

PLANNING BOARD AGENDA
1700 CONVENTION CENTER DRIVE 3RD FL.

Tuesday, January 28, 2020, 1:00 PM | City Commission Chambers

- I. ATTENDANCE
 - II. APPROVAL OF MINUTES
 - III. CITY ATTORNEY UPDATES
 - IV. SWEARING IN OF PUBLIC
 - V. REQUESTS FOR CONTINUANCES/WITHDRAWALS
 - VI. REQUESTS FOR EXTENSIONS OF TIME
 - VII. DISCUSSION ITEMS
 - VIII. PROGRESS REPORT
 - IX. MODIFICATION OF PREVIOUSLY APPROVED BOARD ORDER
 - X. CONTINUED ITEMS
 - XI. OPEN AND CONTINUED ITEMS
 - XII. NEW APPLICATIONS
 - XIII. AMENDMENTS TO: COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS
 - XIV. APPEALS (BOA ONLY)
 - XV. OTHER BUSINESS
 - XVI. ADJOURNMENT
-

ATTENDANCE

APPROVAL OF MINUTES

- 1. After Action Report – December 17, 2019

OTHER BUSINESS

- 2. Election of Chair and Vice Chair

REQUEST FOR CONTINUANCES/WITHDRAWALS

- 3. PB 19-0336. Sunset Harbour mixed-use neighborhood overlay district
- 4. PB 18-0244. Telecommunications Ordinance

REVOCATION/MODIFICATION HEARING

- 5. PB 19-0270. 1000 - 1030 Collins Avenue – Fairwind Hotel

NEW APPLICATIONS

6. PB 19-0330. 455 Lincoln Road – Andres Carne De Res

CODE AMENDMENTS: (Filed pursuant to Chapter 118, Article III of the Land Development Regulations of the City Code.)

7. PB 19-0335. Demolition by Neglect – Presumption Clause
8. PB 19-0337. Sunset Harbor alcoholic beverage establishment regulations

ADJOURNMENT

Applications listed herein have been filed with the Planning Department for review by the Planning Board, pursuant Section 118-51 of the City's Land Development Regulations. All persons are invited to attend this meeting or be represented by an agent, or to express their views in writing addressed to the Planning Board c/o the Planning Department, 1700 Convention Center Drive, 2nd Floor, Miami Beach, Florida 33139. Applications for items listed herein are available for public inspection at the following link: or during normal business hours at the Planning Department, 1700 Convention Center Drive, 2nd Floor, Miami Beach, Florida 33139. Inquiries may be directed to the Department at (305) 673-7550.

Any items listed in this agenda may be continued. Under such circumstances, additional legal notice would not be provided. Please contact the Planning Department at (305) 673-7550 for information on the status of continued items.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: Appeals of any decision made by this Board with respect to any matter considered at its meeting or hearing, such person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in alternate format, sign language interpreter (five-business day notice is required), information on access for persons with disabilities, and accommodation to review any document or participate in any city-sponsored proceedings, call 305.604.2489 and select 1 for English or 2 for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

MIAMI BEACH

LAND USE BOARDS

FILE NO.

APPLICANT:

MEETING DATE:

1/28/2020

PRIOR ORDER NUMBER:

**Is this a Resident Right to
Know item?**

Yes

**Does this item utilize G.O.
Bond Funds?**

No

ATTACHMENTS:

Description

☐ Minutes

Type

Memo

**PLANNING BOARD MINUTES
1700 CONVENTION CENTER DRIVE 3RD FL.**

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-

ATTENDANCE

APPROVAL OF MINUTES

VIDEO 1. After Action Report - November 19, 2019

Motion

Motion to Approve

Moved By: Mark Meland

Supported By: Daniel Veitia

Ayes: Barrineau, Brantley, Elias, Gelpi, Meland, Veitia, Wieder

MOTION Passed

REQUEST FOR CONTINUANCES/WITHDRAWALS

VIDEO 2. PB 18-0244. Telecommunications Ordinance

Continued to January 28, 2020.

Motion to Approve
Moved By: Daniel Veitia
Supported By: David Wieder

Ayes: Barrineau, Brantley, Elias, Gelpi, Meland, Veitia, Wieder

MOTION Passed

PROGRESS REPORT

VIDEO 3. PB 18-0203 fka File No. 2216. 1615 Lenox Avenue – Parking Lot

No further progress reports.

Motion to Approve
Moved By: Daniel Veitia
Supported By: Mark Meland

Ayes: Barrineau, Brantley, Elias, Gelpi, Meland, Veitia, Wieder

MOTION Passed

VIDEO 4. PB 19-0270. 1000 - 1030 Collins Avenue – Fairwind Hotel

Schedule to consider a revocation/modification hearing, on January 28, 2020.

Motion to Approve
Moved By:
Supported By:

MOTION Passed

NEW APPLICATIONS

VIDEO 5. PB 19-0320. 901, 927 Lincoln Road – Sterling Building

Motion

Motion to Approve
Moved By: Mark Meland
Supported By: Kareem Brantley

Ayes: Barrineau, Brantley, Elias, Gelpi, Meland, Veitia
Nays: Wieder

MOTION Passed

CODE AMENDMENTS: (Filed pursuant to Chapter 118, Article III of the Land Development Regulations of the City Code.)

VIDEO 6. PB 19-0332. Definition of Floor Area

Transmit to City Commission with favorable recommendation

Motion to Approve

Moved By: Kareem Brantley

Supported By: David Wieder

Ayes: Barrineau, Brantley, Elias, Gelpi, Meland, Veitia, Wieder

MOTION Passed

ADJOURNMENT

Applications listed herein have been filed with the Planning Department for review by the Planning Board, pursuant Section 118-51 of the City's Land Development Regulations. All persons are invited to attend this meeting or be represented by an agent, or to express their views in writing addressed to the Planning Board c/o the Planning Department, 1700 Convention Center Drive, 2nd Floor, Miami Beach, Florida 33139. Applications for items listed herein are available for public inspection at the following link: or during normal business hours at the Planning Department, 1700 Convention Center Drive, 2nd Floor, Miami Beach, Florida 33139. Inquiries may be directed to the Department at (305) 673-7550.

Any items listed in this agenda may be continued. Under such circumstances, additional legal notice would not be provided. Please contact the Planning Department at (305) 673-7550 for information on the status of continued items.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: Appeals of any decision made by this Board with respect to any matter considered at its meeting or hearing, such person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

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MIAMI BEACH

LAND USE BOARDS

FILE NO.

APPLICANT:

MEETING DATE:

PRIOR ORDER NUMBER:

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

ATTACHMENTS:

Description

Type

No Attachments Available

MIAMI BEACH

LAND USE BOARDS

FILE NO.

APPLICANT:

MEETING DATE:

1/28/2020

IN RE:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," AT ARTICLE III, ENTITLED "OVERLAY DISTRICTS," TO ESTABLISH DIVISION 14, ENTITLED "SUNSET HARBOUR MIXED-USE NEIGHBORHOOD OVERLAY DISTRICT," TO PROVIDE REGULATIONS FOR FORMULA RESTAURANT AND FORMULA COMMERCIAL ESTABLISHMENTS, INCLUDING DISTANCE SEPARATION REQUIREMENTS, LIMITATIONS ON NUMBER OF ESTABLISHMENTS, AND PROHIBITIONS UNDER CERTAIN CIRCUMSTANCES; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

PRIOR ORDER NUMBER:

**Is this a Resident Right to
Know item?**

Yes

**Does this item utilize G.O.
Bond Funds?**

No

ATTACHMENTS:

Description

Type

No Attachments Available

MIAMI BEACH

LAND USE BOARDS

FILE NO.

PB 18-0244

APPLICANT:**MEETING DATE:**

1/28/2020

IN RE:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY CODE, CHAPTER 104, ENTITLED, "TELECOMMUNICATIONS," ARTICLE I, ENTITLED "COMMUNICATIONS RIGHTS OF WAY," BY AMENDING CHAPTER 104, TO BE CONSISTENT WITH STATE LAW, SECTION 337.401, FLORIDA STATUTES RELATING TO THE USE OF RIGHTS-OF-WAY FOR UTILITIES SUBJECT TO REGULATION; PERMITS; AND FEES; PROVIDING FOR REGULATIONS RELATING TO SMALL CELL COMMUNICATIONS CONSISTENT WITH STATE LAW; REQUIRING DESIGN AND APPROPRIATENESS REVIEW AND APPROVAL BY PLANNING STAFF; REMOVING REVIEW BY THE DESIGN REVIEW BOARD BY MODIFYING SECTION 118-71, ENTITLED, "POWERS AND DUTIES," AND SECTION 118-252, ENTITLED, "APPLICABILITY AND EXEMPTIONS"; AND CONTINUING HISTORIC PRESERVATION BOARD REVIEW UNDER THE CERTIFICATE OF APPROPRIATENESS CRITERIA FOUND AT SECTION 118-102, ENTITLED, "POWERS AND DUTIES," SECTION 118-251, ENTITLED "DESIGN REVIEW CRITERIA," AND SECTION 118-564, ENTITLED, "DECISIONS ON CERTIFICATES OF APPROPRIATENESS"; WHICH HISTORIC DISTRICT REVIEW IS CONSISTENT WITH STATE LAW; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY AND AN EFFECTIVE DATE. [Continued From 7-23-19, 9-24-19, 11-19-19 & 12-17-19.]

PRIOR ORDER NUMBER:

**Is this a Resident Right to
Know item?**

Yes

**Does this item utilize G.O.
Bond Funds?**

No

ATTACHMENTS:

Description

Type

No Attachments Available

MIAMI BEACH

LAND USE BOARDS

PROPERTY:

1000 - 1030 Collins Avenue – Fairwind Hotel

FILE NO.

PB 19-0270

APPLICANT:**MEETING DATE:**

1/28/2020

IN RE:

Public hearing to consider a revocation, modification, or imposition of additional or supplemental conditions to a previously issued conditional use permit for a Neighborhood Impact Establishment and Outdoor Entertainment Establishment, pursuant to Chapter 118, Article IV of the City Code.

PRIOR ORDER NUMBER:**Is this a Resident Right to
Know item?**

Yes

**Does this item utilize G.O.
Bond Funds?**

No

ATTACHMENTS:

Description		Type
<input type="checkbox"/>	Staff Report	Memo
<input type="checkbox"/>	Staff Report 1-28-2020	Memo

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: December 17, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 19-0270, 1000 – 1030 Collins Avenue – Fairwind Hotel.**

BACKGROUND

June 25, 2019

A Conditional Use Permit was granted by the Board, for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment with an occupant content in excess of 200 persons.

October 25, 2019

Field testing of the audio system was performed with the applicant, the applicant's sound consultant, as well as Planning and Code Compliance staff.

November 19, 2019

A progress report was scheduled due to outstanding violations related to the CUP. The nature of the violations was discussed by the Board and the progress report was continued to a date certain of December 17, 2019.

November 25, 2019

A cure letter was sent to the operator (attached).

December 3, 2019

A BTR was issued to include entertainment on the premises as authorized by the CUP.

DECEMBER 19, 2019 UPDATE

Since the November 19, 2019 meeting, the applicant obtained the BTR to include entertainment. As of the writing of this report, no new violations or complaints have been registered with the Code Compliance Department.

PROGRESS REPORT

The applicant is before the Board pursuant to the following conditions:

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. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, including modification to the hours of operation, 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).
11. The Planning Board shall retain the right to call the owner or operator back before the Board 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.

12. 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.
15. 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.

STAFF ANALYSIS

The Planning Department initially scheduled the progress report for two reasons; first due to code violations that were issued regarding unauthorized entertainment on the property, and second, in anticipation of the issuance of the BTR for the inclusion of entertainment as required by Condition 1. of the CUP.

Since the November 19, 2019 meeting, the applicant obtained the BTR to include entertainment. As of the writing of this report, no new violations or complaints have been registered with the Code Compliance Department.

For reference the following is the list of complaints and violations issued by Code Compliance:

Case Number: ZV2019-02794.
Case Status: Notice of Violation
Open Date: 10/14/2019

While responding to complaint of loud music. I parked vehicle at the rear of property in the alleyway. I met with complainant and heard loud music playing. I then walked to the entrance of the patio by the restaurant and spoke with a lady and asked for the person in charge. I met with two gentleman and ended up talking to the person in charge, Luis Concepcion. I informed him the reason why I was there. There was no dj in the courtyard playing music. He stated on camera there was a dj at the rooftop which is not complying with CUP Section 6(i). The person in charge Luis and I walked back to the rear of the property and the music wasn't loud but within 10 minutes, the music went back up again. Luis was telling me about how we keep showing up and mentioned the complainant by name. He started recording our conversation and saying how unfair he's receiving another violation and that he's not going to sign it. I asked if I can go up to the rooftop and he denied access which is not complying with CUP Section 16. We then walked to the rear of CVS standing on the north side on 10th Street and the music was lowered and raised again. We then walked back to the rear of the building. I mentioned since there's a dj playing loud music on the rooftop, a noise violation will be given, NC2019-12480 which is not complying with CUP Section 12 and 17 and a conditional use permit is required. I asked if he has a permit and he wasn't aware. Luis then wanted to speak to my Supervisor. I contacted CCA Thomas and gave her his phone number. I also informed her a violation will be written. I asked if she would call the manager Luis

Concepcion. He then left and I went back to the vehicle and entered my notes for the Noise Violation.

Met with Director of Operations Carlos Zumaeta. Explained and hand delivered violation.

Case Number: NC2019-121480

Case Status: Appeal

Open Date: 10/13/2019

Section 46-152: Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

Ref: Loud music from dj on the rooftop.

5th Offense

Body Worn Camera used.

J. Rios (706)

Case Number: NC2019-12464

Case Status: Appeal

Open Date: 10/12/19

LOUD MUSIC

Arrival Time: 3:57 pm

Departure Time: 5:08

Met with Complainant

Reference: Unreasonable Loud and excessive music.

4th Offense: \$ 2,000.00

A.PEREZ736

BWC

LOUD MUSIC COMING FROM THE ROOF TOP OR THE COURT YARD COMPLAINT REQUESTING FOR A CALL BACK

Case Number: NC2019-12309

Case Status: Noise Complaint, no violation issued

Open Date: 09/23/2019

LOUD MUSIC AT THE ROOF TOP

Additional information from 739

Complainant on site

Arrival time@ 9:45 PM

Upon arrival complainant was on site to assist and inform me about the complaint. I walked the surrounding 4 corners of 10th and Collins Ave and music, car noise and unusual street noise was heard. None of the noises was loud and or excessive. I continued the inspection and went to the rooftop of the complainant's building and music was heard. The music was not loud and or excessive. As a courtesy to the complainant I advised him that i will speak to Management at the 1000 Collins Ave

Fairwind Hotel and educate Management the city of Miami Beach Noise Ordinance. I then spoke to the Manager on Duty Lyne Metry and advised her about the complaint and if there was an event at the rooftop. She advised me that no rooftop was taking place. We both walked to the rooftop for verification of the closing. Rooftop was closed. I again educated Lyne Metry the Noise Ordinance to the city of Miami Beach. The complainant was on site to know of the findings of his complaint. Complainant was not pleased with the language of the ordinance. No violation issued at this time.

Body camera in use

Departed @ 10:50 PM

J.Hernandez-739

Case Number: NC2019-12305

Case Status: Noise complaint – Appeal

Open Date: 09/22/2019

Violation of Section 46-152:

Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

YOU SHALL IMMEDIATELY CEASE THE VIOLATION.

You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law.

3rd Offense \$2000

BWC used

CCO M. Jefferson 747

Arrival 6:18 PM

Responded to a noise complaint of music coming from the rooftop. I drove through Collins Ct on the 900 block and could hear the music from the car. The music could also be heard from the sidewalk on the south side of the property. Upon arrival I parked in front of the property and while exiting my vehicle I could hear the music. I met with the complainant Peter at his property 960 Collins Ave and while inside of the hotel I could not hear the music. While on the porch the music could be heard faintly and we had no issues hearing each other. He then proceeded to take a picture of my name from my shirt. He then request that a supervisor also come to the scene. I made CCA Varela aware. I then made contact with the manager Luis at the Fairwind property and we walked around to the rear. While in Collins Ct we both could hear the music from the rooftop. He immediately called and had the music lowered. To avoid further problems he instructed the staff to cut the music off and move the customers inside. While in Collins Ct I noticed the complainant Peter recording my interaction with the manager Luis from across the street. I then went back to my vehicle to being the noise case. Peter came by the vehicle twice while I was creating the case to request the violation number. The music playing from the property was loud and excessive upon arrival and was immediately turned off during my interaction with the manager Luis. Violation issued. The violation was signed and accepted by the manager Luis.

