

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: November 15, 2016

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 16-0064. 1801 West Avenue –Soul Tavern.**

The applicant, Soul Tavern 1, LLC, is requesting a Conditional Use approval for a restaurant exceeding an occupant content of 125 persons, pursuant to Section 142-303 (b) and 118, Article IV of the City Code.

#### **RECOMMENDATION:**

Approval with conditions

#### **HISTORY:**

*September 6, 2016* An application to the Design Review Board (DRB) for exterior design modifications and improvements to an existing one-story structure including the creation of new window and door openings, the construction of new structures, a new entrance feature, the installation of new landscaping features and the elimination of surface parking, in order to accommodate a new restaurant build out was reviewed and approved.

#### **ZONING / SITE DATA:**

##### **Legal Description:**

Lot 15 of Block 12 of Island View Subdivison, According to the Plat Thereof, as Recorded in Plat Book 6, Page 115, of the Public Records of Miami-Dade County, Florida.

##### **Zoning:**

I-1, Urban Light Industrial District

##### **Future Land Use Designation:**

I-1, Urban Light Industrial District

##### **Lot Size:**

8,000 SF (80x100)

##### **Existing Use:**

Office with surface parking lot

##### **Proposed Uses:**

Commercial use:

786 SF

Restaurant:

127 seats | 205 Occ. Load\* (\*as indicated by the applicant)

##### **Surrounding Uses:**

East: Hand car wash

North: 1-story commercial/industrial

South: Retail (Office Depot)  
West: Retail (Fresh Market)

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

### **THE PROJECT**

The applicant, Soul Tavern 1, LLC, submitted plans entitled “Soul Tavern”, as prepared by Pravda Architecture Design PLLC, revised September 28, 2016. The plans illustrate the proposed layout of a new restaurant in an existing building and outdoor meditation garden area with restaurant seating. The layout reflects 64 seats inside and 63 seats outdoors, for a total of 127 restaurant seats. The projected occupant content for the project as calculated by the architect is shown as 205 persons.

The restaurant is not proposing entertainment, but proposes ambient music played at background levels. Sound system specifications were not included in the package.

As a point of clarification, although the LOI mentions that the application is not proposing more than 100 seats, and the applicant proposed 80 seats at the DRB, the plans submitted reflect 127 seats in total.

### **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** – A preliminary review of the project indicates that the proposed commercial use is consistent with the Future Land Use Map of the 2025 Comprehensive Plan.

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 use is not anticipated to degrade the Levels of Service (LOS) for the surrounding area below the thresholds that have been established.

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

**Consistent** – Restaurants are permitted in the CD-2 zoning district.

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

**Partially Consistent** – The proposed outdoor ambient music may adversely affect the general welfare of nearby residents if noise and other issues are not controlled. Staff is recommending measures so that any resulting adverse impact is mitigated.

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

**Not Consistent** – There are 24 required parking spaces for the project as proposed, but

the applicant does not propose any required parking spaces. The LOI mentions that there is public parking available at the parking garage located a block to the north of the property. At this time, the applicant is not proposing valet parking for its patrons.

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

**Consistent** – Staff will recommend conditions to mitigate any adverse impacts from sound on the surrounding neighbors.

**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.**

**Partially Consistent** – There are several restaurants with bars in the area. Adverse impacts are not anticipated.

**STAFF ANALYSIS**

The City Code requires that restaurants in the Sunset Harbour area with over 100 seats and an occupant content of more than 125 persons obtain a CUP. This project proposes 127 seats and 205 person occupancy. The section of the code that pertains to this requirement is below:

*Sec. 142-303. - Conditional uses.*

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*(b) Sunset Harbour Neighborhood. In addition to the conditional uses specified in section 142-303(a), and subject to the conditional use criteria in section 118-192(a), conditional uses in the CD-2 commercial medium intensity district in the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard shall also include the following:*

*(1) Main use parking garages;*

*(2) Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons and a floor area in excess of 3,500 square feet.*

**Parking**

The City Code requires restaurants with 100 seats or more in the Sunset Harbour area (parking district No. 5) to either provide parking or pay into the parking in lieu fee program. Additionally, the City Code does not allow for the removal of existing required parking spaces without the payment of the one-time parking in lieu fee, currently \$40,000 each. Because the applicant proposes 127 seats, they would need to provide 24 required parking spaces: one (1) parking space for every four (4) seats which equals 32 parking spaces required by City Code Sec. 130-32 minus a credit of 8 parking spaces from the prior use.

Since the applicant is not proposing providing parking, and is proposing removing existing parking from the site to add outdoor seating, the applicant will need to pay \$40,000 for each parking space removed and an annual payment for the balance of the required spaces. Alternatively, the applicant could reduce the seating to less than 100 seats, and not have to provide or pay a fee for the removed spaces.

### **Operation**

The applicant has proposed that the hours of operation and the ambient music in the outdoor areas are from 11:00 AM to 2:00 AM Monday thru Friday and 9:00 AM to 2:00 AM Saturday and Sunday.

