

MIAMIBEACH

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 16-0060 f.k.a. File No. 2074 – 2000 Collins Avenue – DÔA**

The applicant, DÔA Miami Beach, LLC, is requesting a modification to a previously issued Conditional Use approval for a Neighborhood Impact Establishment. Specifically the applicant is requesting to change the ownership/operator and an expansion of the floor plan, pursuant to Section 118, Article IV of the City Code.

RECOMMENDATION

Approval with conditions

BACKGROUND

February 27, 2001

Just Around the Corner, LLC was granted a Conditional Use Permit (CUP), File No. 1493, for a multi-level parking garage with retail on the ground floor. This approval included a condition that states: "Nightclubs, dance halls, bars or any kind of neighborhood impact establishment shall not be permitted."

April 30, 2003

Just Around the Corner, LLC and POP Development, LLC requested a substantial amendment to the existing CUP (File No. 1493) with a new File No. 1609 which was approved by the Board (File No. 1609 superseded the previous order). The substantial amendment consisted of an extension of the valet parking garage to the east along 20th Street and introduced a residential component above ground level commercial spaces facing Collins Avenue and 21st Streets.

June 22, 2004

Just Around the Corner, LLC and POP Development, LLC applied for a Modified CUP (MCUP) File No. 1609 and it was approved. The modification included the following language: Condition No. 3 "*Dance halls, bars or any kind of neighborhood impact establishment shall only be permitted along Collins Avenue. Any entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for conditional use approval as agreed by the applicant.*"

July 24, 2007

A new applicant, Park Place Development, LLC requested a modification to the MCUP (File No. 1609) to among other things create two new restaurant spaces, which was approved by the Board.

- February 28, 2012 Park Place Development, LLC requested a modification to the MCUP (File No. 1609) to add a lounge use on 20th Street. At that time, the board had a long discussion that included the intensity of the restaurants, number of seats, traffic, parking and the location of the various venues. The MCUP retained the previous condition, but reworded it and moved the condition to No. 11: *"Any additional dance hall, bar, or entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for conditional use approval as agreed by the applicant, and shall only be permitted, if permitted, along Collins Avenue or 20th Street."*
- August 28, 2012 Park Place Development, LLC was granted a modification to the MCUP (File No. 1609) to add a new restaurant and reconfigure the two previously approved restaurant spaces. In order to streamline the process, and allow for future reconfigurations without returning to the Planning Board every time there is a change of floor plan, the board approved the following condition No. 12. *"Notwithstanding Condition No. 11 above, Parc Place Development, LLC, as owner of the property, shall be enabled to allocate, divide or sub-divide the commercial spaces within the property for different uses to either retail, eating and drinking establishments, or other commercial spaces such as a spa, gym, or similar, and re-allocate parking spaces according to need without having to amend the Permit every time one of these re-allocations, divisions or sub-divisions of spaces takes place, as long as it is not one of the uses specified in the Permit that require Planning Board approval. Any re-allocation, division or subdivision of the commercial spaces shall be limited to the number of parking spaces provided within the garage and shall be submitted to Planning Department staff for review and re-certification that enough parking spaces remain available for all uses within the building."*
- August 28, 2012 A CUP for a Neighborhood Impact Establishment (NIE) was approved for O Entertainment Group USA, LLC (File No. 2074) consisting of a restaurant and alcoholic beverage establishment, also operating as an entertainment establishment and dance hall, with an occupant content of 200 or more persons, as determined by the fire marshal.
- November 24, 2015 The master MCUP (File No. 1609) was modified to remove language regarding which locations in the building were allowed to be restaurants and bars, but retaining the overall cap on the number of seats for the entire property and the requirement of entertainment uses to obtain their own separate CUP's. In other words, limiting the intensity of the entire site, but allowing that intensity to be moved around within the existing shell without modifying the master CUP every time and allowing the board to restrict hours and operations on an individual basis for entertainment uses.

ZONING / SITE DATA

Legal Description:

Lots 1, 2, 3, 4, 6 and 8 of Block C of Amended map of Ocean Front property of Miami Beach Improvement

Company Subdivision as recorded in PB 5, Page 7 of the Public Records of Miami-Dade County, Florida.