Case Number: NC2019-12282
Case Status: Noise complaint – Appeal
Open Date: 09/20/2019

Ref: LOUD MUSIC

Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

YOU SHALL IMMEDIATELY CEASE THE VIOLATION.

You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law.

2nd offense, \$1,000.00 fine

Notice of violation issued

BWC: Used

L. Negron #740

Case Number: CC2019-07778
Case Status: City Code Violation – Notice of Violation
Open Date: 09/06/2019

Section 102-311. Failing to remit Resort Tax returns and/or payments to the City of Miami Beach as required.

Ref; Finance Resort Tax not paid RT 2098411

1s violation issued

Complaint inspection from finance dept

BWC in use

J Randolph 749

Case Number: NC2019-11858
Case Status: Written Warning Notice
Open Date: 07/25/19

loud music /1000 collins ave

Inspection revealed music was loud and excessive-

Written Warning issued

Body camera in use

J.Hernandez-739

Additional information from 739

Complainant on site

Arrival time@ 10:05 PM

Upon arrival the complainant was on site to assist me with the complaint. I stood at the corner of 10th and Collins Ave and could hear the loud and excessive music coming from the atrium of the Fairwinds Hotel. I followed the music to the middle of the building where the music was being played. I walked the surrounding area and ask to speak to the manager on duty. I then was approached by General

Manager Luis Concepcion. I advised him about the complaint and where the music was heard. We both walked to the corner of 10th and Collins Ave and his music was plainly audible. The G.M immediately called the sound man to lower the music for compliance.

Complainant satisfied with the findings and the service of Code

I educated the G.M the city of Miami Beach Noise Ordinance and issued a Written Warning.

Body camera in use

J.Hernandez-739

Departed @ 11:10 PM

STAFF RECOMMENDATION

Staff recommends that the Planning Board discuss the progress report, and although no new complaints or violations have been issued since the prior meeting, continue the progress report to a date certain of January 28, 2020 in order to monitor the property for compliance with the conditions of the CUP.

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

PLANNING DEPARTMENT
Tel: 305-673-7550 Fax: 305-673-7559

November 25, 2019

MLB Fairwinds, LLC
1000 Collins Avenue
Miami Beach, FL 33139

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#9214 8901 9403 8300 0005 42

Re: PB19-0270, 1000 – 1030 Collins Avenue –
Fairwind Hotel Conditional Use Permit Cure Letter

Dear Sir/Madam:

A Conditional Use Permit to operate a neighborhood impact establishment and outdoor entertainment establishment was issued to MLB Fairwinds, LLC. on June 25, 2019. It has come to the Planning Department's attention that complaints have been made and violations have been issued by the Code Compliance Department regarding the operation of the venue in a manner that is contrary to the issued conditional use permit (CUP).

In light of the inconsistencies with the following conditions of approval contained in the Conditional Use Permit, including operating with entertainment without first amending the Business Tax Receipt (BTR) to include entertainment, and due to issued code violations, **you are requested to appear at the December 17, 2019 Planning Board hearing** for the continuation of the progress report, which was last heard by the Planning Board on November 19th, 2019.:

- 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. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, including modification to the hours of operation, 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).
6. The Applicant agrees to the following operational conditions for the entire facility:
 - f. The roof top and pool deck may remain open:
Monday through Sunday from 10:00 a.m. to 8:00 p.m.
 - i. Entertainment shall be prohibited on the roof top at all times.
8. A Traffic Demand Management (TDM) plan shall be submitted, reviewed and approved by the Transportation Department within 90 days, prior to the issuance of a BTR for the addition of entertainment and include the following:

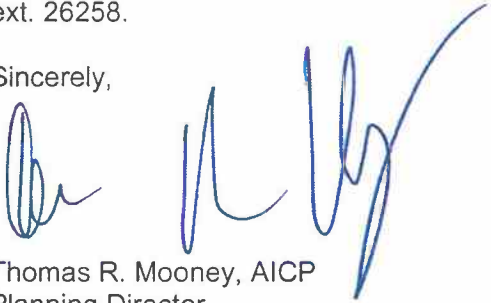
- a. The applicant shall identify locations, acceptable to the Transportation Department, for bicycle racks to be installed in the public right-of-way and within the proposed development. The applicant shall furnish and install the bicycle racks in accordance with the standards outlined in the City of Miami Beach Public Works Manual.
 - b. The applicant shall coordinate with the South Florida Commuter Services in participating in the transit subsidy program.
 - c. The applicant shall provide an analysis proposing for a drop-off and pick-up area shared with the valet drop-off and pick-up spaces.
 - d. The Developer shall conduct an updated valet utilization study incorporating the rideshare demand 60 days after opening of the proposed development with entertainment. The updated analysis shall include weekday peak hour and weekend peak hour analysis. Prior to commencement of the post-opening valet/ride-share analysis, the Developers' Traffic Engineer shall coordinate with the Transportation Department.
- 11 The Planning Board shall retain the right to call the owner or operator back before the Board 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.
- 12 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.
- 15 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.
16. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.

Please be advised that at the time of the progress report, in accordance with the provisions of the City Code, Section 118-194(3), the Planning Board may consider setting a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings. Should the Planning Board consider setting a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings, this issue may be placed on the next available meeting of the Board.

If a future public hearing is set, the board may consider the issue of noncompliance and the possible modification or revocation of the approval. Based on substantial competent evidence, the board may consider revoking the approval, modifying the conditions thereof, or imposing additional or supplemental conditions.

If you have any questions, please do not hesitate to contact Mr. Michael Belush at (305) 673-7000 ext. 26258.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'T' followed by a series of loops and a long horizontal stroke.

Thomas R. Mooney, AICP
Planning Director

MIAMI BEACH

PLANNING DEPARTMENT

SUBJECT: List of complaints and violations related to
PB 19-0270, 1000 – 1030 Collins Avenue – Fairwind Hotel.

Case Number: ZV2019-02794.
Case Status: Notice of Violation
Open Date: 10/14/2019

While responding to complaint of loud music. I parked vehicle at the rear of property in the alleyway. I met with complainant and heard loud music playing. I then walked to the entrance of the patio by the restaurant and spoke with a lady and asked for the person in charge. I met with two gentleman and ended up talking to the person in charge, Luis Concepcion. I informed him the reason why I was there. There was no dj in the courtyard playing music. He stated on camera there was a dj at the rooftop which is not complying with CUP Section 6(i). The person in charge Luis and I walked back to the rear of the property and the music wasn't loud but within 10 minutes, the music went back up again. Luis was telling me about how we keep showing up and mentioned the complainant by name. He started recording our conversation and saying how unfair he's receiving another violation and that he's not going to sign it. I asked if I can go up to the rooftop and he denied access which is not complying with CUP Section 16. We then walked to the rear of CVS standing on the north side on 10th Street and the music was lowered and raised again. We then walked back to the rear of the building. I mentioned since there's a dj playing loud music on the rooftop, a noise violation will be given, NC2019-12480 which is not complying with CUP Section 12 and 17 and a conditional use permit is required. I asked if he has a permit and he wasn't aware. Luis then wanted to speak to my Supervisor. I contacted CCA Thomas and gave her his phone number. I also informed her a violation will be written. I asked if she would call the manager Luis Concepcion. He then left and I went back to the vehicle and entered my notes for the Noise Violation.

Met with Director of Operations Carlos Zumaeta. Explained and hand delivered violation.

Case Number: NC2019-121480
Case Status: Appeal
Open Date: 10/13/2019

Section 46-152: Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

Ref: Loud music from dj on the rooftop.
5th Offense
Body Worn Camera used.
J. Rios (706)

Case Number: NC2019-12464
Case Status: Appeal
Open Date: 10/12/19

LOUD MUSIC

Arrival Time: 3:57 pm
Departure Time: 5:08
Met with Complainant
Reference: Unreasonable Loud and excessive music.
4th Offense: \$ 2,000.00
A.PEREZ736
BWC

**LOUD MUSIC COMING FROM THE ROOF TOP OR THE COURT YARD COMPLAINT
REQUESTING FOR A CALL BACK**

Case Number: NC2019-12309
Case Status: Noise Complaint, no violation issued
Open Date: 09/23/2019

LOUD MUSIC AT THE ROOF TOP

Additional information from 739
Complainant on site

Arrival time@ 9:45 PM

Upon arrival complainant was on site to assist and inform me about the complaint. I walked the surrounding 4 corners of 10th and Collins Ave and music, car noise and unusual street noise was heard. None of the noises was loud and or excessive. I continued the inspection and went to the rooftop of the complainant's building and music was heard. The music was not loud and or excessive. As a courtesy to the complainant I advised him that I will speak to Management at the 1000 Collins Ave Fairwind Hotel and educate Management the city of Miami Beach Noise Ordinance. I then spoke to the Manager on Duty Lyne Metry and advised her about the complaint and if there was an event at the rooftop. She advised me that no rooftop was taking place. We both walked to the rooftop for verification of the closing. Rooftop was closed. I again educated Lyne Metry the Noise Ordinance to the city of Miami Beach. The complainant was on site to know of the findings of his complaint. Complainant was not pleased with the language of the ordinance. No violation issued at this time.

Body camera in use

Departed @ 10:50 PM
J.Hernandez-739

Case Number: NC2019-12305
Case Status: Noise complaint – Appeal
Open Date: 09/22/2019

Violation of Section 46-152:

Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or

causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

YOU SHALL IMMEDIATELY CEASE THE VIOLATION.

You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law.

3rd Offense \$2000

BWC used

CCO M. Jefferson 747

Arrival 6:18 PM

Responded to a noise complaint of music coming from the rooftop. I drove through Collins Ct on the 900 block and could hear the music from the car. The music could also be heard from the sidewalk on the south side of the property. Upon arrival I parked in front of the property and while exiting my vehicle I could hear the music. I met with the complainant Peter at his property 960 Collins Ave and while inside of the hotel I could not hear the music. While on the porch the music could be heard faintly and we had no issues hearing each other. He then proceeded to take a picture of my name from my shirt. He then request that a supervisor also come to the scene. I made CCA Varela aware. I then made contact with the manager Luis at the Fairwind property and we walked around to the rear. While in Collins Ct we both could hear the music from the rooftop. He immediately called and had the music lowered. To avoid further problems he instructed the staff to cut the music off and move the customers inside. While in Collins Ct I noticed the complainant Peter recording my interaction with the manager Luis from across the street. I then went back to my vehicle to being the noise case. Peter came by the vehicle twice while I was creating the case to request the violation number. The music playing from the property was loud and excessive upon arrival and was immediately turned off during my interaction with the manager Luis. Violation issued. The violation was signed and accepted by the manager Luis.

Case Number: NC2019-12282

Case Status: Noise complaint – Appeal

Open Date: 09/20/2019

Ref: LOUD MUSIC

Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

YOU SHALL IMMEDIATELY CEASE THE VIOLATION.

You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law.

2nd offense, \$1,000.00 fine

Notice of violation issued

BWC: Used

L. Negron #740

Case Number: CC2019-07778
Case Status: City Code Violation – Notice of Violation
Open Date: 09/06/2019

Section 102-311. Failing to remit Resort Tax returns and/or payments to the City of Miami Beach as required.

Ref; Finance Resort Tax not paid RT 2098411
1s violation issued
Complaint inspection from finance dept
BWC in use
J Randolph 749

Case Number: NC2019-11858
Case Status: Written Warning Notice
Open Date: 07/25/19

loud music /1000 collins ave
Inspection revealed music was loud and excessive-
Written Warning issued
Body camera in use
J.Hernandez-739

Additional information from 739
Complainant on site

Arrival time@ 10:05 PM

Upon arrival the complainant was on site to assist me with the complaint. I stood at the corner of 10th and Collins Ave and could hear the loud and excessive music coming from the atrium of the Fairwinds Hotel. I followed the music to the middle of the building where the music was being played. I walked the surrounding area and ask to speak to the manager on duty. I then was approached by General Manager Luis Concepcion. I advised him about the complaint and where the music was heard. We both walked to the corner of 10th and Collins Ave and his music was plainly audible. The G.M immediately called the sound man to lower the music for compliance.

Complainant satisfied with the findings and the service of Code

I educated the G.M the city of Miami Beach Noise Ordinance and issued a Written Warning.

Body camera in use
J.Hernandez-739
Departed @ 11:10 PM

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

PROPERTY: 1000 — 1030 Collins Avenue — Fairwind Hotel
FILE NO. PB 19-0270

IN RE: An application for Conditional Use Approval 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, Division 6 of the City Code.

LEGAL DESCRIPTION: Lots 5-8, Block 30 of 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.

MEETING DATE: June 25, 2019

CONDITIONAL USE PERMIT

The applicant, MLB Fairwinds LLC, filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact Establishment and Outdoor Entertainment 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

MS

June 25, 2019

PB 19-0270 1000-1030 Collins Avenue – Fairwind Hotel
Page 2 of 6

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. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, including modification to the hours of operation, 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 MLB Fairwinds LLC, any changes in ownership of 50% (fifty percent) or more stock ownership, or the equivalent, shall require the new owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Business Tax Receipt.
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. The CUP shall have the following maximum occupant content (including within the interior and exterior portion located on private property) for the Courtyard, outdoor bar area, restaurant on 1020 Collins Avenue, and basement: Less than 300 persons, or any lesser such occupant content as determined by the Fire Marshal.
 - b. The courtyard may remain open with outdoor entertainment:
Monday through Sunday from 8:00 a.m. to 5:00 a.m.

Audio from the subject property, including low-frequency vibrations, shall not be plainly audible or felt, within the interior of the apartment units (with the windows and doors closed) of the abutting building to the north, at any time.

Audio from the subject property shall not be plainly audible at the southern balconies of the abutting apartment building to the north (1040 Collins Avenue) between 11pm and 8am Sunday through Thursday, and between midnight and 8am Fridays, Saturdays, holidays and special events.
 - c. The outdoor bar may remain open:
Monday through Sunday from 8:00 a.m. to 8:00 p.m.

MB

June 25, 2019

PB 19-0270 1000-1030 Collins Avenue – Fairwind Hotel
Page 3 of 6

After 8:00 p.m. the roll down storefronts that face the courtyard shall be closed in order to continue to operate as an indoor bar counter.

- d. The restaurant at 1020 Collins Avenue may remain open:
Monday through Sunday from 8:00 a.m. to 5:00 a.m. and indoor entertainment shall be allowed.
- e. Indoor entertainment at the basement venue may operate:
Monday through Sunday from 8:00 a.m. to 5:00 a.m.
- f. The roof top and pool deck may remain open:
Monday through Sunday from 10:00 a.m. to 8:00 p.m.
- g. At all times that entertainment is operating anywhere on the subject property, a restaurant shall be open with food service, a full menu, and operating kitchen.
- h. 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 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.
- i. Entertainment shall be prohibited on the roof top at all times.
- j. A maximum of 2 televisions may be permitted in the courtyard subject to a Certificate of Appropriateness and historic preservation board approval, if required. The volume level of the televisions in the courtyard shall comply with the audio volume limitations stated in this order.
- k. Delivery trucks shall only be permitted to make deliveries from city authorized and designated commercial loading zones.
- l. Delivery trucks shall not be allowed to idle in the loading zone.
- m. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
- n. Deliveries and waste collections may occur daily between 7:00 AM and 10:00 AM.
- o. Loading and deliveries from the alley shall at no time block the passage of any other vehicles along the alley.
- p. 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.