### **Sound**

The applicant outlines in the LOI and the Operational Plan that the outdoor speakers will be limited to ground mounted speakers that are intended to contain sound on-site.

### **Loading and Garbage**

The applicant was approved by the DRB to build a detached air-conditioned trash room on the south east side of the property. In the plan set on page A-401, the proposed off street loading area, driveway, turning radiuses and routes for the refuse collection are outlined.

### **Conclusion**

The applicant proposes to convert the existing surface parking area along 18<sup>th</sup> Street into the outdoor portion of a restaurant with covered seating areas. The seating area is designed with planters, exterior lighting, new trellises, and a dining platform. Staff is supportive of the beautification and overall improvement of the corner through the removal of the surface parking area, the elimination of the multiple curb-cuts from 18<sup>th</sup> Street, and the overall 'greening' of the site. However, staff recommends reducing the seating to under 100 seats as approved by the Design Review Board.

### **RECOMMENDATION:**

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

TRM/MAB/TUI



## ZONING AND LOCATION MAP



City of Miami Beach Planning Board  
File No. PB16-0064  
1801 West Avenue



The applicant, Soul Tavern 1, LLC., is requesting a Conditional Use approval for a restaurant exceeding an occupant content of 125 persons, pursuant to Section 142-303 (b) and 118, Article IV of the City Code.

**MIAMI BEACH**  
PLANNING DEPARTMENT

1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 P 305.673.7550 [www.miamibeachfl.gov](http://www.miamibeachfl.gov)



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

**PROPERTY:** 1801 West Avenue

**FILE NO.** PB 16-0064

**IN RE:** The applicant, Soul Tavern 1, LLC, requested a Conditional Use approval for a restaurant exceeding an occupant content of 125 persons, pursuant to Section 142-303 (b) and 118, Article IV of the City Code.

**LEGAL DESCRIPTION:** Lot 15 of Block 12 of Island View Subdivision, According to the Plat Thereof, as Recorded in Plat Book 6, Page 115, of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** November 15, 2016

**CONDITIONAL USE PERMIT**

The applicant, Soul Tavern 1, LLC, filed an application with the Planning Director for a Conditional Use approval for a restaurant exceeding an occupant content of 125 persons, pursuant to Section 142-303 (b) and 118, Article IV of the City Code. Notice of the request was given for a modification 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 I-1, Urban Light Industrial 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 Business Tax Receipt (BTR). 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 Soul Tavern 1, LLC, as operator, for a restaurant with alcoholic beverages. The subject establishment shall always be licensed as a single restaurant serving full meals at all times. Any change of operator or fifty percent (50%) 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. Prior to the issuance of a Building Permit for the improvements proposed herein, the applicant shall submit a revised site plan and floor plan. At a minimum, such plans shall include the following:
  - a. The number of seats within the confines of the property shall not exceed 99.
  - b. The patron occupant content shall be a maximum of approximately 205 persons, or as determined by the Fire Marshall, whichever is lower
  - c. An air conditioned trash room(s) / garbage room(s), which shall be large enough or sufficient in number so that more than one pick up of garbage per day will not be necessary. The location, dimensions and access points of such trash/garbage room(s) shall be subject to the review and approval of staff.
  - d. A high-level trash/garbage compacting device may be located in the air-conditioned trash/garbage holding room within the facility.
  - e. 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.
5. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, 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 hours of operation shall be within the hours of 11:00 AM to 2:00 AM Monday through Friday and from 9:00 AM to 2:00 AM on Saturdays and Sundays.
  - b. At all times the establishment is open, food service with a full menu and operating kitchen shall be required throughout the venue, including the outdoor area. At the discretion of the operator, the outdoor area may cease operations prior to the closing of the venue, and while the inside is operational.

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- c. A 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 Certificate of Use or Business Tax Receipt (BTR).
  - d. Live or recorded entertainment shall be prohibited at all times.
  - e. Special events pursuant to the Miami Beach City Code, associated with the proposed establishment, may not be held on the premises and the applicant agrees that it will not seek or authorize applications for such permits.
  - f. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
  - g. Any queuing of patrons shall occur within the property or inside the restaurant only. Security staff shall monitor the crowds to ensure that they do not obstruct the sidewalk.
  - h. Security staff shall monitor patron circulation and occupancy levels and shall take measures to strictly enforce patron age restrictions in the City Code at all times.
  - i. 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.
  - e. Garbage dumpster covers shall be closed at all times except when in active use.
  - f. Delivery vehicles and sanitation services shall only be permitted to make deliveries or pick up from 8:00 AM to 2:00 PM.
  - g. Delivery trucks shall not idle in the loading zone.
6. The applicant shall submit a Transportation Demand Management (TDM) Plan for employees of the restaurant. This plan shall encourage the utilization of alternative modes of transportation to commute to and from work. The restaurant shall designate a staff person to coordinate the development and implementation of the TDM Plan with the city. The TDM Plan should include a reporting system to be able to track the effectiveness of the Plan and make adjustments for improvements as necessary.
7. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a BTR to operate this entertainment establishment.
8. 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.
9. 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.



- Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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

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}

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