

**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

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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 playing music at a volume that does not interfere with normal conversation. 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 and sound attenuation measures shall be implemented as per recommendations of the sound study performed by Donald Washburn of The Audiobug Inc, in accordance with the supplement dated November 13, 2016. June 4, 2012. Double door vestibules shall not be required based upon the operation presented in the sound supplement dated November 13, 2016, by Donald Washburn of The Audiobug, Inc. 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. Between 10pm and 1am security staff shall monitor the crowds outdoor seating area to ensure no congregation of non-patrons in the outdoor area on private property. 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.

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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 ~~forementioned 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 19th day of JANUARY, 2017.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

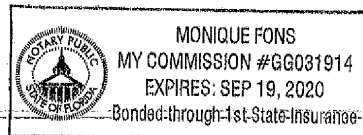
BY: Michael Belush

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 19th day of January, 2017, 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: MONIQUE FONS

Notary Public, State of Florida

My Commission Expires: SEP 19, 2020

Commission Number:

Approved As To Form:
Legal Department

Filed with the Clerk of the Planning Board on 1/19/2017

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