MB

June 25, 2019

PB 19-0270 1000-1030 Collins Avenue – Fairwind Hotel
Page 4 of 6

- q. 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.
 - r. 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.
 - s. Garbage dumpster covers shall be closed at all times except when in active use.
 - t. 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.
 - u. No patrons shall be allowed to queue on public rights-of-way. Security staff shall monitor the crowds to ensure that they do not obstruct the sidewalk.
 - v. 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.
 - w. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - x. 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.
 - y. 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. 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.
8. A Traffic Demand Management (TDM) plan shall be submitted, reviewed and approved by the Transportation Department within 90 days, prior to the issuance of a BTR for the addition of entertainment and include the following:
- a. The applicant shall identify locations, acceptable to the Transportation Department, for bicycle racks to be installed in the public right-of-way and within

ms

June 25, 2019

PB 19-0270 1000-1030 Collins Avenue – Fairwind Hotel
Page 5 of 6

- the proposed development. The applicant shall furnish and install the bicycle racks in accordance with the standards outlined in the City of Miami Beach Public Works Manual.
- b. The applicant shall coordinate with the South Florida Commuter Services in participating in the transit subsidy program.
 - c. The applicant shall provide an analysis proposing for a drop-off and pick-up area shared with the valet drop-off and pick-up spaces.
 - d. The Developer shall conduct an updated valet utilization study incorporating the rideshare demand 60 days after opening of the proposed development with entertainment. The updated analysis shall include weekday peak hour and weekend peak hour analysis. Prior to commencement of the post-opening valet/ride-share analysis, the Developers' Traffic Engineer shall coordinate with the Transportation Department.
9. 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 with entertainment.
 10. 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.
 11. The Planning Board shall retain the right to call the owner or operator back before the Board 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.
 12. 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.
 13. 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.
 14. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
 15. 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

mb

June 25, 2019

PB 19-0270 1000-1030 Collins Avenue - Fairwind Hotel
Page 6 of 6

Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

16. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.
17. 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.

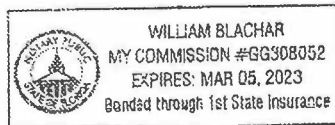
Dated this 18th day of JULY, 2019.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush
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 18th day of July, 2019, 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.



{NOTARIAL SEAL}

William Blachar
Notary:
Print Name
Notary Public, State of Florida
My Commission Expires: MARCH 5th, 2023
Commission Number: GG308052

Approved As To Form:
Legal Department Nick Fallagas 7/16/2019

Filed with the Clerk of the Planning Board on Jessica Gualinga (7/16/19)

MB

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: January 28, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 19-0270, 1000 – 1030 Collins Avenue – Fairwind Hotel.**
Revocation/Modification Hearing

BACKGROUND

June 25, 2019

A Conditional Use Permit was granted by the Board, for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment with an occupant content in excess of 200 persons.

October 25, 2019

Field testing of the audio system was performed with the applicant, the applicant's sound consultant, as well as Planning and Code Compliance staff.

October 28, 2019

In accordance with Condition 6.h. of the CUP, an acoustic report was submitted to the Planning Department, summarizing the results of the field test, which took place on October 25, 2019 (attached). The approved speaker location plan, as well as the approved speakers has also been provided.

November 19, 2019

A progress report was scheduled due to outstanding violations related to the CUP. The nature of the violations was discussed by the Board and the progress report was continued to a date certain of December 17, 2019.

November 25, 2019

A cure letter was sent to the operator (attached).

December 3, 2019

A BTR was issued to include entertainment on the premises as authorized by the CUP.

December 17, 2019

The progress report was discussed, and the Board directed staff to schedule a revocation/modification hearing for January 28, 2020.

RECOMMENDATION

Modify the CUP to suspend outdoor entertainment on the property for 30 days, due to the additional violation, as described below, which was issued after the December 17, 2019 meeting.

JANUARY 28, 2020 UPDATE

Since the December 17, 2019 meeting, the following new violation has been registered with the Code Compliance Department:

Case Description: LOUD MUSIC

Case: NC2019-13291

Case Status: Appeal
Open Date: 12/22/2019

CODEVark
01/09/2020

Case prep checked and forwarded to Clerical for process and return to CCO for appeal hearing.

CODETEJA
01/06/2020
741

Case was appealed Timely

12/22/2019

First manager Lyne that i made contact with advised the DJ had brought in their own speakers for the event. They were not using their Hotels speaker set up

CODETEJA
12/22/2019
741

Arrival 8:30 PM

Departure 9:30 PM

Upon arrival unreasonably loud and excessive music was heard from the inside of my vehicle. I could shapely hear and feel the unreasonably loud music from inside my vehicle. I could distinctly make out percussion instruments playing over the hard bass form the House music. I stepped out of the vehicle where i was immediately met with same loud House music that was not encompassing the neighboring area. I then followed the music to the rear of the courtyard where I observed two large speaker facing out toward collins ave and a DJ. I then made contact with the DJ where I advised him to bring the music down to a reasonable level. I then made contact with the management where I advised her of the reason i was there. I then explained the nature of the complaints and the level the music was heard. I then educated them of the city's noise ordinance and of future complaints. The complaint was not anonymous and no further information was available.

A fifth (5th) Offense was issued.

The applicant is before the Board pursuant to the following conditions:

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. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, including modification to the hours of operation, 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).
- 6.h. 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 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.

11. The Planning Board shall retain the right to call the owner or operator back before the Board 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.
12. 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.
15. 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.

STAFF ANALYSIS

The Planning Department initially scheduled the progress report for two reasons; first due to code violations that were issued regarding unauthorized entertainment on the property, and second, in anticipation of the issuance of the BTR for the inclusion of entertainment as required by Condition 1. of the CUP.

For reference the following is the list of complaints and violations issued by Code Compliance prior to the December 17, 2019 progress report:

Case Number: ZV2019-02794.
Case Status: Notice of Violation
Open Date: 10/14/2019

While responding to complaint of loud music. I parked vehicle at the rear of property in the alleyway. I met with complainant and heard loud music playing. I then walked to the entrance of the patio by the restaurant and spoke with a lady and asked for the person in charge. I met with two gentleman and ended up talking to the person in charge, Luis Concepcion. I informed him the reason why I was there. There was no dj in the courtyard playing music. He stated on camera there was a dj at the rooftop which is not complying with CUP Section 6(i). The person in charge Luis and I walked back to the rear of the property and the music wasn't loud but within 10 minutes, the music went back up again. Luis was telling me about how we keep showing up and mentioned the complainant by name. He started recording our

conversation and saying how unfair he's receiving another violation and that he's not going to sign it. I asked if I can go up to the rooftop and he denied access which is not complying with CUP Section 16. We then walked to the rear of CVS standing on the north side on 10th Street and the music was lowered and raised again. We then walked back to the rear of the building. I mentioned since there's a dj playing loud music on the rooftop, a noise violation will be given, NC2019-12480 which is not complying with CUP Section 12 and 17 and a conditional use permit is required. I asked if he has a permit and he wasn't aware. Luis then wanted to speak to my Supervisor. I contacted CCA Thomas and gave her his phone number. I also informed her a violation will be written. I asked if she would call the manager Luis Concepcion. He then left and I went back to the vehicle and entered my notes for the Noise Violation.

Met with Director of Operations Carlos Zumaeta. Explained and hand delivered violation.

Case Number: NC2019-121480
Case Status: Appeal
Open Date: 10/13/2019

Section 46-152: Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

Ref: Loud music from dj on the rooftop.
5th Offense
Body Worn Camera used.
J. Rios (706)

Case Number: NC2019-12464
Case Status: Appeal
Open Date: 10/12/19

LOUD MUSIC
Arrival Time: 3:57 pm
Departure Time: 5:08
Met with Complainant
Reference: Unreasonable Loud and excessive music.
4th Offense: \$ 2,000.00
A.PEREZ736
BWC

LOUD MUSIC COMING FROM THE ROOF TOP OR THE COURT YARD COMPLAINT REQUESTING FOR A CALL BACK

Case Number: NC2019-12309
Case Status: Noise Complaint, no violation issued
Open Date: 09/23/2019

LOUD MUSIC AT THE ROOF TOP

Additional information from 739

Complainant on site

Arrival time@ 9:45 PM

Upon arrival complainant was on site to assist and inform me about the complaint. I walked the surrounding 4 corners of 10th and Collins Ave and music, car noise and unusual street noise was heard. None of the noises was loud and or excessive. I continued the inspection and went to the rooftop of the complainant's building and music was heard. The music was not loud and or excessive. As a courtesy to the complainant I advised him that i will speak to Management at the 1000 Collins Ave Fairwind Hotel and educate Management the city of Miami Beach Noise Ordinance. I then spoke to the Manager on Duty Lyne Metry and advised her about the complaint and if there was an event at the rooftop. She advised me that no rooftop was taking place. We both walked to the rooftop for verification of the closing. Rooftop was closed. I again educated Lyne Metry the Noise Ordinance to the city of Miami Beach. The complainant was on site to know of the findings of his complaint. Complainant was not pleased with the language of the ordinance.

No violation issued at this time.

Body camera in use

Departed @ 10:50 PM

J.Hernandez-739

Case Number: NC2019-12305

Case Status: Noise complaint – Appeal

Open Date: 09/22/2019

Violation of Section 46-152:

Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

YOU SHALL IMMEDIATELY CEASE THE VIOLATION.

You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law.

3rd Offense \$2000

BWC used

CCO M. Jefferson 747

Arrival 6:18 PM

Responded to a noise complaint of music coming from the rooftop. I drove through Collins Ct on the 900 block and could hear the music from the car. The music could also be heard from the sidewalk on the south side of the property. Upon arrival I parked in front of the property an while exiting my vehicle I could hear the music. I met with the complainant Peter at his property 960 Collins Ave and while inside of the hotel I could not hear the music. While on the porch the music could be heard faintly and we had no issues hearing each other. He then proceeded to take a picture of my name from my shirt. He then request that a supervisor also come to the scene. I made CCA Varela aware. I then made contact with the manager Luis at the Fairwind

property and we walked around to the rear. While in Collins Ct we both could hear the music from the rooftop. He immediately called and had the music lowered. To avoid further problems he instructed the staff to cut the music off and move the customers inside. While in Collins Ct I noticed the complainant Peter recording my interaction with the manager Luis from across the street. I then went back to my vehicle to being the noise case. Peter came by the vehicle twice while I was creating the case to request the violation number. The music playing from the property was loud and excessive upon arrival and was immediately turned off during my interaction with the manager Luis. Violation issued. The violation was signed and accepted by the manager Luis.

Case Number: NC2019-12282

Case Status: Noise complaint – Appeal

Open Date: 09/20/2019

Ref: LOUD MUSIC

Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

YOU SHALL IMMEDIATELY CEASE THE VIOLATION.

You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law.

2nd offense, \$1,000.00 fine

Notice of violation issued

BWC: Used

L. Negron #740

Case Number: CC2019-07778

Case Status: City Code Violation – Notice of Violation

Open Date: 09/06/2019

Section 102-311. Failing to remit Resort Tax returns and/or payments to the City of Miami Beach as required.

Ref; Finance Resort Tax not paid RT 2098411

1s violation issued

Complaint inspection from finance dept

BWC in use

J Randolph 749

Case Number: NC2019-11858

Case Status: Written Warning Notice

Open Date: 07/25/19

loud music /1000 collins ave

Inspection revealed music was loud and excessive-

Written Warning issued

Body camera in use

J.Hernandez-739

Additional information from 739

Complainant on site

Arrival time@ 10:05 PM

Upon arrival the complainant was on site to assist me with the complaint. I stood at the corner of 10th and Collins Ave and could hear the loud and excessive music coming from the atrium of the Fairwinds Hotel. I followed the music to the middle of the building where the music was being played. I walked the surrounding area and ask to speak to the manager on duty. I then was approached by General Manager Luis Concepcion. I advised him about the complaint and where the music was heard. We both walked to the corner of 10th and Collins Ave and his music was plainly audible. The G.M immediately called the sound man to lower the music for compliance.

Complainant satisfied with the findings and the service of Code

I educated the G.M the city of Miami Beach Noise Ordinance and issued a Written Warning.

Body camera in use

J.Hernandez-739

Departed @ 11:10 PM

STAFF RECOMMENDATION

Staff recommends that the Planning Board discuss the progress report, and in light of the new violation that has been issued, modify the CUP to suspend outdoor entertainment on the property for 30 days. Additionally, it is recommended that the revocation/modification hearing be continued to March 24, 2020.



EDWARD DUGGER + ASSOCIATES, P.A.
Consultants in Architectural Acoustics

ACOUSTICAL MEASUREMENT REPORT

Date: 28 October 2019

To: Michael Belush, AICP
Chief of Planning and Zoning

Planning Department
1700 Convention Center Drive
Miami Beach, Florida 33139

Cc: Tal Alon

MLB Fairwinds LLC
1000 Collins Avenue
Miami Beach, FL 33139

From: Sam Shroyer, ASA INCE
Edward Dugger, FAIA ASA NCAC INCE

Re: **Fairwind Hotel (PB 19-0270)**
1000 – 1030 Collins Avenue
Miami Beach, FL 33139
ED+A 191096

Mr. Belush,

This report summarizes acoustical testing conducted at the Fairwind Hotel on October 25, 2019 to ensure compliance with its Conditional Use Permit and Miami Beach's noise ordinance. These tests enabled ED+A to suggest sound level limits for the courtyard to maintain compliance, though whether or not the sound is "plainly audible" at a given location or time is ultimately at the discretion of the responding Code Compliance officer.

Please contact ED+A with any questions or comments regarding this assessment.

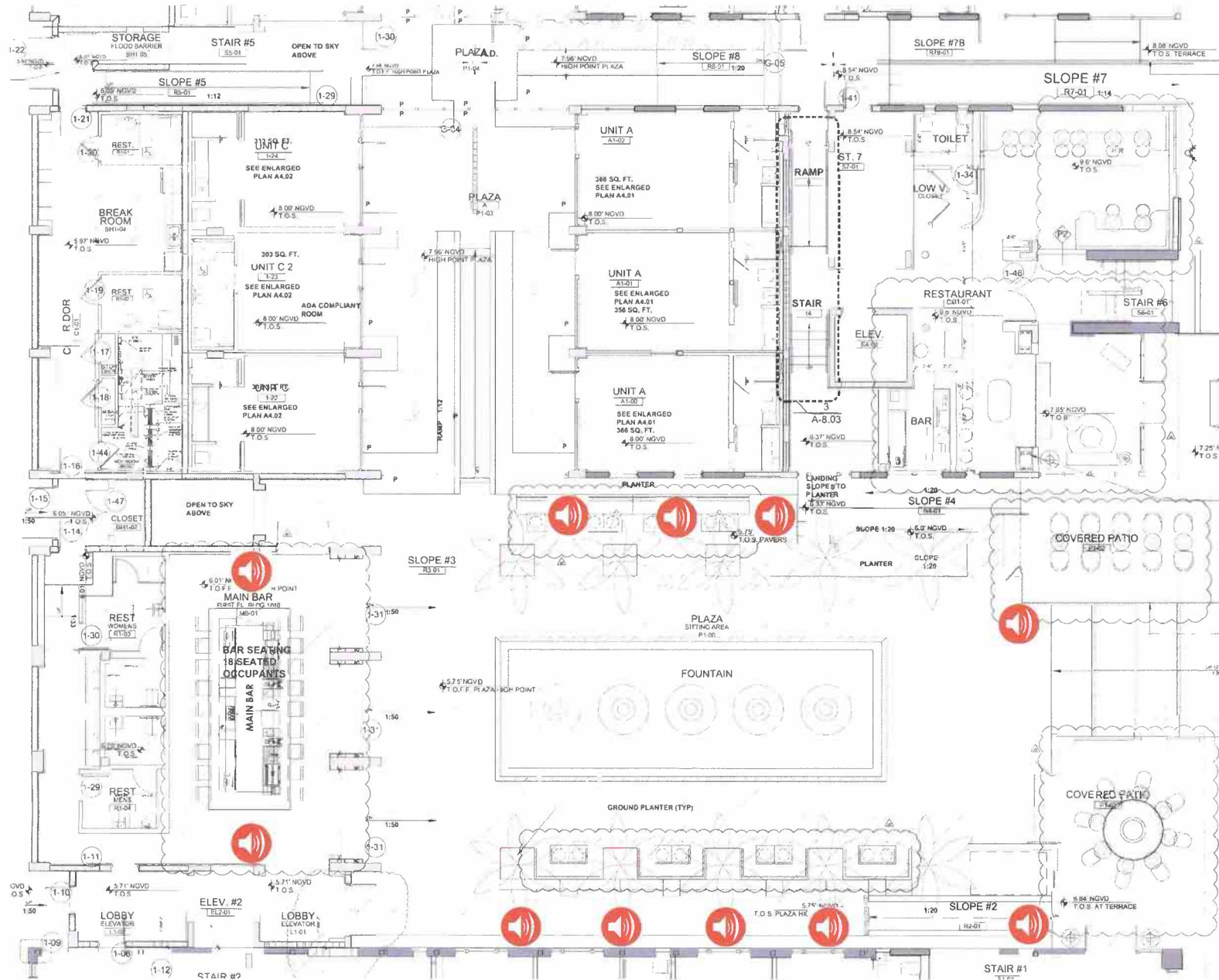


Sam Shroyer and Irineo Jaimes of ED+A visited the Fairwind Hotel on October 25, 2019 to observe the effect of entertainment music in the courtyard on the surrounding area. ED+A were accompanied by hotel management and City of Miami Beach Code Compliance and Planning Department representatives.

