

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: October 18, 2022

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB20-0455, **1052 Ocean Drive.**

The Special Magistrate, on July 26, 2022, remanded to the Historic Preservation Board a previously submitted application for modifications to the Certificate of Appropriateness to amend conditions of the order relating to the operation of the rooftop. The limited purpose of the remand is to determine whether the HPB will now approve the applicant's underlying application with the imposition of additional reasonable conditions as proposed by the applicant.

#### **RECOMMENDATION**

Approval of the modifications to a previously issued Certificate of Appropriateness with conditions.

#### **BACKGROUND**

On November 13, 2001, the Historic Preservation Board reviewed and approved a Certificate of Appropriateness for the partial demolition, alteration and modification of three existing building and the construction of a new 4-story building at 1042 Ocean Drive (HPB File No. 1253).

On July 3, 2003, The Historic Preservation Board reviewed and approved modifications to the previously issued Certificate of Appropriateness including the introduction of a rooftop pool at 1042 Ocean Drive (HPB File No. 1253).

On March 8, 2004, a full building permit was issued for the approved project. The project obtained a Certificate of Occupancy on March 28, 2007.

On February 27, 2018, the Planning Board reviewed and approved a Conditional Use Permit for a Neighborhood Impact Establishment and Outdoor Entertainment for the Palace Bar & Restaurant located at the ground level of 1042 Ocean Drive (PB17-0171).

On November 17, 2020, the Planning Board approved modifications to the previously issued Conditional Use Permit in order to expand the operations to both the rooftop pool deck and the neighboring building to the north (PB20-0390).

On May 11, 2021, the Historic Preservation Board reviewed and denied a request for modifications to a previously issued Certificate of Appropriateness relating to the operation of the rooftop.

On June 11, 2021, the applicant filed an appeal of the Order of the Historic Preservation Board, dated May 11, 2021, which denied the applicants request for modifications to the final Order.

On July 26, 2022, the Special Magistrate remanded to the Historic Preservation Board a previously submitted application for modifications to the Certificate of Appropriateness to amend conditions of the order relating to the operation of the rooftop. The limited purpose of the remand is to determine whether the HPB will now approve the applicant's underlying application with the imposition of additional reasonable conditions as proposed by the applicant (SM2021-001), to further address any remaining compatibility issues.

### **ANALYSIS**

As noted in the Background section of this memorandum, on June 11, 2021, the applicant filed an Appeal of the Order of the Historic Preservation Board dated May 11, 2021, which denied a request for modifications to a previously issued Certificate of Appropriateness relating to the operation of the rooftop.

On July 26, 2022, the Special Magistrate remanded to the Historic Preservation Board a previously submitted application for modifications to the Certificate of Appropriateness to amend conditions of the order relating to the operation of the rooftop. The limited purpose of the remand is to determine whether the HPB will now approve the applicant's underlying application with the inclusion of additional conditions, as proposed by the applicant, to further address any remaining compatibility issues. For reference, staff has attached the May 11, 2021 staff report and draft Order, the May 11, 2021 final Order and the July 26, 2022 Special Magistrate Order.

Consistent with the Special Magistrates order, the applicant has proposed the following additional conditions:

- Any lighting, fans, televisions, heaters or similar fixtures proposed to be located on the roof level shall be relocated so that they are not visible from the public right of way.
- Fixtures, including but not limited to lighting, speakers, fans, heaters and misters shall not be permitted to be attached to the existing rooftop canopy structure located at the southeast corner of the roof.
- Any increase in height or area of the existing canopy structure located at the southeast corner of the roof shall require review by the Historic Preservation Board.
- Rooftop lighting shall be designed in a manner that does not have an adverse or overwhelming impact upon the surrounding historic district. Intensive illumination levels, color changing, flashing, blinking or similar lighting shall not be permitted on the roof level.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application be **approved** subject to the conditions enumerated in the draft Supplemental Order.

BEFORE THE SPECIAL MAGISTRATE  
FOR THE HISTORIC PRESERVATION BOARD

H.P. FILE NO. HPB21-0455 CASE  
NO. SM 2021-001

IN RE: PALACE BAR, LLC  
1052 OCEAN DRIVE

ORDER REMANDING CASE TO HISTORIC PRESERVATION BOARD

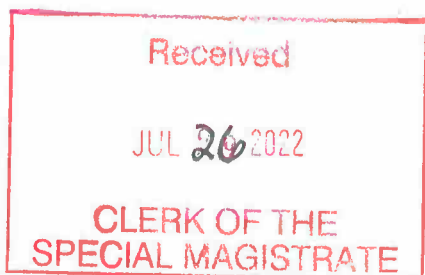
THIS CAUSE having come before the Special Magistrate on the Appellant's Request for Remand prior to oral argument, and the City having concurred,

This cause is hereby remanded to the Historic Preservation Board ("HPB") for the limited purpose of determining whether the HPB will now approve the Appellant's underlying application to modify the Certificate of Appropriateness with the imposition of additional reasonable conditions to be proposed by the Appellant.


