

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

PROPERTY: 4385 Collins Avenue

FILE NO. PB 16-0052 fka 1959

IN RE: The application for after the fact modifications to a previously approved Conditional Use Permit for a Neighborhood Impact Establishment, pursuant to Chapter 118, Article IV of the City Code. Specifically, the applicant is requesting approval for the expansion of a restaurant located in the rear yard.

LEGAL DESCRIPTION: See Attached Exhibits "A" and "B"

MEETING DATE: September 27, 2016

MODIFIED CONDITIONAL USE PERMIT

The applicant, Beach House Owner, LLC, filed an application with the Planning Director for a modification to a previously issued Conditional Use Permit for after the fact modifications to a Neighborhood Impact Establishment, pursuant to Chapter 118, Article IV of the City Code.

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 RM-3, Residential High Intensity zoning district within the Collins Waterfront Local Historic 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 and the staff report and analysis, which are adopted herein, including the recommendations that the Modified Conditional Use Permit be GRANTED subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction of this Modified Conditional Use Permit. 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 Modified Conditional Use Permit is issued to Beach House Owner, LLC, as owner of the property and Soho House Beach House, LLC, as operator where the venues constituting a Neighborhood Impact Establishment are located. Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners shall be required to appear before the Board, within 90 days of change of ownership or operator to affirm their understanding of the conditions listed herein.
3. The conditions of approval for this Modified Conditional Use Permit are binding on the applicant, the property's owners, and all successors in interest and assigns.
4. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application for a Neighborhood Impact Establishment Conditional Use Permit.
5. The hours of operations shall be as proposed by the applicant:
 - a. Cecconi's Restaurant, Long Bar and Wine Bar: 7:00 a.m. until 2:00 a.m. seven days a week. This restaurant may provide 24-hour room service to hotel guests.
 - b. ~~The Tiki Hut Bar~~ Mandolin Beach and rear yard: 12:00 p.m. until 2:00 a.m. seven days a week.
 - c. The spa and gym: 7:00 a.m. until 10:00 p.m. seven days a week
 - d. The Breeze Bar: 7:00 p.m. until 4:00 a.m. seven days a week
 - e. The 8th floor roof spa pool area: 7:00 a.m. until 12:00 a.m. seven days per week.
 - f. The 8th floor roof bar, sitting room and private dining room 7:00 a.m. until 2:00 a.m. seven days a week
6. The occupant load shall be limited to no more than ~~762~~ 796 patrons as proposed by the applicant or such lesser number of persons as may be determined by the Fire Marshal. The Fire Department staff shall validate the patron occupant load, prior to the approval of any Certificate of Occupancy, Business Tax Receipt or Certificate of Use for all the outdoor areas and pool deck venues.
7. Live entertainment, live music, and dancing shall be prohibited. Only ambient background music at a level that does not interfere with normal conversation shall be permitted, but not played by a DJ.

8. The installation plan for the sound system, including the location of all the speakers and sound system controls shall be submitted to staff for review and approval prior to obtaining a building permit.
9. When the sound system is replaced and completely installed, but before the updated Business Tax Receipt has been issued, it shall be tested under the supervision of Mr. Donald J. Washburn, president of The Audio Bug, Inc., to ensure that all aspects of the system's performance comply with the design intent and recommendations of the sound system study submitted as part of this application. A final report issued by Mr. Washburn shall be submitted to staff.
10. Delivery trucks shall only be permitted to make deliveries from the designated loading spaces contained within the property.
11. Delivery trucks shall not be allowed to idle in the loading areas.
12. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
13. 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.
14. 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.
15. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
16. Garbage dumpster covers shall be closed at all times except when in active use.
17. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
18. 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
19. 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.
20. The applicant shall address the following Concurrency and Traffic requirements, as applicable:

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- a. A Method of Transportation (MOT) shall be submitted to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
 - b. 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 may be determined as determined by the Concurrency Management Division.
 - c. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.
 - d. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a building permit.
 - e. Valet or loading activities shall not block Avenue at any time.
21. Hotel security personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all the venues serving alcohol.
 22. Prior to the issuance of a Certificate of Occupancy, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as may be determined. A final concurrency determination shall be conducted prior to the issuance of a Certificate of Occupancy. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving the Business Tax Receipt.
 23. Final calculations shall be made to determine the parking requirement for the project and any deficiency in the requirement and the parking spaces provided. The payment of the fee in lieu of providing all the required parking shall be determined at this time and payment of the required fee shall be made prior to the issuance of the Certificate of Occupancy.
 24. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 25. The applicant shall appear before the ~~Board of Adjustment~~ Historic Preservation Board for an after the fact Certificate of Appropriateness and for approval of any variances needed before the issuance of a Certificate of Completion, Certificate of Occupancy or Business Tax Receipt, whichever may come first.
 26. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation or the occupant should there be issuance of written warnings and/or notices of violation about loud, excessive, unnecessary, or unusual night noise.
 27. 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.

Filed with the Clerk of the Planning Board _____ ()