Entertainment music was generated by the exterior audio system in Fairwind's courtyard and sound levels were measured in one-second intervals by an acoustical measurement system located near the center of the courtyard. The sound produced by the system was observed by the aforementioned parties at a distance of 100 ft from the property in each direction, as is standard for sound evaluation after 11:00 p.m. When Code Compliance determined that the sound was plainly audible, the sound level was reduced until an appropriate sound level was maintained. All parties agreed that the point of observation 100 ft east of the property (on the north side of 10th Street, south of the Essex Hotel) was most affected and should be the primary location at which sound generated on the Fairwind property is evaluated. However, when noise complaints are received from specific properties (such as the apartments to the north), Code Compliance will likely assess the sound at these locations if access is provided.

Sound level measurements taken off of the property were not useful in informing whether the sound was "plainly audible" due to a constant presence of more dominant noise sources (traffic, etc.) and the sound being noticeable at only certain frequencies (mostly bass). On the north side of 10th Street—where Code Compliance stated sound would be observed in the future—the music was determined to be "plainly audible" when sound levels exceeded 80 dBA in the courtyard. This is consistent with the limit recommended by ED+A previously. However, the measurement data suggest that 92 dBC is the maximum level that should be produced in the courtyard, but 88 to 90 dBC is more consistent with typical sound produced during normal operations.

Hotel management demonstrated that the sound levels can only be controlled by management. DJ's or guest entertainers do not have access to these controls. Additionally, the system installer could likely reduce the low-frequency output of the system to allow for increased levels in the courtyard without being plainly audible 100 ft away from the property. In any case, Fairwind has demonstrated that appropriate levels can be maintained.



RESTAURANT AND RETAIL AREAS FOR ALLOCATION			
Region	Area	Bar/Restaurant Unit	Comments/Use
Region 1	1000	78.51	...
Region 2	1020	78.51	...
Region 3	1020	78.51	...
Region 4	1020	78.51	...

KEY

- FIXED SEATING
- NON FIXED SEATING
- CIRCULATION

SEAT COUNT	
BUILDING 1020	
FIXED SEATING (BAR)	4
NON FIXED SEATING (RESTAURANT)	30
NON FIXED SEATING (COVERED PATIO)	37
BUILDING 1020 TOTAL OCCUPANCY	71

SEAT COUNT	
BUILDING 1010	
FIXED SEATING (MAIN BAR)	18
NON FIXED SEATING (MAIN BAR)	17
BUILDING 1010 TOTAL SEAT COUNT	35

SEAT COUNT	
BUILDING 1000	
(COVERED PATIO) FIXED SEATING	23
BUILDING 1000 TOTAL SEAT COUNT	23

SEAT COUNT	
COURTYARD	
NON-FIXED SEATING	40
COURTYARD TOTAL SEAT COUNT	40

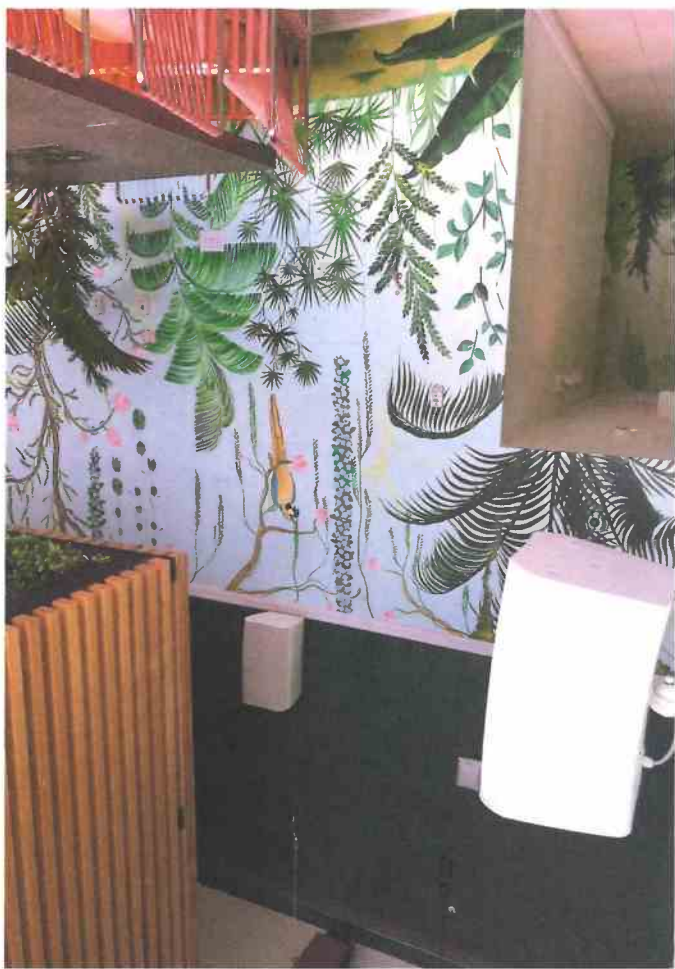
TOTAL SEAT COUNT	169
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ALLAN T. SHULMAN ARCHITECT, P.A.
(AR 0012763)
180 NORTH EAST 3RD STREET
SUITE 100
MIAMI BEACH, FL 33139
PHONE (305) 436-0009
FAX (305) 436-0170



FAIRWIND HOTEL
1000-1030 COLLINS AVENUE, MIAMI BEACH
CONSTRUCTION DOCUMENTS

1000-1030 COLLINS AVENUE
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City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

PLANNING DEPARTMENT
Tel: 305-673-7550 Fax: 305-673-7559

November 25, 2019

MLB Fairwinds, LLC
1000 Collins Avenue
Miami Beach, FL 33139

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#9214 8901 9403 8300 0005 42

Re: PB19-0270, 1000 – 1030 Collins Avenue –
Fairwind Hotel Conditional Use Permit Cure Letter

Dear Sir/Madam:

A Conditional Use Permit to operate a neighborhood impact establishment and outdoor entertainment establishment was issued to MLB Fairwinds, LLC. on June 25, 2019. It has come to the Planning Department's attention that complaints have been made and violations have been issued by the Code Compliance Department regarding the operation of the venue in a manner that is contrary to the issued conditional use permit (CUP).

In light of the inconsistencies with the following conditions of approval contained in the Conditional Use Permit, including operating with entertainment without first amending the Business Tax Receipt (BTR) to include entertainment, and due to issued code violations, **you are requested to appear at the December 17, 2019 Planning Board hearing** for the continuation of the progress report, which was last heard by the Planning Board on November 19th, 2019.:

- 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. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, including modification to the hours of operation, 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).
6. The Applicant agrees to the following operational conditions for the entire facility:
 - f. The roof top and pool deck may remain open:
Monday through Sunday from 10:00 a.m. to 8:00 p.m.
 - i. Entertainment shall be prohibited on the roof top at all times.
8. A Traffic Demand Management (TDM) plan shall be submitted, reviewed and approved by the Transportation Department within 90 days, prior to the issuance of a BTR for the addition of entertainment and include the following:

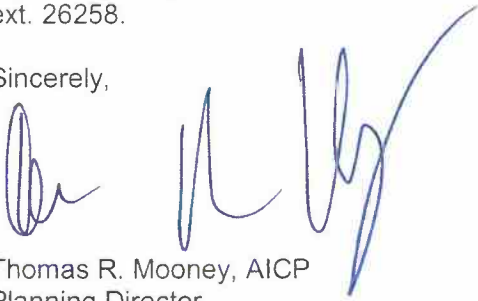
- a. The applicant shall identify locations, acceptable to the Transportation Department, for bicycle racks to be installed in the public right-of-way and within the proposed development. The applicant shall furnish and install the bicycle racks in accordance with the standards outlined in the City of Miami Beach Public Works Manual.
 - b. The applicant shall coordinate with the South Florida Commuter Services in participating in the transit subsidy program.
 - c. The applicant shall provide an analysis proposing for a drop-off and pick-up area shared with the valet drop-off and pick-up spaces.
 - d. The Developer shall conduct an updated valet utilization study incorporating the rideshare demand 60 days after opening of the proposed development with entertainment. The updated analysis shall include weekday peak hour and weekend peak hour analysis. Prior to commencement of the post-opening valet/ride-share analysis, the Developers' Traffic Engineer shall coordinate with the Transportation Department.
- 11 The Planning Board shall retain the right to call the owner or operator back before the Board 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.
 - 12 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.
 - 15 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.
 16. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.

Please be advised that at the time of the progress report, in accordance with the provisions of the City Code, Section 118-194(3), the Planning Board may consider setting a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings. Should the Planning Board consider setting a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings, this issue may be placed on the next available meeting of the Board.

If a future public hearing is set, the board may consider the issue of noncompliance and the possible modification or revocation of the approval. Based on substantial competent evidence, the board may consider revoking the approval, modifying the conditions thereof, or imposing additional or supplemental conditions.

If you have any questions, please do not hesitate to contact Mr. Michael Belush at (305) 673-7000 ext. 26258.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Thomas R. Mooney', with a large, sweeping flourish extending upwards and to the right.

Thomas R. Mooney, AICP
Planning Director

MIAMI BEACH

PLANNING DEPARTMENT

SUBJECT: List of complaints and violations related to
PB 19-0270, 1000 – 1030 Collins Avenue – Fairwind Hotel.

Case Number: ZV2019-02794.
Case Status: Notice of Violation
Open Date: 10/14/2019

While responding to complaint of loud music. I parked vehicle at the rear of property in the alleyway. I met with complainant and heard loud music playing. I then walked to the entrance of the patio by the restaurant and spoke with a lady and asked for the person in charge. I met with two gentleman and ended up talking to the person in charge, Luis Concepcion. I informed him the reason why I was there. There was no dj in the courtyard playing music. He stated on camera there was a dj at the rooftop which is not complying with CUP Section 6(i). The person in charge Luis and I walked back to the rear of the property and the music wasn't loud but within 10 minutes, the music went back up again. Luis was telling me about how we keep showing up and mentioned the complainant by name. He started recording our conversation and saying how unfair he's receiving another violation and that he's not going to sign it. I asked if I can go up to the rooftop and he denied access which is not complying with CUP Section 16. We then walked to the rear of CVS standing on the north side on 10th Street and the music was lowered and raised again. We then walked back to the rear of the building. I mentioned since there's a dj playing loud music on the rooftop, a noise violation will be given, NC2019-12480 which is not complying with CUP Section 12 and 17 and a conditional use permit is required. I asked if he has a permit and he wasn't aware. Luis then wanted to speak to my Supervisor. I contacted CCA Thomas and gave her his phone number. I also informed her a violation will be written. I asked if she would call the manager Luis Concepcion. He then left and I went back to the vehicle and entered my notes for the Noise Violation.

Met with Director of Operations Carlos Zumaeta. Explained and hand delivered violation.

Case Number: NC2019-121480
Case Status: Appeal
Open Date: 10/13/2019

Section 46-152: Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

Ref: Loud music from dj on the rooftop.
5th Offense
Body Worn Camera used.
J. Rios (706)

Case Number: NC2019-12464
Case Status: Appeal
Open Date: 10/12/19

LOUD MUSIC

Arrival Time: 3:57 pm
Departure Time: 5:08
Met with Complainant
Reference: Unreasonable Loud and excessive music.
4th Offense: \$ 2,000.00
A.PEREZ736
BWC

**LOUD MUSIC COMING FROM THE ROOF TOP OR THE COURT YARD COMPLAINT
REQUESTING FOR A CALL BACK**

Case Number: NC2019-12309
Case Status: Noise Complaint, no violation issued
Open Date: 09/23/2019

LOUD MUSIC AT THE ROOF TOP

Additional information from 739
Complainant on site

Arrival time@ 9:45 PM

Upon arrival complainant was on site to assist and inform me about the complaint. I walked the surrounding 4 corners of 10th and Collins Ave and music, car noise and unusual street noise was heard. None of the noises was loud and or excessive. I continued the inspection and went to the rooftop of the complainant's building and music was heard. The music was not loud and or excessive. As a courtesy to the complainant I advised him that i will speak to Management at the 1000 Collins Ave Fairwind Hotel and educate Management the city of Miami Beach Noise Ordinance. I then spoke to the Manager on Duty Lyne Metry and advised her about the complaint and if there was an event at the rooftop. She advised me that no rooftop was taking place. We both walked to the rooftop for verification of the closing. Rooftop was closed. I again educated Lyne Metry the Noise Ordinance to the city of Miami Beach. The complainant was on site to know of the findings of his complaint. Complainant was not pleased with the language of the ordinance. No violation issued at this time.

Body camera in use
Departed @ 10:50 PM
J.Hernandez-739

Case Number: NC2019-12305
Case Status: Noise complaint – Appeal
Open Date: 09/22/2019

Violation of Section 46-152:

Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or

causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

YOU SHALL IMMEDIATELY CEASE THE VIOLATION.

You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law.

3rd Offense \$2000

BWC used

CCO M. Jefferson 747

Arrival 6:18 PM

Responded to a noise complaint of music coming from the rooftop. I drove through Collins Ct on the 900 block and could hear the music from the car. The music could also be heard from the sidewalk on the south side of the property. Upon arrival I parked in front of the property and while exiting my vehicle I could hear the music. I met with the complainant Peter at his property 960 Collins Ave and while inside of the hotel I could not hear the music. While on the porch the music could be heard faintly and we had no issues hearing each other. He then proceeded to take a picture of my name from my shirt. He then request that a supervisor also come to the scene. I made CCA Varela aware. I then made contact with the manager Luis at the Fairwind property and we walked around to the rear. While in Collins Ct we both could hear the music from the rooftop. He immediately called and had the music lowered. To avoid further problems he instructed the staff to cut the music off and move the customers inside. While in Collins Ct I noticed the complainant Peter recording my interaction with the manager Luis from across the street. I then went back to my vehicle to being the noise case. Peter came by the vehicle twice while I was creating the case to request the violation number. The music playing from the property was loud and excessive upon arrival and was immediately turned off during my interaction with the manager Luis. Violation issued. The violation was signed and accepted by the manager Luis.

Case Number: NC2019-12282

Case Status: Noise complaint – Appeal

Open Date: 09/20/2019

Ref: LOUD MUSIC

Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

YOU SHALL IMMEDIATELY CEASE THE VIOLATION.

You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law.

2nd offense, \$1,000.00 fine

Notice of violation issued

BWC: Used

MIAMI BEACH

LAND USE BOARDS

PROPERTY:

455 Lincoln Road – Qudres - Andres Carne De Res

FILE NO.

PB 19-0330

APPLICANT:**MEETING DATE:**

1/28/2020

IN RE:

An application has been filed requesting a conditional use permit for a Neighborhood Impact Establishment with Entertainment with an occupant content in excess of 200 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

PRIOR ORDER NUMBER:**Is this a Resident Right to
Know item?**

Yes

**Does this item utilize G.O.
Bond Funds?**

No

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Application	Memo
<input type="checkbox"/> Letter of Intent	Memo
<input type="checkbox"/> Operations Plan	Memo
<input type="checkbox"/> Plans	Memo
<input type="checkbox"/> Mailing Labels	Memo
<input type="checkbox"/> Staff Report 1-28-2020	Memo
<input type="checkbox"/> Recorded Order	Memo

MIAMI BEACH

PLANNING DEPARTMENT

1700 Convention Center Drive, Miami Beach, Florida 33139; Tel: 305.673.7550; Web: www.miamibeachfl.gov/planning

LAND USE BOARD HEARING APPLICATION

The following application is submitted for review and consideration of the project described herein by the land use board selected below. A separate application must be completed for each board reviewing the proposed project.

