

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

PROPERTY: 1052 Ocean Drive – Palace Bar & Restaurant

FILE NO. PB20-0390, a.k.a. PB17-0171

IN RE: An application for modifications to a previously issued conditional use permit for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment, with an occupant content in excess of 200 persons pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code. Specifically, to expand the operations to both the roof-top pool deck and neighboring building to the north.

LEGAL

DESCRIPTION: Lot 2 and 3, Block 15, "Ocean Beach Addition No.2", according to the plat thereof, as recorded in Plat Book 2 at page 56 of the public records of Miami-Dade County, Florida.

MEETING DATE: February 27, 2018, November 17, 2020

MODIFIED CONDITIONAL USE PERMIT

The applicant, Palace Bar LLC, filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact Establishment pursuant to Chapter 118, Article IV, and Chapter 142, Article V of the City Code. 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 MXE, Mixed-Use Entertainment 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, that the Conditional Use Permit be GRANTED, as provided below:

1. 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 expanded operations. 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 Conditional Use Permit is issued to Palace Bar LLC, as tenant/operator, of this Neighborhood Impact Establishment consisting of a restaurant with outdoor entertainment. Any change of operator or 50% (fifty percent) or more stock ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
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.
4. 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.
5. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
6. The Applicant agrees to the following operational conditions for the entire facility:
 - A. ~~As proposed by the applicant~~, The project authorized by this Conditional Use Permit includes the creation and operation of:
 - ~~the proposed~~ **Area 1 (Lot 3):** The previously approved 101 interior seats, outdoor seat count of 72 (private property) and potential sidewalk café (subject to the review and approval of the Public Works Department); and
 - Area 1 A (Lot 3 rooftop):** The expansion on the rooftop with 49 outdoor seats; and
 - Area 2 (Lot 2):** The expansion on the ground floor to the neighboring building to the north to have 40 interior seats, outdoor seat count of 81 (private property), and potential sidewalk café (subject to the review and approval of the Public Works Department).

With the criteria listed below:

- i. The CUP shall have a maximum occupant content (including within the interior and exterior portion located on private property) of approximately ~~220~~ 440 persons or any lesser such occupant content as determined by the Fire Marshal.
- ii. The indoor portions of the venue may remain open:
Monday through Sunday from 8:00 a.m. to 5:00 a.m.
- iii. The outdoor portion of the venue located on private property at the ground level may remain open:

Monday through Sunday from 8:00 a.m. to 2:00 a.m.
- iv. Indoor entertainment, to include a DJ and or live shows as specified in the application, may operate Monday through Sunday from 11:00 am to 3:00 am.
- v. The outdoor entertainment and performance operations at the ground floor on private property and the rooftop may operate:

Monday through Friday: 11:00 am to 2:00 pm.
6:00 pm to 11:30 pm.

Saturday and Sunday: 11:00 am to 11:30 pm.

National Holidays that do not fall on Saturday or Sunday and other City recognized Special Events including White Party, Winter Party, and Gay Pride: 11:00 am to 11:30 pm.

The rooftop operations authorized as part of this modified CUP shall close no later than 11:30pm nightly.

Any entertainment/crowd control/circulation plan on public property shall require the review and approval of a Special Event permit or other City authorized approval as determined by the City Manager.
- vi. 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 in the expanded areas authorized by this CUP, shall be submitted for the review and approval of the Planning Department. Within 60 days of this approval, the sound system in the facility shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department for review, to verify that it is operating as designed. A sound field test shall be performed with staff present to demonstrate that the sound system will comply with the requirements of this CUP.
- vii. No later than 11:30 pm nightly, the volume on the interior sound system shall be adjusted to ensure that sound levels on the exterior do not exceed a level that would interfere with normal conversation at the eastern property line with

the doors open.

- viii. After 11:30 pm Monday to Friday and 12:30 am Saturday and Sunday the bass level shall be minimized so as to not vibrate in upper levels of the building.
 - ix. The volume on the exterior outdoor terrace sound system, both on the ground floor and the rooftop, shall not exceed a level that would interfere with normal conversation, except during times of actual live performances (which shall not include a DJ without a show at the same time) as authorized in condition 6.A.v. above.
 - x. Televisions shall not be located anywhere on the exterior areas of the property.
- B. The applicant shall comply with the requirements of the Ten Point Plan for Ocean Drive adopted as of the February 27, 2018 meeting date.
 - C. Delivery trucks shall only be permitted to make deliveries from city authorized and designated commercial loading zones.
 - D. Delivery trucks shall not be allowed to idle in the loading zone.
 - E. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - F. Deliveries and waste collections may occur daily between 7:00 AM and 10:00 AM.
 - G. Loading and deliveries from the alley shall at no time block the passage of any other vehicles along the alley.
 - H. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
 - I. 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. An air conditioned trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that no more than one pick up of garbage per day will be necessary.
 - J. Garbage dumpster covers shall be closed at all times except when in active use.
 - K. Restaurant and bar personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.

- L. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
 - M. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day
 - N. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - O. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.
 - P. Any future sidewalk café shall be subject to Public Works approval and the Ocean Drive Sidewalk Café Design Guidelines, if applicable. Such approvals shall be granted prior to the installation of any sidewalk café furniture, including but not limited to chairs, tables, and umbrellas.
 - Q. The host/hostess stand, podium and menu board shall be prohibited in the public right of way, and shall be placed on private property, except as may be permitted under the sidewalk café permit to be reviewed and approved by the Public Works department.
7. Prior to the issuance of a BTR for the expanded operations to the rooftop, the applicant shall be required to file an application and receive approval to amend the conditions of the Certificate of Appropriateness issued by the Historic Preservation Board (HPB File No. 1253), which currently restrict the use of the rooftop.
 8. The applicant shall amend the Business Tax Receipt (BTR) to reflect the correct number of seats in private property, pay any fees due set-up on the existing Parking Impact fee account (PIF 422), and pay any additional fees due for the new seats at the rooftop pool deck (if any), prior to their BTR approval for the expanded operations.
 9. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
 10. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division, prior to obtaining a Certificate of Occupancy or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing. Without exception, all concurrency fees, mitigation fees

and concurrency administrative costs shall be paid prior to the issuance of a Certificate of Occupancy or Business Tax Receipt.

11. A Traffic Demand Management (TDM) plan shall be submitted, reviewed and approved by the Transportation Department within 90 days.
12. 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.
13. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.
14. 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. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.
15. 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.
16. 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.
17. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
18. 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.
19. 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.
20. 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.

Dated _____

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, 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.

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

{NOTARIAL SEAL}

Approved As To Form:
Legal Department _____ ()

Filed with the Clerk of the Planning Board on _____ ()