)

OF

FLORIDA

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 6th day of AUGUST, 2020, by Michael Belush, Chief of Planning & Zoning for 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: Gabriela Freitas

Notary Public, State of Florida

My Commission Expires: Aug. 3, 2021Commission Number: 95131281Approved As To Form:
Legal Department

DocuSigned by:

[Signature]

(8/5/2020 | 6:09 PM EDT)

Filed with the Clerk of the Planning Board on

[Signature] (8/10/20)