Application Information			
FILE NUMBER		Is the property the primary residence & homestead of the applicant/property owner? <input type="checkbox"/> Yes <input type="checkbox"/> No (if "Yes," provide office of the property appraiser summary report)	
Board of Adjustment <input type="checkbox"/> Variance from a provision of the Land Development Regulations <input type="checkbox"/> Appeal of an administrative decision <input type="checkbox"/> Modification of existing Board Order		Design Review Board <input type="checkbox"/> Design review approval <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
Planning Board <input checked="" type="checkbox"/> Conditional Use Permit <input type="checkbox"/> Lot Split <input type="checkbox"/> Amendment to the Land Development Regulations or Zoning Map <input type="checkbox"/> Amendment to the Comprehensive Plan or Future Land Use Map <input type="checkbox"/> Modification of existing Board Order		Historic Preservation Board <input type="checkbox"/> Certificate of Appropriateness for design <input type="checkbox"/> Certificate of Appropriateness for demolition <input type="checkbox"/> Historic District/Site Designation <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
<input type="checkbox"/> Other:			
Property Information – Please attach Legal Description as "Exhibit A"			
ADDRESS OF PROPERTY 455 Lincoln			
FOLIO NUMBER(S) 02-3234-005-0100			
Property Owner Information			
PROPERTY OWNER NAME LINCOLN DREXEL LTD LINCOLN DREXEL II LTD			
ADDRESS 1655 DREXEL AVE STE 208		CITY Miami	STATE FL
BUSINESS PHONE		CELL PHONE	ZIP CODE 33139
EMAIL ADDRESS			
Applicant Information (if different than owner)			
APPLICANT NAME Opereta Ciudad Del Sol, LLC			
ADDRESS 455 Lincoln Road		CITY Miami	STATE FL
BUSINESS PHONE (305)377-6224		CELL PHONE	ZIP CODE 33139
EMAIL ADDRESS			
Summary of Request			
PROVIDE A BRIEF SCOPE OF REQUEST Conditional use Permit for Rooftop Restaurant			

Project Information			
Is there an existing building(s) on the site?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If previous answer is "Yes", is the building architecturally significant per sec. 142-108?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the project include interior or exterior demolition?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Provide the total floor area of the new construction.		SQ. FT.	
Provide the gross floor area of the new construction (including required parking and all usable area).		SQ. FT.	
Party responsible for project design			
NAME Omar Morales		<input checked="" type="checkbox"/> Architect <input type="checkbox"/> Contractor <input type="checkbox"/> Landscape Architect <input type="checkbox"/> Engineer <input type="checkbox"/> Tenant <input type="checkbox"/> Other _____	
ADDRESS 4300 SW 73 Avenue, Suite 106		CITY Miami	STATE FL ZIPCODE 33155
BUSINESS PHONE (305) 443-4244	CELL PHONE	EMAIL ADDRESS Omar@formgroup.com	
Authorized Representative(s) Information (if applicable)			
NAME Michael W Larkin		<input checked="" type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS 200 South Biscayne Boulevard, Suite 850		CITY Miami	STATE FL ZIPCODE 33131
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS MLarkin@BRzoninglaw.com	
NAME Roberto Behar		<input checked="" type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS 200 South Biscayne Boulevard, Suite 850		CITY Miami	STATE FL ZIPCODE 33131
BUSINESS PHONE (305) 377-6224	CELL PHONE	EMAIL ADDRESS RBehar@BRzoninglaw.com	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	

Please note the following information:

- A separate disclosure of interest form must be submitted with this application if the applicant or owner is a corporation, partnership, limited partnership or trustee.
- All applicable affidavits must be completed and the property owner must complete and sign the "Power of Attorney" portion of the affidavit if they will not be present at the hearing, or if other persons are speaking on their behalf.
- To request this material in alternate format, sign language interpreter (five-day notice is required), information on access for persons with disabilities, and accommodation to review any document or participate in any City sponsored proceedings, call 305.604.2489 and select (1) for English or (2) for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

Please read the following and acknowledge below:

- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
- All disclosures must be submitted in CMB Application format and be consistent with CMB Code Sub-part A Section 2-482(c):
 - (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
- In accordance with Section 118-31. – Disclosure Requirement. Each person or entity requesting approval, relief or other action from the Planning Board, Design Review Board, Historic Preservation Board or the Board of Adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional service rendered or to be rendered. The disclosure shall: (I) be in writing, (II) indicate to whom the consideration has been provided or committed, (III) generally describe the nature of the consideration, and (IV) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board. Upon determination by the applicable board that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then (I) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (II) no application form said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
- When the applicable board reaches a decision a final order will be issued stating the board's decision and any conditions imposed therein. The final order will be recorded with the Miami-Dade Clerk of Courts. The original board order shall remain on file with the City of Miami Beach Planning Department. Under no circumstances will a building permit be issued by the City of Miami Beach without a copy of the recorded final order being included and made a part of the plans submitted for a building permit.

The aforementioned is acknowledged by:

☒ Owner of the subject property ☐ Authorized representative



SIGNATURE

Jeffrey Rosenberg

PRINT NAME

11/4/2019

DATE SIGNED

OWNER AFFIDAVIT FOR INDIVIDUAL OWNERSTATE OF FloridaCOUNTY OF Dade

I, Jefferey Paul Rosenberg, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for remove this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 20____. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires: _____

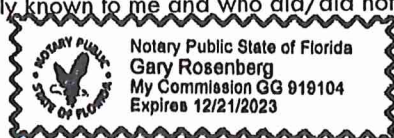
PRINT NAME**ALTERNATE OWNER AFFIDAVIT FOR CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY**STATE OF FloridaCOUNTY OF Dade

I, Jefferey Paul Reosenberg, being first duly sworn, depose and certify as follows: (1) I am the President (print title) of Lincoln Drexel LTD (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (7) I am responsible for remove this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this 4 day of November, 2019. The foregoing instrument was acknowledged before me by Jefferey Paul Rosenberg, who has produced personally known as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

**NOTARY PUBLIC**My Commission Expires: 12/21/2023**PRINT NAME**

Please read the following and acknowledge below:

- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
- All disclosures must be submitted in CMB Application format and be consistent with CMB Code Sub-part A Section 2-482(c):
 - (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
- In accordance with Section 118-31. – Disclosure Requirement. Each person or entity requesting approval, relief or other action from the Planning Board, Design Review Board, Historic Preservation Board or the Board of Adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional service rendered or to be rendered. The disclosure shall: (I) be in writing, (II) indicate to whom the consideration has been provided or committed, (III) generally describe the nature of the consideration, and (IV) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board. Upon determination by the applicable board that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then (I) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (II) no application form said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
- When the applicable board reaches a decision a final order will be issued stating the board's decision and any conditions imposed therein. The final order will be recorded with the Miami-Dade Clerk of Courts. The original board order shall remain on file with the City of Miami Beach Planning Department. Under no circumstances will a building permit be issued by the City of Miami Beach without a copy of the recorded final order being included and made a part of the plans submitted for a building permit.

The aforementioned is acknowledged by:

☒ Owner of the subject property ☐ Authorized representative



SIGNATURE

Jeffrey Rosenberg

PRINT NAME

11/4/2019

DATE SIGNED

OWNER AFFIDAVIT FOR INDIVIDUAL OWNERSTATE OF FloridaCOUNTY OF Dade

I, Jefferey Paul Rosenberg, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for remove this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 20____. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires: _____

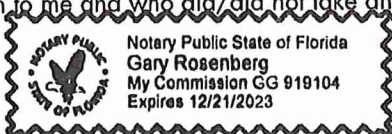
PRINT NAME**ALTERNATE OWNER AFFIDAVIT FOR CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY**STATE OF FloridaCOUNTY OF Dade

I, Jefferey Paul Rosenberg, being first duly sworn, depose and certify as follows: (1) I am the President (print title) of Lincoln Drexel II LTD (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (7) I am responsible for remove this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this 4 day of NOVEMBER, 2019. The foregoing instrument was acknowledged before me by Jefferey Rosenberg, who has produced PERSONAL ID as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

**NOTARY PUBLIC**My Commission Expires: 12/21/23**PRINT NAME**

OWNER AFFIDAVIT FOR INDIVIDUAL OWNERSTATE OF FloridaCOUNTY OF Dade

I, Alan Miro Khoudari Abitbol, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for remove this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 20____. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires: _____

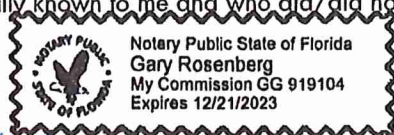
PRINT NAME**ALTERNATE OWNER AFFIDAVIT FOR CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY**STATE OF FloridaCOUNTY OF Dade

I, Alan Miro Khoudari Abitbol, being first duly sworn, depose and certify as follows: (1) I am the authorized representative (print title) of Opereta Ciudad Del Sol, LLC (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (7) I am responsible for remove this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this 4 day of NOVEMBER, 2019. The foregoing instrument was acknowledged before me by ALAN KHOUDARI, who has produced PERSONAL ID CARD as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

**NOTARY PUBLIC**My Commission Expires: 12/21/23**PRINT NAME**

POWER OF ATTORNEY AFFIDAVITSTATE OF FloridaCOUNTY OF Dade

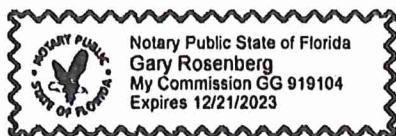
I, Alan Miro Khoudari Abitbol, being first duly sworn, depose and certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application. (2) I hereby authorize Bercow Radell Fernandez & Larkin to be my representative before the HPB Board. (3) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (4) I am responsible for remove this notice after the date of the hearing.

Alan Miro Khoudari Abitbol
PRINT NAME (and Title, if applicable)

[Signature]
SIGNATURE

Sworn to and subscribed before me this 4 day of NOVEMBER, 2019. The foregoing instrument was acknowledged before me by ALAN KHOUDARI, who has produced PERSONAL ID CARD as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

My Commission Expires: 12/21/23

[Signature]
NOTARY PUBLIC
GARY ROSENBERG
PRINT NAME

CONTRACT FOR PURCHASE

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries or partners. If any of the contact purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individuals(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.

NAME**DATE OF CONTRACT**

NAME, ADDRESS AND OFFICE

% OF STOCK

In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application if filed, but prior to the date of a final public hearing, the applicant shall file a supplemental disclosure of interest.

**DISCLOSURE OF INTEREST
CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY**

If the property that is the subject of the application is owned or leased by a corporation, partnership or limited liability company, list ALL of the owners, shareholders, partners, managers and/or members, and the percentage of ownership held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.

Lincoln Drexel Ltd.

NAME OF CORPORATE ENTITY

57 NAME AND ADDRESS % OF OWNERSHIP

Morris Rappaport Irrevocable Trust

99%

9350 W. Bay Harbor Dr # 7C

Bay Harbor FL 33154 (see Trust disclosure)

Lincoln Drexel, Inc (General Partner)

1%

3921 Aitun Rd # 463

Miami Beach, FL 33140

Jeffrey Rosenbergs, President

Lincoln Drexel II, Ltd.

NAME OF CORPORATE ENTITY

NAME AND ADDRESS % OF OWNERSHIP

Ajelrose, Lp (a Nevada Ltd. Partnership)

99%

8700 SW 54 AVE, MIAMI FL 33143

Jeffrey Rosenbergs Revocable Trust

8700 SW 54 AVE MIAMI, FL 33143

(same) Lillian Rosenbergs Revocable Trust

Rosenbergs G.P. Trust

8700 SW 54 AVE, MIAMI FL 33143

Lincoln Drexel B, LLC (General Partner)

1%

8700 SW 54 Ave, MIAMI FL 33143

Jeffrey Rosenbergs, mgr.

{ 49.5% of Ajelrose Lp

99.5% of Ajelrose, LP

1% of Ajelrose, LP

If there are additional corporate owners, list such owners, including corporate name and the name, address and percentage of ownership of each additional owner, on a separate page.

**DISCLOSURE OF INTEREST
TRUSTEE**

If the property that is the subject of the application is owned or leased by a trust, list any and all trustees and beneficiaries of the trust, and the percentage of interest held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.

D-7:	NAME AND ADDRESS	% INTEREST
	<u>Morris Rappaport Irrevocable Trust</u>	
	TRUST NAME	
	<u>Morris Rappaport Revocable Trust</u>	<u>99%</u>
	<u>Morris Rappaport, Trustee</u>	<u>100% (of M.R. Rev. Trust)</u>
	<u>9350 W. Bay Harbor Dr. #7C</u>	
	<u>Bay Harbor, FL 33154</u>	
	<u>Ajelrose Lp</u>	
By:	<u>Jeffrey Rosenberg Revocable Trust</u>	
	<u>Jeffrey Rosambers, Trustee</u>	
	<u>8700 SW 54 Ave, Miami FL 33143</u>	<u>49.5%</u>
	<u>Lillian Rosenberg Revocable Trust</u>	
	<u>Lillian Rosenberg, Trustee</u>	
	<u>8700 S.W. 54 Ave, Miami FL 33143</u>	<u>49.5%</u>
	<u>Rosenbers G.P. Trust</u>	
	<u>Jeffrey Rosambers, trustee</u>	
	<u>8700 SW 54 Ave, Miami FL 33143</u>	<u>1%</u>

DISCLOSURE OF INTEREST
CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY

If the property that is the subject of the application is owned or leased by a corporation, partnership or limited liability company, list ALL of the owners, shareholders, partners, managers and/or members, and the percentage of ownership held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.

Opereta Ciudad Del Sol, LLC

NAME OF CORPORATE ENTITY

NAME AND ADDRESS

% OF OWNERSHIP

See attached.

NAME OF CORPORATE ENTITY

NAME AND ADDRESS

% OF OWNERSHIP

If there are additional corporate owners, list such owners, including corporate name and the name, address and percentage of ownership of each additional owner, on a separate page.

DISCLOSURE OF INTEREST
TRUSTEE

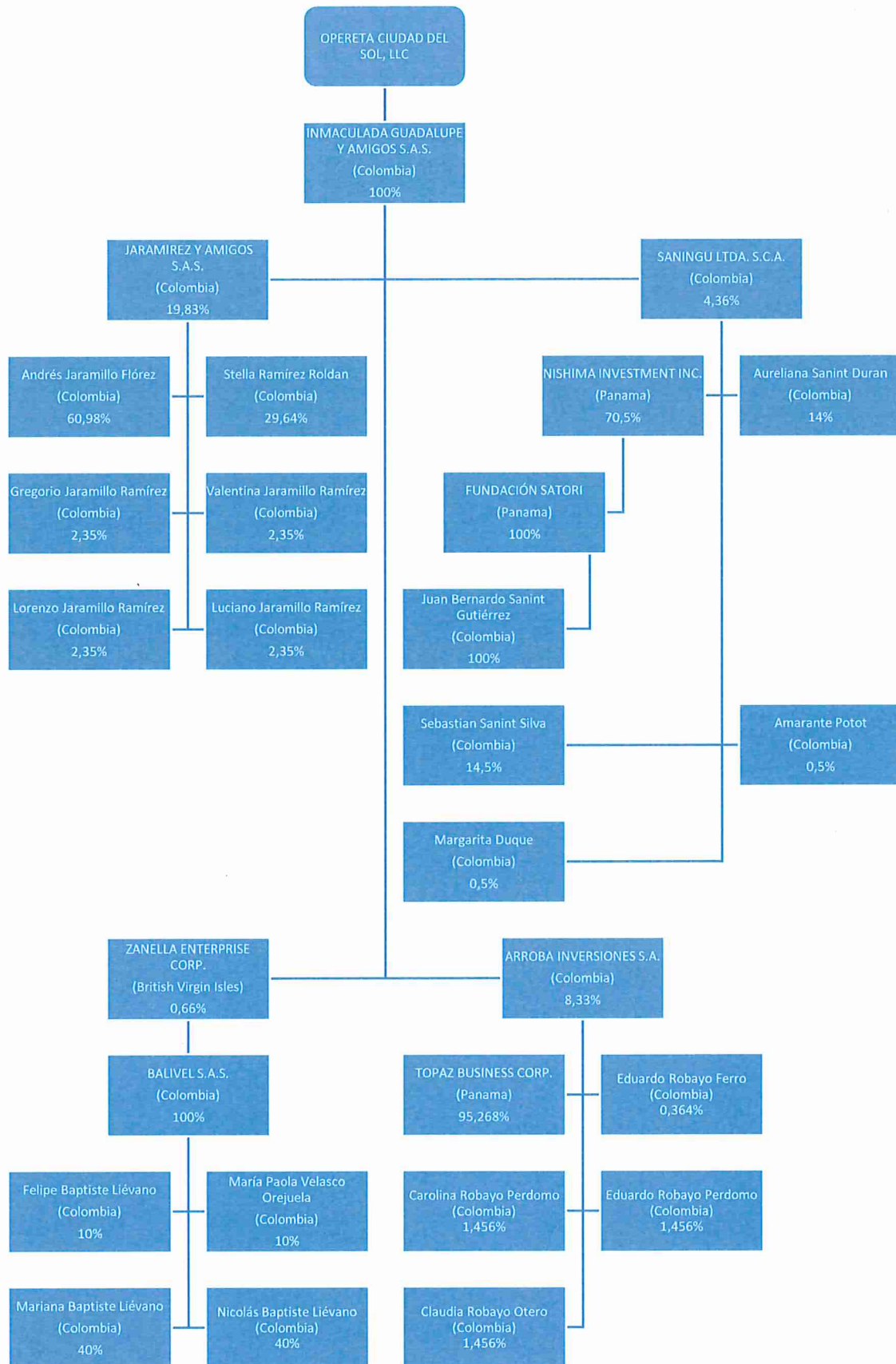
If the property that is the subject of the application is owned or leased by a trust, list any and all trustees and beneficiaries of the trust, and the percentage of interest held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.