Zoning: CD-3, Commercial High Intensity zoning district

Future Land Use Designation: CD-3, Commercial High Intensity zoning district

Surrounding Uses:

North	Collins Park (City Park)
East:	Hotel
South:	Hotel and multifamily
West:	Hotel and multifamily

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

THE PROJECT

The applicant, DÔA Miami Beach, LLC, submitted plans entitled “DÔA Interior Renovation,” as prepared by Norberto Rosenstein Architecture, dated August 23, 2016. The plans illustrate the previous layout of the restaurant and the proposed new layout including the expansion into a former retail bay. The layout reflects a 220 seat restaurant with 178 seats inside and 42 seats outside. The plans also estimate the occupant content will be 268 persons. The restaurant is proposing entertainment in the form of a DJ in the interior portions of the restaurant only.

In the interest of clarity, the entire building includes 205-237 20th Street; 221 20th Street; 220 21st Street; and 2000-2038 Collins Avenue. The subject restaurant occupies the southeast corner of the building and the plaza area on the corner of 20th Street and Collins Avenue.

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 – The request is consistent with the 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 restaurant space was approved under the master MCUP by the Planning Board under File No. 1609 on February 28, 2012, at which time a Traffic Impact Study (TIS) was conducted for the various restaurant and alcoholic beverage establishment uses within the entire site. The TIS concluded the proposed use would not exceed the established thresholds for levels of service.

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

Consistent – Entertainment and neighborhood impact establishments are permitted as conditional uses in the CD-3 zoning district.

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

Partially Consistent – The submitted sound study, which was conducted for the previous tenant in the space on June 4, 2012, concluded that the proposed entertainment use would not have any negative acoustical impact on the neighbors at the time. However, the proposed establishment 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. The facility would have to comply with all applicable laws and regulations for licensure.

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

Consistent – Parking is available at the garage connected to the proposed restaurant. Patrons would valet at the entrance of the garage on 20th Street. Additional parking is available in the surrounding area, including a municipal parking lot across Collins Avenue on 21 Street. Furtherly, it is anticipated that many patrons would walk, arrive by taxi or hired car service.

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

Consistent – Staff will recommend conditions to try to mitigate any adverse impacts from noise 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 entertainment uses in the area. Adverse impacts are not anticipated on the adjacent pre-existing uses as a result of this request. The following are some of the entertainment, outdoor entertainment and neighborhood impact establishments approved nearby.

Address	Name	Type	File #	Approved
1901 Collins Ave	Shoreclub	NIE & outdoor entertainment	1629	26-Aug-03
1905 Collins Ave	Rok Bar	Entertainment establishment	1481-B	23-Jun-09
1921 Collins Ave	Mint Lounge	NIE & entertainment establishment	1481-A	19-Dec-00
1908 Collins Ave	Baoli	NIE & entertainment establishment	1988	25-Jan-11
237 20th Street	Sweet Liberty	Entertainment establishment	2278	24-Nov-15
2038 Collins Ave	Bagetelle	Entertainment establishment	2277	15-Dec-15
2201 Collins Ave	W Hotel	NIE & outdoor entertainment	1922	26-May-09
2301 Collins Ave	1 Hotel	NIE & outdoor entertainment	1840	25-Sep-07

NEIGHBORHOOD IMPACT ESTABLISHMENT REVIEW GUIDELINES

In accordance with Sec. 142-1362 of the Miami Beach City Code, in reviewing an application for an outdoor entertainment establishment, open air entertainment establishment or a neighborhood impact establishment, the Planning Board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to chapter 118, article IV:

- (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 proposed use is a restaurant and alcoholic beverage establishment with entertainment. An operational/business plan that describes hours of operation, number of staff, menu items etc, is included in the application package.

- (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 – Parking is available at the garage connected to the proposed establishment. Patrons would valet at the entrance of the garage on 20th Street. Additional parking is available in the surrounding area, including a municipal lot across Collins Avenue on 21 Street. Further, it is anticipated that many patrons would walk, arrive by taxi, or hired car service.

- (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 would be controlled.**

Partially Consistent – There are three entrances to the establishment. The applicant states in the operational plan that a hostess and security personnel will direct the flow of patrons. The venue does have an ample area on private property to queue patrons, if necessary.

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

Partially Consistent – The applicant proposes to train staff to enforce the patron age restrictions and have in-house security personnel present. The parking facility security was not addressed, and is a separate operation.

- (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 – As previously mentioned, the proposed restaurant use originally obtained a MCUP from the Planning Board under File 1609 on February 28, 2012, at which time a Traffic Impact Study (TIS) was conducted for the various restaurant and alcoholic beverage establishment uses within the entire site. The TIS concluded the proposed use would not exceed the established thresholds for levels of service.