The Appellee shall set this matter before the HPB at the next available meeting and this case shall return to the Special Magistrate within 45 days thereafter.

Neither party has waived their positions or their arguments in their briefs previously filed in this case, orally made or otherwise asserted, and nothing contained in this order, or in the HPB's further consideration of this matter, shall be with prejudice to either party's current arguments and positions in this matter.

The Special Magistrate urges and encourages the Appellant, the Appellee and the HPB to utilize this remand to resolve this case prior to oral argument. If, on remand, the Appellant obtains HPB approval and the conditions of the HPB's order are satisfactory to the Appellant, Appellant shall file a Notice of Voluntary Dismissal of this Appeal within 30 days following rendition of the new HPB Order.



Dated: July 26, 2022

  
Craig H. Collier  
Special Magistrate

Copies to: Cynthia L. Neves, Clerk of the Special Magistrate  
All counsel of record

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: May 11, 2021

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB21-0455, **1052 Ocean Drive.**

An application has been filed requesting modifications to a previously issued Certificate of Appropriateness for the partial demolition, alteration and modification of three existing buildings and the construction of a new 4-story building. Specifically, the applicant is requesting to modify conditions of the order relating to the operation of the rooftop.

### **RECOMMENDATION**

Approval of the modifications to a previously issued Certificate of Appropriateness with conditions

### **BACKGROUND**

On November 13, 2001, the Historic Preservation Board reviewed and approved a Certificate of Appropriateness for the partial demolition, alteration and modification of three existing building and the construction of a new 4-story building at 1042 Ocean Drive (HPB File No. 1253).

On July 3, 2003, The Historic Preservation Board reviewed and approved modifications to the previously issued Certificate of Appropriateness including the introduction of a rooftop pool at 1042 Ocean Drive (HPB File No. 1253).

On March 8, 2004, a full building permit was issued for the approved project. The project obtained a Certificate of Occupancy on March 28, 2007.

On February 27, 2018, the Planning Board reviewed and approved a Conditional Use Permit for a Neighborhood Impact Establishment and Outdoor Entertainment for the Palace Bar & Restaurant located at the ground level of 1042 Ocean Drive (PB17-0171).

On November 17, 2020, the Planning Board approved modifications to the previously issued Conditional Use Permit in order to expand the operations to both the rooftop pool deck and the neighboring building to the north (PB20-0390).

### **EXISTING STRUCTURES**

Local Historic District:

Ocean Drive/Collins Avenue

**1052 Ocean Drive**

**4-story structure**

Classification: Non-Contributing  
Architect: Kobi Karp  
Construction Date: 2007

**2-story structure**

Classification: Contributing  
Architect: M. Tony Sherman  
Construction Date: 1950

**ZONING / SITE DATA**

Legal Description: Lots 1-5, Block 15 of the Ocean Beach Addition No. 2, According to the Plat Thereof, as Recorded in Plat Book 2, Page 56, of the Public Records of Miami-Dade County, Florida.

Zoning: MXE, Mixed use entertainment  
Future Land Use Designation: MXE, Mixed use entertainment

**THE PROJECT**

The applicant has submitted plans entitled “Palace Bar & Restaurant”, as prepared by Studio McG Architecture, dated September 21, 2020.

**COMPLIANCE WITH ZONING CODE**

The application, as submitted, appears to be consistent with the requirements of the City Code.

This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**CONSISTENCY WITH 2025 COMPREHENSIVE PLAN**

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

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Applicable**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not Applicable**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Not Applicable**

- (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.  
**Not Applicable**
- (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 of up to three (3) additional feet in height.  
**Not Applicable**
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.  
**Not Applicable**
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.  
**Not Applicable**
- (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.  
**Not Applicable**
- (10) In all new projects, water retention systems shall be provided.  
**Not Applicable**
- (11) Cool pavement materials or porous pavement materials shall be utilized.  
**Not Applicable**
- (12) The project design shall minimize the potential for a project causing a heat island effect on site.  
**Not Applicable**

**COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section

118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.  
**Not Applicable**
- b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.  
**Satisfied**

II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. Exterior architectural features.  
**Not Applicable**
- b. General design, scale, massing and arrangement.  
**Not Applicable**
- c. Texture and material and color.  
**Not Applicable**
- d. The relationship of a, b, c, above, to other structures and features of the district.  
**Not Applicable**
- e. The purpose for which the district was created.  
**Satisfied**
- f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.  
**Not Applicable**
- g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.  
**Not Applicable**
- h. The original architectural design or any subsequent modifications that have acquired significance.  
**Not Applicable**

III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are

as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Not Applicable**
- b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.  
**Satisfied**
- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.  
**Not Applicable**
- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.  
**Not Applicable**
- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.  
**Not Applicable**
- f. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.  
**Not Applicable**
- g. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties and consistent with a City master plan, where applicable.



**Not Applicable**

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

**Not Applicable**

- i. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, adjacent properties and pedestrian areas.

**Not Applicable**

- j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

**Not Applicable**

- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Not Applicable**

- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Not Applicable**

- m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

**Not Applicable**

- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.