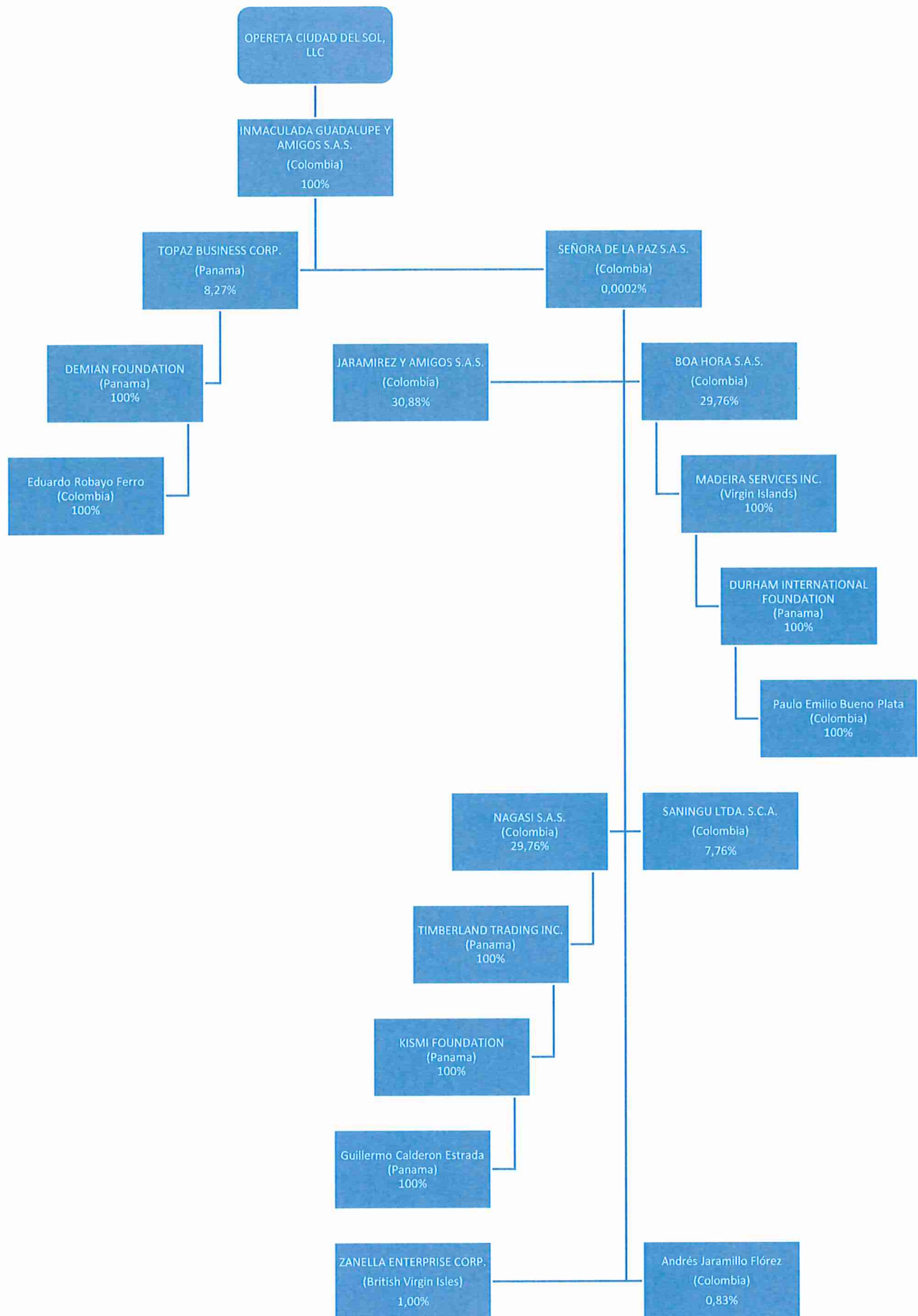
N/A

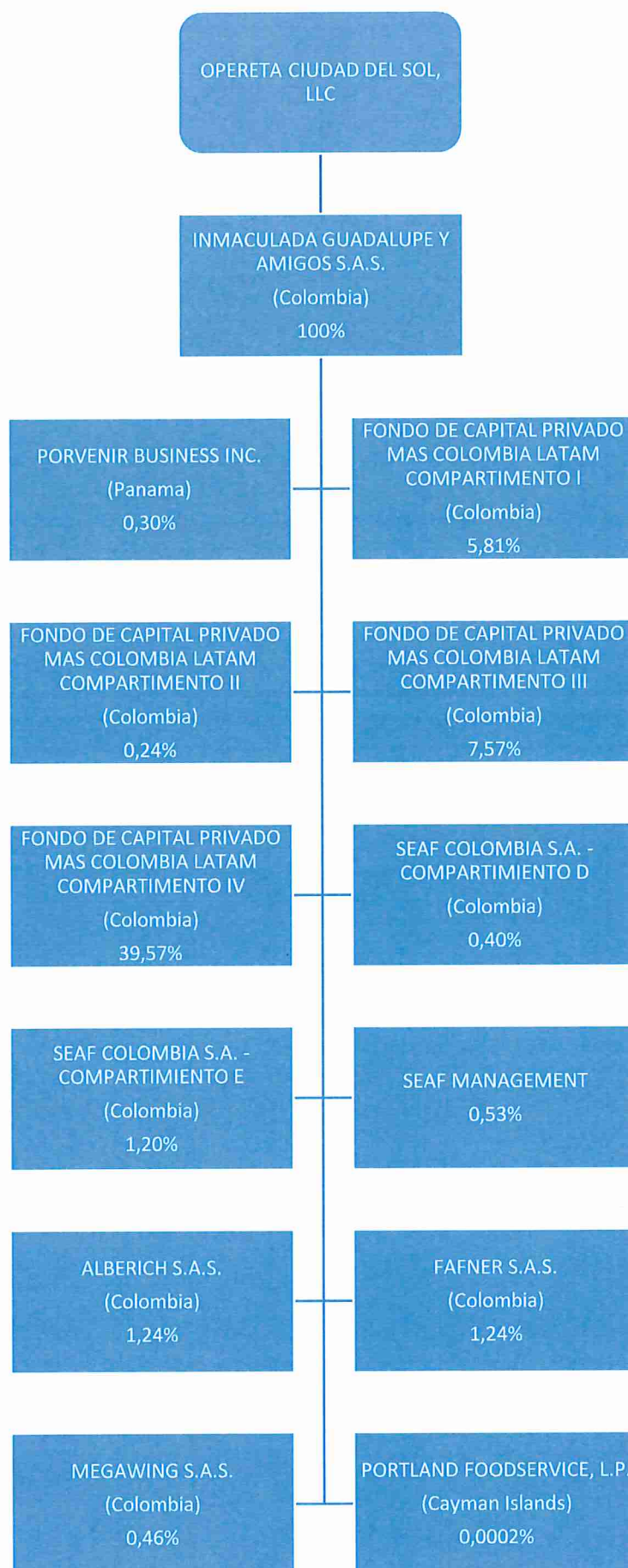
TRUST NAME	
NAME AND ADDRESS	% INTEREST

EXHIBIT B

DISCLOSURE OF INTEREST







Chia, Colombia. October 30th, 2019

TO WHOM IT MAY CONCERN:

Ref.: Certificate of Non-Disclosure of certain stockholders' information.

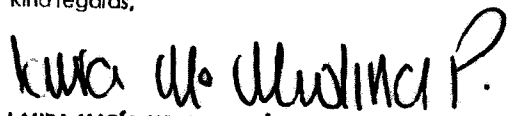
The undersigned, **LAURA MARÍA MEDINA PELÁEZ**, acting as Legal and Administrative Manager of **INMACULADA GUADALUPE Y AMIGOS S.A.S.**, a corporation organized and existing under the laws of Colombia, who in turn acts as sole shareholder of **OPERETA CIUDAD DEL SOL, LLC**, a corporation organized and existing under the laws of the State of Florida, certifies that the following stockholders of the Company I'm acting in behalf of, do not reveal the information of certain stockholders up to the final beneficiaries due to their internal disclosure policies:

Stockholder	TIN	Nationality
Porvenir Business Inc.	900.030.633-5	Colombia
Fondo de Capital Privado MAS Colombia Latam Compartimiento I	900.429.297-8 (001)	Colombia
Fondo de Capital Privado MAS Colombia Latam Compartimiento II	900.543.214-4	Colombia
Fondo de Capital Privado MAS Colombia Latam Compartimiento III	900.429.297-8 (003)	Colombia
Fondo de Capital Privado MAS Colombia Latam Compartimiento IV	900.429.297-8 (004)	Colombia
Alberich S.A.S.	900.479.245-9	Colombia
Fafner S.A.S	900.479.252-0	Colombia
Megawing S.A.S.	901.189.813-1	Colombia
SEAF Colombia S.A. - Compartimiento D	900.055.571-5	Colombia
SEAF Colombia S.A. - Compartimiento E	900.055.571-1	Colombia
SEAF Management	EIN 52-2249866	United States

Please do not hesitate to contact us if there are any doubts about the content of this document.

Thank you in advance for your cooperation.

Kind regards,



LAURA MARÍA MEDINA PELÁEZ
C.C. 1.020.717.843 de Bogotá, D.C.
Legal and Administrative Manager
INMACULADA GUADALUPE Y AMIGOS S.A.S.

COMPENSATED LOBBYIST

Pursuant to Section 2-482 of the Miami Beach City Code, all lobbyists shall, before engaging in any lobbying activities, register with the City Clerk. Please list below any and all persons or entities retained by the applicant to lobby City staff or any of the City's land development boards in support of this application.

NAME	ADDRESS	PHONE
<u>Michael W Larkin</u>	<u>200 South Biscayne Boulevard, Suite 850</u>	<u> </u>
<u>Roberto Behar</u>	<u>200 South Biscayne Boulevard, Suite 850</u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

Additional names can be placed on a separate page attached to this application.

APPLICANT HEREBY ACKNOWLEDGES AND AGREES THAT (1) AN APPROVAL GRANTED BY A LAND DEVELOPMENT BOARD OF THE CITY SHALL BE SUBJECT TO ANY AND ALL CONDITIONS IMPOSED BY SUCH BOARD AND BY ANY OTHER BOARD HAVING JURISDICTION, AND (2) APPLICANT'S PROJECT SHALL COMPLY WITH THE CODE OF THE CITY OF MIAMI BEACH AND ALL OTHER APPLICABLE CITY, STATE AND FEDERAL LAWS.

APPLICANT AFFIDAVIT

STATE OF Florida

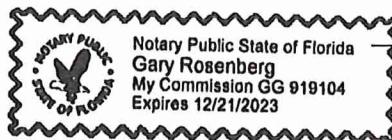
COUNTY OF Dade

I, Alan Khoudari Abitbol, being first duly sworn, depose and certify as follows: (1) I am the applicant or representative of the applicant. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief.

[Signature]
SIGNATURE

Sworn to and subscribed before me this 4 day of NOVEMBER, 2019. The foregoing instrument was acknowledged before me by ALAN KHOUDARI, who has produced PERSONALLY KNOWN as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP



My Commission Expires: 12/21/23

[Signature]
NOTARY PUBLIC
GARY ROSENBERG
PRINT NAME



BERCOW RADELL FERNANDEZ & LARKIN

ZONING, LAND USE AND ENVIRONMENTAL LAW

DIRECT LINE: (305) 377-6231
E-Mail: MLarkin@BRZoningLaw.com

VIA ON-LINE FILING

December 2, 2019

Thomas Mooney, Director
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: Letter of Intent for a Conditional Use Permit Associated with a Restaurant
Resulting in a Neighborhood Impact Establishment for the Property Located at
455 Lincoln Road, Miami Beach, Florida.

Dear Tom:

This firm represents Opereta Ciudad Del Sol, LLC (the "Applicant"), the tenant and operator of the proposed new "Qudres - Andres Carne de Res" restaurant located at 455 Lincoln Road (the "Property"). Please consider this letter the Applicant's letter of intent in connection with a request for a Conditional Use Permit (CUP) for a Neighborhood Impact Establishment ("NIE") at the Property, including an entertainment establishment and dance hall license. Based upon these approvals, the Applicant will bring quality establishments with a range of options to the area.

Description of Property. The Miami-Dade County Property Appraiser has assigned Folio No. 02-3234-005-0100 to this Property. See Exhibit A. The Property is approximately 4,987 square feet in size, located on the northeast corner of Lincoln Road and Drexel Avenue. It is located in the CD-3 Commercial High Intensity zoning district, the Flamingo Park Local Historic District and the Miami Beach Architectural District in the National Register Historic District. It was originally constructed in 1937 as a two-story structure. In 2018, the HPB approved an elegant rooftop addition with an outdoor bar counter. See HPB18-0255.

The New World Symphony and Soundscape Park are located to the north of Property. There are retail uses to the east and west of the property. It is important to note that the Property has facades on Drexel and Lincoln Lane North. Under the James Corner Plan, each of these rights-of-ways are proposed to become pedestrian thoroughfares. The Property currently has a main entrance on the corner of the building on Lincoln Road.

Applicant's Proposal. Andres Carne De Res is a unique Colombia-based concept, serving traditional Colombian cuisine, complemented by a vibrant, world class exquisite design and upscale ambience. The Colombia-based restaurant is features a dance hall, world class steakhouse, outdoor kitchen and kid's playground and day care. With over 500 employees and up to 3,000 patrons at one time, there is no shortage of entertainment and excitement at Andres Carne De Res. The proposed Miami location of Andres Carne De Res is made up of an experienced team with many successes in Latin America and plans to bring that success to Miami Beach.

The Applicant is seeking a CUP to operate a 288 seat restaurant. Entrance to the restaurant will be through an existing entrance on Lincoln Road that will feature a wall sign with the restaurant's name. The restaurant will feature three levels of seating along with a mezzanine area that will include back of house and storage. The ground floor will feature a 104 seat interior space with a centralized bar area. There will also be outdoor seating for 54 people in the existing sidewalk café area. The remaining seating will be distributed amongst the third floor and roof deck. Please refer to the Business Operations Plan attached hereto as Exhibit B.

The restaurant will feature occasional live music, including dancing on the lower floor and will not include any entertainment on the roof deck. In addition to the live music, the restaurant will feature actors who walk around the restaurant and provide improvised and rehearsed two minute skits for the entertainment of the guests. This form of entertainment will be located throughout all floors. As a way of engaging with the community and ensuring the restaurant fits in with the area, the Applicant has started communications with the New World Symphony to find a way to include their students in the proposed entertainment including hiring the students as musician and actors.