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

Consistent – There are existing sanitation facilities for the all the uses contained within the site which will be used by the applicant. The submitted plans outline the route used to exit the building on the 20th Street side of the building.

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

Partially Consistent – The submitted sound study concluded that the proposed use would not have a negative acoustical impact on the neighbors provided that the applicant takes certain measures. However, the proposed establishment 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. The facility would have to comply with all applicable laws and regulations for licensure.

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

Partially Consistent – There is residential condominium component within the same mixed use structure as the proposed restaurant. In addition, there are hotel uses to the west, south and east, as well as a mixture of residential units and hotel units within some of the surrounding buildings across Collins Ave to the east of the property.

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

Partially Consistent – There are several entertainment uses in the area. Adverse impacts are not anticipated on the adjacent pre-existing uses as a result of this request. The following are some of the entertainment, outdoor entertainment and neighborhood impact establishments approved nearby.

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STAFF ANALYSIS

As previously mentioned, the space for the currently proposed use was approved by the board on February 28, 2012 as restaurant No. 2 in the landlord's CUP (File No. 1609). Also, a separate CUP was issued for the previous tenant, Barezzito (File No. 2074), in roughly the same space, with the same number of seats and occupancy projections.

The proposed establishment, currently called DÔA, would occupy five combined commercial spaces on the ground floor at the corner of Collins Avenue and 20th Street. Although the number of seats proposed, 220, remains the same as the last restaurant, the physical space is slightly expanded by 372 SF. There is an exterior plaza area located directly in front, on the corner, which would contain the outdoor café portion of the project.

Operation

The proposed hours of operation for the interior dining area are 11:00 AM to 5:00 AM. The indoor dining area would offer entertainment in the form of a DJ, for the same hours they propose to be open. From the proposed total number of seats, 220, 180 are interior and 40 are exterior. The outdoor café proposes to close at 1:00 AM. The outdoor cafe would not offer entertainment – only background music that does not interfere with normal conversation. The total estimated occupant content is 269 persons.

Sound

The Audio Bug, Inc. conducted a sound study for the previous application, which was included in your board packages. Edward Dugger + Associates, P.A. was hired by the City, and paid by the previous applicant, to conduct a peer review. The Audio Bug recommendation includes a distributed speaker design system inside and outside. The interior system would be capable of generating full range entertainment levels, and the exterior system would consist of small, low output speakers played only at background levels. There would be separate sound level controls for the interior and the exterior areas. The report states that there would be times when traffic noise on Collins Avenue would drown out the music in the outdoor café; therefore, the report expects that the level of music would not present a problem for the neighbors.

It appears that the original sound study contemplated the use of double door vestibules at all of the entrances and that the vestibules would be equipped with acoustically absorbent panels. The current proposal does not include double door vestibules at any of its entrances. Staff is recommending the re-introduction of those vestibules in the applicant's plans.

Edward Dugger & Associates' conducted a peer review of The Audio Bug, Inc. sound transmission analysis. Mr. Dugger made a number of recommendations to further reduce the level of sound emanating from the facility. Mr. Washburn of The Audio Bug, Inc. responded to the peer reviewer's comments and recommendations, and Mr. Dugger was satisfied with the response. This correspondence is included in the board packages.

Crowd Control and Security

Patrons waiting for admission may wait in the outdoor café area or in the interior dining area. As indicated by the applicant, on-site security personnel and restaurant staff would enforce patron age restrictions and facilitate the flow of patron on the property.

Traffic and Parking

As previously mentioned, the proposed restaurant use obtained a MCUP by the Planning Board under File 1609 on February 28, 2012, at which time a traffic impact study (TIS) was conducted for the various restaurant and alcoholic beverage establishment uses within the entire site. The TIS concluded the proposed use would not exceed the established thresholds for levels of service.

Parking is available at the garage connected to the proposed establishment. Patrons would valet at the entrance of the garage to the west of the restaurant's 20th Street entrance/exit. Fifty five (55) parking spaces are the required parking spaces for the restaurant in the attached garage. Additional parking is available in the surrounding area, including a municipal lot across Collins Avenue on 21 Street. As there are many other hotel, restaurant and entertainment uses in the surrounding area, it is anticipated that many patrons would walk, arrive by taxi, or hired car service.

Sanitation

There are trash containers and an air conditioned trash room in the building designed to serve the commercial uses. The property owner has a contract with a waste removal service provider that would include the proposed establishment. In the board packages, a floor plan is included with the route of the waste removal shown on the plans.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the application for a Modified Conditional Use Permit be granted, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies noted in the aforementioned Conditional Use review criteria.