**Not Applicable**

- o. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

**Not Applicable**

**ANALYSIS**

As noted in the Background section of this report, on February 27, 2018 the applicant, the Palace Bar & Restaurant, obtained conditional use approval from the Planning Board for a neighborhood impact establishment and outdoor entertainment located at the ground level of 1042(1052) Ocean Drive.

Subsequently, on November 17, 2020, the Planning Board approved modifications to the previously issued conditional use permit to expand the operation of the establishment to both the rooftop pool deck area and the adjacent building to the north. Staff would note that the Planning Board reviewed this application with regard to important issues related to the operations of the expanded venue, including parking, traffic, deliveries, noise, sanitation and security.

In order to obtain a Business Tax Receipt (license) to operate the rooftop as approved by the Planning Board, the applicant is currently requesting to eliminate the below conditions contained within the Historic Preservation Board Corrected Order dated July 8, 2003. These conditions were imposed by the Board as part of a Certificate of Appropriateness for the renovation of four Contributing buildings and the construction of a 4-story addition. The project was completed in 2007.

- C.1.d. There shall be no outdoor entertainment establishment at the rooftop pool area ("Rooftop Pool") at the building to be located at 1042 Ocean Drive. In addition, the owner shall not seek any special events permits for outdoor entertainment at the rooftop pool.*
- C.1.e. Any outdoor speakers installed at the Rooftop Pool, or portable speakers used at the Rooftop Pool, will only be permitted to emit ambient background music that will not interfere with normal conversation.*
- C.1.f. The outdoor bar and Rooftop Pool shall only be utilized by residents, room paying hotel guests, and invitees of the residents and invitees of the room paying hotel guests.*

Staff has no objection to the removal of the above noted conditions as they are more specifically addressed in the modified conditional use permit (attached to this report). As such, staff recommends approval as noted below.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application be **approved** subject to the conditions enumerated in the attached draft Order.

**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 \_\_\_\_\_ (                    )

**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: October 18, 2022

PROPERTY/FOLIO: 1052 Ocean Drive / 02-4203-302-0001

FILE NO: HPB21-0455 a.k.a. HPB File No. 1253

APPLICANT: Palace Bar LLC

IN RE: An application has been filed requesting modifications to a previously issued Certificate of Appropriateness for the partial demolition, alteration and modification of three existing buildings and the construction of a new 4-story building. Specifically, the applicant is requesting to modify conditions of the order relating to the operation of the rooftop.

LEGAL: Lots 1-5, Block 15 of the Ocean Beach Addition No. 2, According to the Plat Thereof, as Recorded in Plat Book 2, Page 56, of the Public Records of Miami-Dade County, Florida.

**SUPPLEMENTAL ORDER**

The City of Miami Beach Historic Preservation Board 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:

**I. Certificate of Appropriateness**

- A. The subject site is located within the Ocean Drive/Collins Avenue Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
  - 1. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
  - 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  - 3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
  - 4. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(3) of the Miami Beach Code.
- C. The project would remain consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
  - ~~d. There shall be no outdoor entertainment at the rooftop pool area ("Rooftop Pool") at the building to be located at 1042 Ocean Drive. In addition, the owner shall not seek any special events permits for outdoor entertainment at the rooftop pool.~~
  - ~~e. Any outdoor speakers installed at the Rooftop Pool, or portable speakers used at the Rooftop Pool, will only be permitted to emit ambient background music that will not interfere with normal conversation.~~
  - ~~f. The outdoor bar and Rooftop Pool shall only be utilized by residents, room paying hotel guests, and invitees of the residents and invitees of the room paying hotel guests.~~
  - d. Any lighting, fans, televisions, heaters or similar fixtures proposed to be located on the roof level shall be located so that they are not be visible from the public right of way.
  - e. Fixtures, including but not limited to lighting, speakers, fans, heaters and misters shall not be permitted to be attached to the existing rooftop canopy structure located at the southeast corner of the roof.
  - f. Any increase in height or area of the existing canopy structure located at the southeast corner of the roof shall require review by the Board.
  - g. Rooftop lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding historic district. Intensive 'white', color changing, flashing, blinking or similar lighting shall not be permitted on the roof level.

In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.

## II. Variance(s)

- A. No variances have been requested as part of this application.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

## III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.

- A. The Supplemental Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- B. The Supplemental Final 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.
- C. The previous Corrected Final Order dated July 8, 2003 shall remain in full force and effect, except to the extent modified herein.
- D. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. 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.
- G. 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.

IT IS HEREBY 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 are adopted herein, including the staff recommendations, which were adopted by the Board, that the application is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this Order shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT  
HISTORIC PRESERVATION & ARCHITECTURE OFFICER  
FOR THE CHAIR

STATE OF FLORIDA            )  
  )SS  
COUNTY OF MIAMI-DADE    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ (                    ) )

Filed with the Clerk of the Historic Preservation Board on \_\_\_\_\_ (                    ) )

~~Strike-Thru~~ denotes deleted language  
Underscore denotes new language