The Applicant is working diligently to make the proposed restaurant fit in seamlessly with the existing neighborhood. Communications have been had with staff to work out a delivery schedule as well as to coordinate parking. See Exhibit B. In addition, please refer to the Transportation Demand Management Plan attached hereto as Exhibit C. In addition, the Applicant is seeking Historic Preservation Board approval for the roof top awning and a variance to operate the previously approved outdoor bar counter beyond the hours of 12:00 AM, until 3AM This project will be a great addition to the neighborhood and complies with the requirements set forth in the City's Code.

Satisfaction of Conditional Use Permit Review Criteria. The Applicant's request satisfies the two different sets of review guidelines for a Neighborhood Impact Establishment (NIE) as follows:

Conditional Use Standards in Section 118-192(a) of the Code of the City of Miami Beach (the "Code").

- (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 – Restaurants and entertainment establishments are consistent with the comprehensive plan and the CD-3 zoning district permits neighborhood impact establishments through the conditional use process.

- (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 will not result in an impact that will exceed the threshold levels of service for this commercial corridor.

- (3) Structures and uses associated with the request are consistent with these land development regulations.**

CONSISTENT – The existing structure and proposed restaurant are consistent with the commercial corridor and the City's land development regulations (LDRs).

- (4) The public health, safety, morals, and general welfare will not be adversely affected.**

CONSISTENT – The Applicant is a reputable property owner who has always worked to provide the neighborhood with the best uses. Similarly, the proposed tenants have been successful restaurateurs in Colombia. This commercial corridor has numerous businesses but lacks in quality restaurants. The intended use for the space is appropriate for this commercial corridor of Miami Beach. In addition, the proposal will activate the Drexel and Lincoln Lane North facades, consistent with the City's proposed project to create a pedestrian path in between Lincoln Road and Soundstage Park.

The Applicant has met with the New World Symphony to ensure there is no interruptions to the Soundscape events. These discussions have gone so far as

finding ways to include viewing areas on the property and potential for providing a form of catering for visitors to the Soundscape Park.

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

CONSISTENT - The property is located in the Lincoln Road corridor, which is the heart of Miami Beach. The Property is within walking distance to many area parking facilities as there is ample off-street parking in the surrounding neighborhood, including several parking lots and garages, and metered on-street self-parking. The Applicant further anticipates that many patrons will arrive by foot or taxi or will utilize Uber and Lyft services. It is important to note that there is no parking requirement for restaurant uses along Lincoln Road pursuant to section 130.33 of the Code. Nevertheless, the Applicant is proposing to utilize the valet parking provided through the Lincoln Road Valet Parking Concession Agreement. The proposed valet locations are determined by the valet company and the terms of the Concession Agreement.

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

CONSISTENT - The Applicant is taking every measure to ensure that all the necessary safeguards are in place to protect neighboring properties. The Applicant will carefully control and monitor the music within the establishment. Furthermore, the Applicant's staff will maintain patron areas and adjacent rights of way to protect the surrounding areas. Patrons will not be permitted to queue on the rights-of-ways and will be directed to the waiting area.

The roof deck will not feature any entertainment. All entertainment will be located inside on the lower floor. The double door vestibule adjacent to Lincoln Road will help to reduce any noise from spilling and a staff member at the entrance will work to ensure that both doors are not open at the same time.

(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.

CONSISTENT - While numerous businesses exist in the neighborhood, the area is lacking in quality eating establishments. As such, there will not be any negative impact on the surrounding uses.

Neighborhood Impact Establishment and Entertainment Establishment Review Guidelines in Section 142-1362(a) of the Code – supplemental review guidelines.

- (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 tenant provided a detailed business operations plan, which is attached hereto as Exhibit “B,” and details the proposed operations.

- (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 – The property is located in the Lincoln Road corridor within walking distance to many area parking facilities. There is ample off-parking in the surrounding neighborhood, including several parking lots and garages, and metered on-street self-parking. The Applicant further anticipates that many patrons will arrive by foot or taxi, or Uber and Lyft services. Nevertheless, the Applicants will work with the valet services available through the Lincoln Road Valet Parking Concession Agreement to ensure valet service is available to its patrons.

- (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 will be controlled.**

CONSISTENT – The main entrance to the facility will be located along Lincoln Road. Once through the entrance doors, the patrons will be stand within an elegant entrance and move through the double door vestibule. The size of the entry space will assist in maintaining the flow of patrons into the facility. Additionally, front door personnel will direct guests into the waiting area before directing guests to their seats on the first, third, or roof top area, allowing the continuous flow in and out of the venue without the need for any outdoor queuing.

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

CONSISTENT – All staff will be trained in security measures and will be required to request proof of age from any patron who appears thirty (30) years of age or younger. Additionally, there will be postings notifying the patrons that proof of age will be requested.

- (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 – While the Applicant expects that most of its patrons will visit the facility either on foot or by taxi, a Transportation Demand Management Plan has been provided. See Exhibit C.

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

CONSISTENT – The Property currently houses a separate, air-conditioned, enclosed garbage room along the northern portion of the subject space, which is completely contained within an interior alley area. Garbage collections will occur along on the interior portions of the Property and will not take place prior to 8:00 AM or after 5:00 PM. The Applicant will contract with a Miami Beach approved waste service provider to provide daily services to the restaurant.

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

CONSISTENT –To achieve long-lasting success, the Applicant understands and is committed to providing a quality operation for the patrons and the surrounding neighborhood. To this end, the roof deck will not feature entertainment. All entertainment will be located inside on the lower floor. The double door vestibule will help to reduce any noise from spilling and a staff member at the entrance will work to ensure that both doors are not open at the same time.

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

CONSISTENT – The Property is located within a heavily trafficked commercial corridor and the closest residential uses are buffered from the Property by Lincoln Road, Lincoln Lane South, commercial uses, and the Miami Beach Community Church. Therefore, the proposed NIE will not have any impact on the residential uses.

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

CONSISTENT – While this commercial corridor has numerous businesses, it is lacking in quality eating establishments and has very few NIE's. The proposed establishment should fill that need for the local community and will not create an overconcentration of large establishments in the area. Currently, Timeout Market, and Lincoln Eatery are the closest neighborhood impact establishments. The proposed restaurant varies dramatically in use and will not have a negative cumulative effect in relation to adjacent pre-existing uses.

Sea Level Rise and Resiliency Criteria. The proposed renovations will make for a more resilient building. The proposed project advances the sea level rise and resiliency criteria in Section 133-50(a) as follows:

(1) A recycling or salvage plan for partial or total demolition shall be provided.

The Applicant will provide a recycling or salvage plan during permitting.

(2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

Windows will be hurricane impact windows.

(3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Operable windows will be provided.

(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.

The Applicant's previously approved ~~proposed~~ landscape plan is resilient as it will serve to be comprised of native and Florida-friendly plants that are appropriate for the area.

(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 up to three (3) additional feet in height.

No new construction.

(7) As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.

All critical mechanical and electrical systems will be located above BFE.

(8) Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard.

Not applicable no new construction.

(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.

Proper precautions will be taken to protect the Property from potential floods.

(10) As applicable to all new construction, stormwater retention systems shall be provided.

Given the nature of the proposed development, providing a water retention system is not feasible.

(11) Cool pavement material or porous pavement materials shall be utilized.

No new construction.

- (12) **The design of each project shall minimize the potential for heat island effects on-site.**

The Applicant is incorporating previously approved landscaping.

Conclusion. The tenants have successfully operated a similar establishments in other countries and are seeking to provide the same type of quality establishment to Miami Beach. This facility will fit the needs of the community. Granting of the modifications to the CUP and allowing for the NIE and entertainment establishment will not have any adverse impact on the surrounding community, but rather provide a benefit. We respectfully request your recommendation of approval of this request. If you have any questions or comments with regard to the application, please give me a call at (305) 377-6231.

Sincerely,



Michael W. Larkin

cc: Robert Behar, Esq.



Andres Carne de Res
455 Lincoln Road

OPERATIONS PLAN

Planning Board Submission
December 2, 2019



455 Lincoln Road

TABLE OF CONTENTS

TEAM MEMBERS - 3

*

HOURS OF OPERATION - 5

*

STAFFING LEVELS - 6

*

ACCESS & SECURITY - 7

*

VALET PARKING - 8

*

DELIVERIES AND COLLECTIONS - 9

*

SIGNATURE MENU ITEMS - 10

*

SAMPLE MENU- 11

*

PATRON EXPERIENCE - 12



455 Lincoln Road

TEAM MEMBERS

ANDRES JARAMILLO (FOUNDER)

Andres Jaramillo is Colombia's Ambassador of "good times." As the mastermind of the magic that drives the most successful and famous restaurant in the history of Latin America, Andrés Carne de Res. This entrepreneur, opened the doors to the first restaurant over 35 years ago with a few tables outside Bogota in a rural suburb called Chia. This single location has grown under his leadership, expertise, and great taste to over 70,000sqft establishment with over 600,000 patrons visiting a year. The restaurant has consistently been named one of the top 50 restaurants in Latin America, and a must visit destination in Colombia. Andres Jaramillo has possibly one of the most successful and unique operators known to the industry.



455 Lincoln Road

Guillermo Beltran (CEO)

Guillermo Beltran represents the corporate expansion of Andres Carne de Res. Guillermo has worked in the F&B industry for over 20 years in Colombia. He has worked with some of the most important restaurant groups in Colombia where he oversaw the expansion of many restaurant brands at a national level. In Andres Carne de Res he has taken the brand to new horizons by opening different concepts of the brand allowing the brand to scale successfully without compromising the high standards of quality, feel, and experience that it possesses. It is Mr. Beltran's vision and project leadership that lead this unique brand to find its way to this unique building in Miami Beach.



455 Lincoln Road

HOURS OF OPERATIONS

Days	Hours of restaurant	Hours of bar
Sunday - Thursday	7am - 4am	Indoor bar and outdoor bar - 3am
Friday	7am - 4am	Indoor bar and outdoor bar - 3am
Saturday	7am - 4am	Indoor bar and outdoor bar - 3am
Brunch/Lunch Menu	7am - 5pm	
Dinner Menu	5pm - 4am	

There will be no entertainment proposed on the roof deck. Entertainment will only be located indoors and will be during the evening hours.

Access

Restaurant access will be provided through the corner entrance on Lincoln Road as well as through entrances on Drexel Avenue and Lincoln Lane North.



455 Lincoln Road

STAFFING LEVELS FOR THE NEW RESTAURANT

According to the hours of operation applied for under this Conditional Use Permit, the Applicant expects to have 60 employees staffed at any point in time.



455 Lincoln Road

ACCESS & SECURITY

Patrons of the restaurant will be able to gain entry through the corner entrance along Lincoln Road. Once through the entrance, the patrons are in a vestibule area where a hostess will greet them and assign a table to which they will be taken too. After 10pm, all patrons must show ID of 21 years of age to enter and there will be a cover charge in the vestibule along with usher at entrance. The entrances will have, at a minimum, two (2) ushers to greet and escort patrons into the facility, which will also serve as security for the facility. These ushers will assist management, host, and service staff to ensure the safety of its members and patrons.

In order to minimize the impact of patrons spilling over, the queuing will be segregated from the entrance with patrons queuing in a secondary waiting area beyond the double door vestibule space. In the event of queuing, the extra-large sidewalk area surrounding all three facades will be able to accommodate the queue and prevent any disruption to the surrounding buildings.



455 Lincoln Road

VALET PARKING

There are multiple parking facilities along the north and south side of the Property. Additionally, the Applicant has worked with the Parking Department and will utilize the existing valet parking locations along Lincoln Road in accordance with the Lincoln Road Valet Parking Concession Agreement.



455 Lincoln Road

DELIVERIES & COLLECTIONS

The following procedures will be implemented to ensure minimal impact on local residents. Opereta Ciudad del Sol LLC will work with one of the City approved waste collection companies for daily collections. Collections will occur daily between 8:00 AM and 5:00 PM along Lincoln Lane. All refuse will be wheeled from the air-conditioned, enclosed garbage room at the northeast corner of the Property. There are freight loading zones on Lincoln Lane North. All deliveries will occur during weekday hours between 8:00 AM and 5:00 PM.



455 Lincoln Road

SIGNATURE DISHES BY Andres Jaramillo





455 Lincoln Road

SAMPLE MAIN MENU





455 Lincoln Road

GASEOSAS

AGUAS Y BEBIDAS | SOFT DRINKS BOTTLED WATER AND ENERGY DRINKS

AGUAS

DE LA CASA	POPULAR	Parrier
MANANTIAL 300 cc \$8.300	300 cc \$4.900	330 cc \$5.300
SAN PELLEGRINO 250 cc \$9.900	750 cc \$17.900	DEL NACIMIENTO 330 cc \$5.600

SODAS

TÓNICA FEVER TREE 300 cc \$11.800	PONY MALTA 330 cc \$8.300	GASEOSAS 330 cc \$8.300
--	------------------------------------	-------------------------------

ENERGIZANTES

MONSTER 330 cc \$16.900	MONSTER LOW CARB 330 cc \$16.900	RED BULL ENERGY DRINK 330 cc \$16.500	RED BULL ROGAFREE 330 cc \$16.500
-------------------------------	---	--	--

MONSTER
250 cc
\$16.900

UNA GOTA DE FRESCURA \$8.300

CERVEZAS

BEERS

INTERNACIONALES

Heineken 330 cc \$15.700	Miller 330 cc \$15.700	Lite 330 cc \$12.600	SO 330 cc \$15.700
Corona Extra 330 cc \$16.500	Stella Artois 330 cc \$16.500	Carlsberg 330 cc \$16.500	

NACIONALES

CLUB COLOMBIA 330 cc \$13.900	AGUILA 330 cc \$12.900
POKER 330 cc \$12.900	ANDINA 330 cc \$12.900

ARTESANALES

REFAJO POR CADA 4 SEDIENTOS \$52.000

BBC CHAPINERO PORTER 330 cc \$16.800

MONSIEUR ROJA 330 cc \$16.800

SACATÁ BLANCA 330 cc \$16.800

3 CORDILLERAS 330 cc \$15.900

SIFONES

CLUB COLOMBIA 330 cc \$17.900	BBC 330 cc \$16.900
HEINEKEN 330 cc \$15.700	3 CORDILLERAS 330 cc \$15.900

ALCOPOP

SHIRAZ ICE 330 cc \$13.800	REDO'S 330 cc \$12.900
COLA & PÓLA 330 cc \$12.900	

DEER & BEER ENALTECE CON JÄGERMEISTER LOS SABORES DE TU CERVEZA FAVORITA

ELIGE TU CERVEZA, COMBINALA CON UN SHOT DE JÄGERMEISTER. ENALTECE SUS SABORES

PROHÍBASE EL CONSUMO DE BEBIDAS EMBRIAGANTES A MENORES DE EDAD. EL EXCESO DE ALCOHOL ES PERJUDICIAL PARA LA SALUD. 35% VOL. ALG.