TRM/MAB/TUI



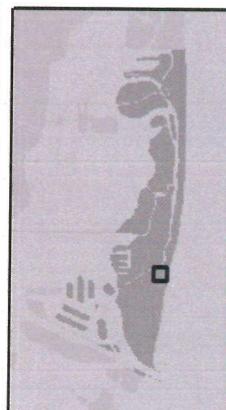
City of Miami Beach Planning Board
File No. PB 16-0060
2000 Collins Ave



The applicant, DOA Miami Beach, LLC., is requesting a modification to a previously issued Conditional Use approval for a Neighborhood Impact Establishment. Specifically the applicant is requesting to change the ownership/operator and an expansion of the floor plan, pursuant to Section 118, Article IV of the City Code.

MIAMI BEACH
PLANNING DEPARTMENT

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

PROPERTY: 2000 Collins Avenue

FILE NO. PB 16-0060 f.k.a File No. 2074

IN RE: The applicant, DÔA Miami Beach, LLC, requested a modification to a previously issued Conditional Use approval for a Neighborhood Impact Establishment. Specifically the applicant requested to change the ownership/operator and an expansion of the floor plan, pursuant to Section 118, Article IV of the City Code.

LEGAL

DESCRIPTION: Lots 1, 2, 3, 4, 6 and 8 of Block C of Amended map of Ocean Front property of Miami Beach Improvement Company Subdivision as recorded in PB 5, Page 7 of the Public Records of Miami-Dade County, Florida.

MEETING DATE: November 15, 2016

MODIFIED CONDITIONAL USE PERMIT

The applicant, DÔA Miami Beach,, LLC., filed an application with the Planning Director for a Modified Conditional Use Permit pursuant to Sections 118-192 and 142-1361 of the Land Development Regulations of the City Code, to operate a restaurant and alcoholic beverage establishment, which is also operating as an entertainment establishment, with an occupant content of 200 or more persons, as determined by the fire marshal.

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.

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 recommendation, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions to which the applicant has agreed (Underline denotes new language; ~~Strikethrough~~ denotes deleted language):

1. The Planning Board shall maintain jurisdiction of this Modified 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 Modified 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 ~~O-Entertainment Group USA, LLC, DÔA Miami Beach, LL.,~~ as operator of this Neighborhood Impact Establishment consisting of an alcoholic beverage establishment; and an entertainment establishment, ~~and dance hall~~ with an approximate total occupant content of 269 persons. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
3. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, shall require review and approval by the Planning Board as a modification to this Modified 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, 11:00 AM to 5:00 AM for the interior dining area and 11:00 AM to 1:00 AM for the outdoor café, ~~as required in the Landlord's CUP.~~
6. There shall be no entertainment in the outdoor café, only background music played at a volume that does not interfere with normal conversation. Interior entertainment shall be limited to a DJ only and live music shall not be permitted.
7. The patron occupant content shall be as proposed, or as determined by the Fire Marshall, whichever is lower. The applicant shall obtain a final occupant content certificate from the City before the issuance of a Business Tax Receipt.
8. Security staff shall take measures to strictly enforce patron age restrictions in the City Code around the clock.
9. The sound system, double door vestibules on both entrances, and sound attenuation measures shall be implemented as per recommendations of the sound study performed by Donald Washburn of The Audio Bug Inc, dated June 4, 2012. A final sound transmission report which includes the performance of sound systems and sound attenuation devices tested at night, under real conditions, ~~including the interior of the residential units above the applicant's leased space, subject to the applicant's reasonable effort to gain access,~~ shall be submitted to staff for review and approval prior to the issuance of a ~~Certificate of Use or~~ Business Tax Receipt.

10. Business identification signs shall be limited to sign copy indicating the name of the establishment only, subject to historic preservation staff review and approval.
11. Wall mounted speakers shall be strictly prohibited on the exterior walls.
12. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
13. 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 determined by the Transportation/Concurrency Management Division.
14. The applicant shall obtain a Certificate of ~~Occupancy~~ Completion 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. 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.
17. Security staff shall monitor patron circulation and occupancy levels.
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 a Business Tax Receipt 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 (as determined by Code Compliance) 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.
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 Modified 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. 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 _____ day of _____, 2016.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

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

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

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]

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

Approved As To Form:
Legal Department ()

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