455 Lincoln Road

CHICHARRONES			
Cerdo asado y guiso			
	Porción	1/2 Porción	
	175 gramos	85 gramos	
	\$28.900	\$17.900	
-PATACONES-			
Preparados			
SOLO SÓLITO	CON HOGAO	CON QUESO TIPO MOZZARELLA	CON QUESO TIPO MOZZARELLA Y HOGAO
100 gramos	100 gramos	100 gramos	100 gramos
\$9.900	\$9.900	\$11.300	\$15.600
MARINO	CON CARNE DESMECHADA	CON CARNE DESMECHADA (DE GRANOS)	CON CARNE DESMECHADA (DE GRANOS) Y QUESO TIPO MOZZARELLA (DE GRANOS)
100 gramos	100 gramos	100 gramos	100 gramos
\$24.900	\$14.900	\$21.600	\$21.600
-PLÁTANOS-			
Rebanadas			
TAJADAS DE PLÁTANO MADURO	TAJADAS DE PLÁTANO MADURO (DE GRANOS)	TAJADAS DE PLÁTANO MADURO (DE GRANOS)	TAJADAS DE PLÁTANO MADURO (DE GRANOS)
200 gramos	200 gramos	200 gramos	200 gramos
\$11.900	\$18.600	\$18.600	\$18.600
TAJADAS DE PLÁTANO VERDE	TORREJAS DE PLÁTANO MADURO	TORREJAS DE PLÁTANO MADURO	TORREJAS DE PLÁTANO MADURO
200 gramos	200 gramos	200 gramos	200 gramos
\$11.900	\$5.500	\$5.500	\$5.500
-TOSTONES-			
Tostados			
SOLO SÓLITO	CON TODO	CON QUESO TIPO MOZZARELLA, TOMATE Y ORÉGANO	CON QUESO TIPO MOZZARELLA, TOMATE Y ORÉGANO
100 gramos	100 gramos	100 gramos	100 gramos
\$22.500	\$59.900	\$12.500	\$12.500
MITAD QUESO TIPO MOZZARELLA	CON TODO MÁS QUESO TIPO MOZZARELLA (DE GRANOS)	CON TODO MÁS QUESO TIPO MOZZARELLA, TOMATE Y ORÉGANO	CON TODO MÁS QUESO TIPO MOZZARELLA, TOMATE Y ORÉGANO
100 gramos	100 gramos	100 gramos	100 gramos
\$31.500	\$4.900	\$4.900	\$4.900
ACOMPANIAMIENTOS	CON TODO MÁS MITAD QUESO TIPO MOZZARELLA	CON QUESO TIPO MOZZARELLA	CON QUESO TIPO MOZZARELLA
100 gramos	100 gramos	100 gramos	100 gramos
\$42.900	\$66.800	\$45.800	\$45.800

BARRA MARINA			
MARINE BAR			
-CEVICHES-			
Preparados			
DE LANGOSTINOS	DE CAMARÓN	DE CALAMAR	DE PESCADO BLANCO
100 gramos	100 gramos	100 gramos	100 gramos
\$51.900	\$38.800	\$31.900	\$38.600
DE CALAMAR	DE PESCADO BLANCO	DE PULPO	TRADITO DE PESCADO BLANCO
100 gramos	100 gramos	100 gramos	100 gramos
\$31.900	\$38.600	\$43.900	\$27.900
COCTEL DE LANGOSTINOS	TIBIO	COCO ROCOTO	COCTEL DE LANGOSTINOS
100 gramos	100 gramos	100 gramos	100 gramos
\$69.800	\$31.800	\$38.500	\$31.800
MIXTO 2X2	MIXTO 3X3	DE CARACOL	DE CARACOL
100 gramos	100 gramos	100 gramos	100 gramos
\$39.900	\$39.900	\$29.900	\$29.900
-OTROS-			
Preparados			
LUNA DE MIEL	LEVÁNTATE LÁZARO	BOMBA	ÁMETE SÉSAMO
100 gramos	100 gramos	100 gramos	100 gramos
\$51.800	\$43.900	\$38.800	\$41.900



455 Lincoln Road

PATRON EXPERIENCE

The restaurant will feature occasional live music, including dancing on the lower floor and will not include any entertainment on the roof deck. In addition to the live music, the restaurant will feature actors who walk around the restaurant and provide improvised and rehearsed two minute skits for the entertainment of the guests. This form of entertainment will be located throughout all floors but will not include speakers and will be conducted at normal speaking levels.

In addition to entertainment for adults, the restaurant has a strong focus on family and will be providing kid friendly activities. Throughout the daytime and on weekends, the restaurant will feature entertainment for children in the form of puppet shows, arts and crafts, face painting and similar forms of entertainment.

The Applicant is very excited about the neighborhood and being a part of the local community, to improve the patron experience and the engage with the neighborhood, the Applicant has engage in communications with the New World Symphony to find a way to include their students in the proposed entertainment. This includes hiring the students as musician and actors in the various forms of entertainment in the restaurant.

Moreover, the Applicant has met with the New World Symphony to ensure there are no interruptions to the Soundscape events. These discussions have gone so far as finding ways to include viewing areas on the property and potentially providing a form of catering for the soundscape.



1655 DREXEL AVE, MIAMI BEACH, FL 33139
CONDITIONAL USE PERMIT

DRAWING INDEX	PROJECT INFORMATION
G-00 COVER G-01 LOCATION MAP G-02 EXISTING SURVEY G-03 CONTEXTUAL PHOTOGRAPS G-04 CONTEXTUAL PHOTOGRAPS A-100 EXISTING SITE PLAN A-101 PROPOSED SITE PLAN A-102 EXISTING GROUND AND SECOND FLOOR PLAN A-103 PROPOSED THIRD AND ROOF FLOOR PLAN A-104 PROPOSED GROUND AND MEZZANINE FLOOR PLAN A-105 PROPOSED THIRD AND ROOF FLOOR PLAN A-106 EXISTING ELEVATIONS A-107 PROPOSED ELEVATIONS A-108 VIEW ANGLES A-109 PROPOSED SECTION A-110 PROPOSED CANOPY A-111 INTERIOR RENDERINGS A-112 INTERIOR FINISHES- SAMPLE REFERENCE. A-113 INTERIOR FINISHES- SAMPLE REFERENCE.	PROPERTY ADDRESS: 1655 LINCOLN ROAD, MIAMI BEACH, FLORIDA 33139 LEGAL DESCRIPTION: LOT 1, BLOCK 3, OF LINCOLN ROAD SUBDIVISION, ACCORDING TO THE PLOT THEREOF AS RECORDED IN PLAT BOOK 34, AT PAGE 66, OF THE PUBLIC RECORDS OF MIAMI DADE COUNTY. ZONING DISTRICT DESIGNATION: CITY OF MIAMI BEACH CD-3 LOT AREA: 4,890 S.F. SCOPE OF WORK: LEVEL 3 OF ALTERATION. (SECTION 504, FBCE 2017) 1. INTERIOR MODIFICATIONS FOR NEW RESTAURANT. 2. MODIFICATION OF EXISTING ELECTRICAL SERVICES. 3. INTERIOR CONSTRUCTION OF NEW KITCHEN. CLASSIFICATION OF REHABILITATION: PERSUANT TO NFPA 101 CHAPTER 43.1.1, THE PROPOSED PROJECT IS CLASSIFIED AS FOLLOWS: (3) MODIFICATION.



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP,INC
4300 SW 73 AVE, #106
MIAMI, FL, 33155

PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

--



FORM GROUP, INC.
4300 SW 73 AVE, SUITE 106, MIAMI, FL 33155
TEL. 305-443-4244 FX. 305-443-3338
ARCHITECT OF RECORD: OMAR MORALES, AIA
AA0018851

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PROJECT NO.
19-1007

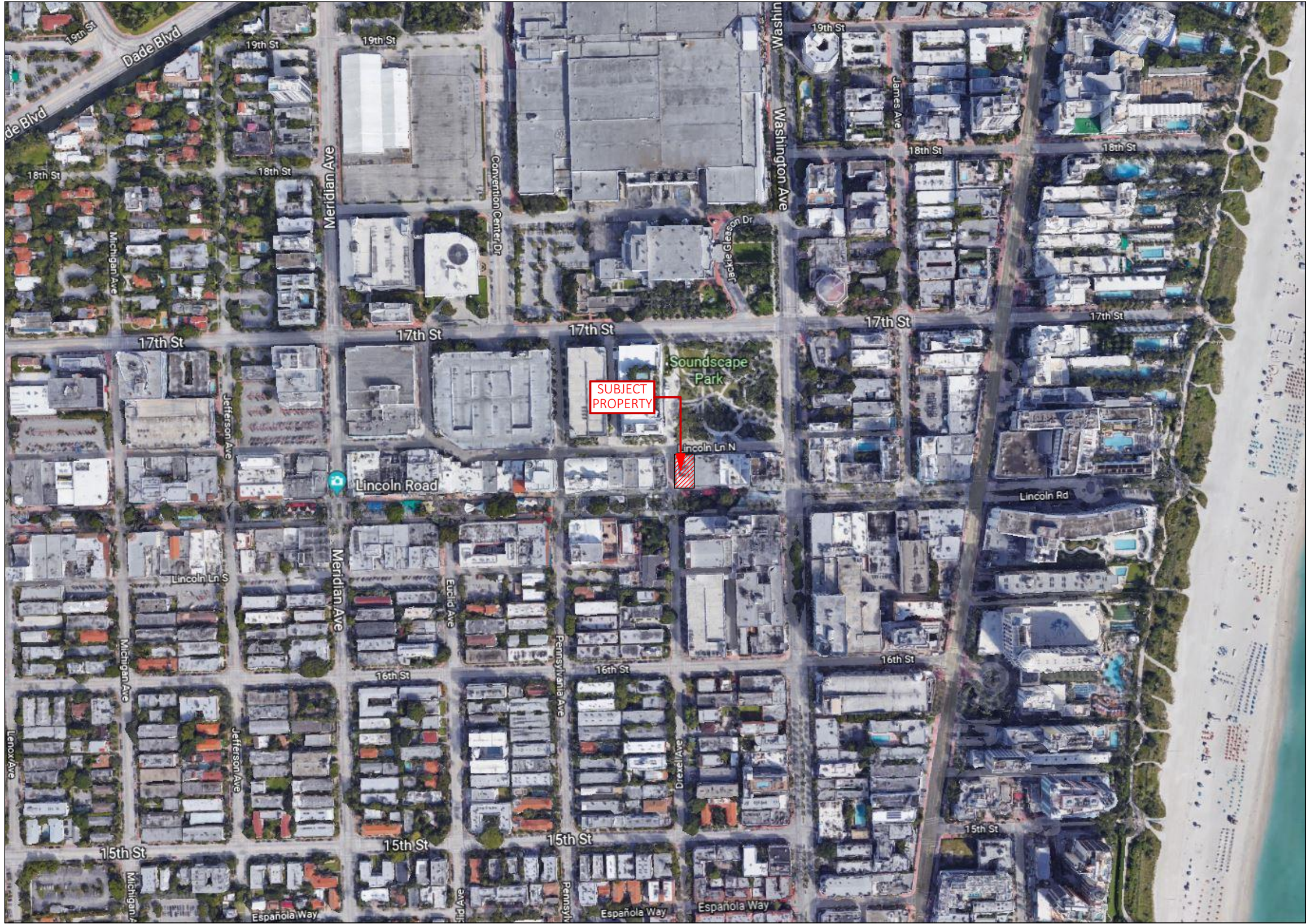
DATE:
DECEMBER 2, 2019

SCALE:
AS SHOWN

TITLE:
COVER

DRAWING NO.:

G-00



A

LOCATION MAP
NOT TO SCALE



OWNER:
LINCOLN DREXEL LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
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PH: 305-443-4244

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CARNE DE RES**

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1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

FORMGROUP
architecture .planning

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TEL: 305.443.4244 FAX: 305.443.3338
ARCHITECT OF RECORD: OMAR MORALES, AIA
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PROJECT NO. 19-1007 **TITLE:** LOCATION MAP

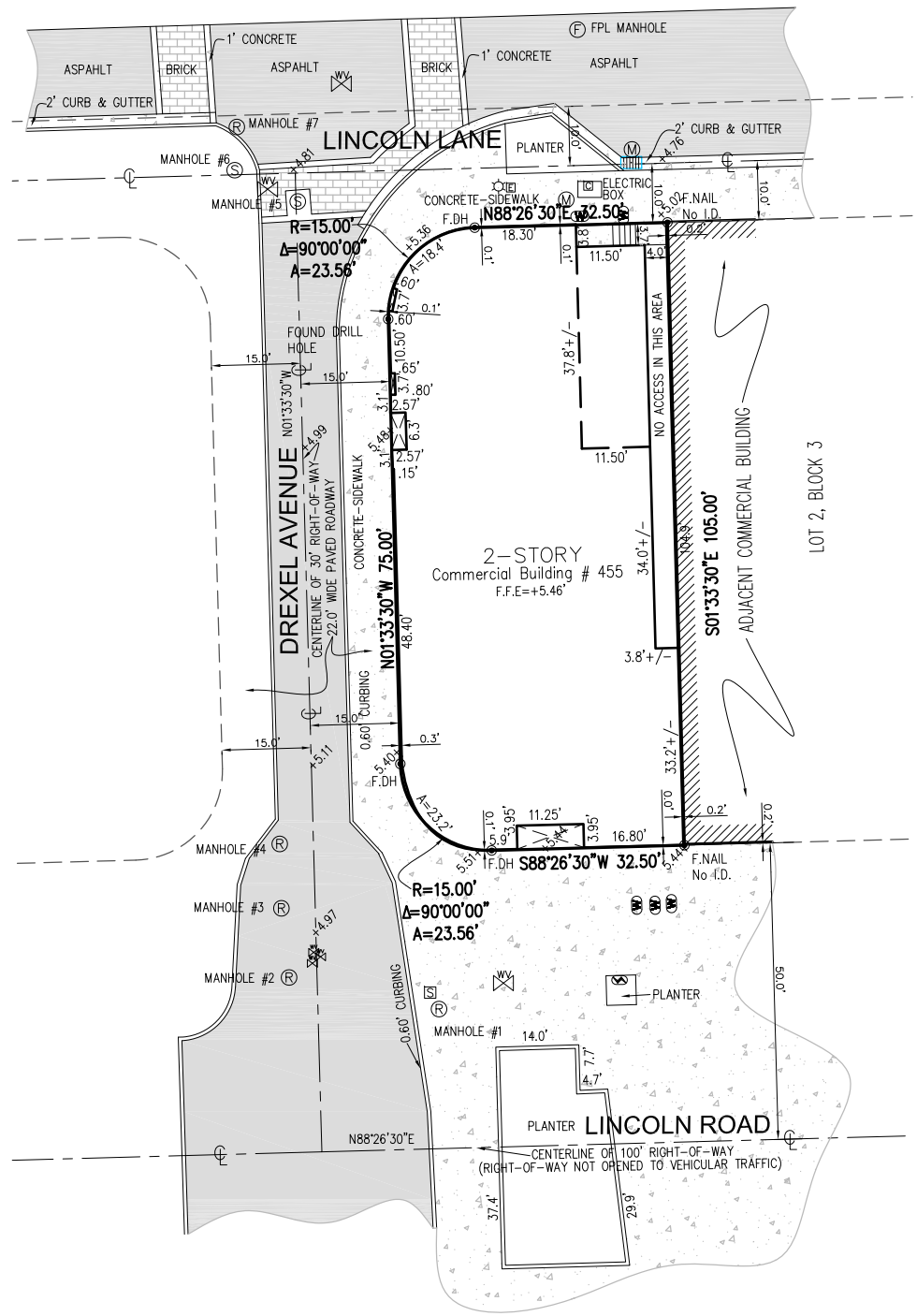
DATE: DECEMBER 2, 2019

SCALE: AS SHOWN **DRAWING NO.:**

G-01

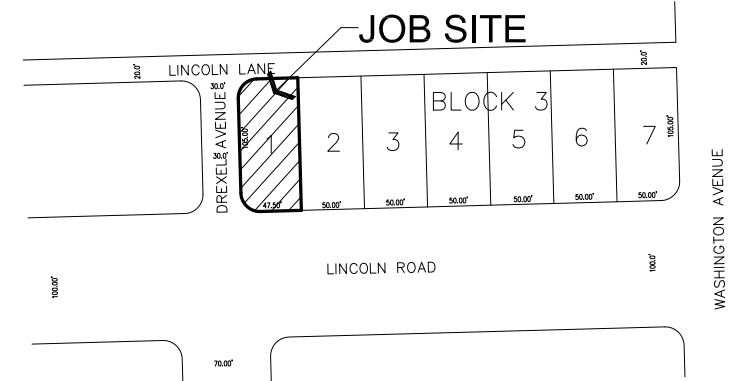


(IN FEET)
1 inch = 20 ft.



LEGEND

- Overhead Wire Line
- Wood Fence
- Chain Link Fence
- Iron Fence
- Monument Line
- Centerline
- Property Line
- A = Arc
- BRG = Bearing
- CH = Chord
- Δ = Delta
- L = Length
- R = Radius
- T = Tangent
- Ø = Diameter
- AC = Air Conditioner
- Conc. = Concrete
- C.B.S. = Concrete Block & Stucco
- (D) = Deed
- D.E. = Drainage Easement
- D.M.E. = Drainage Maintenance Easement
- F.D.H. = Found Drill Hole
- F.F.E. = Finish Floor Elevation
- F.I.P. = Found Iron Pipe/In
- F.I.R. = Found Iron Rebar
- F.N. = Found Nail
- F.N&D = Found Nail & Disc
- F.P.L. = Florida Power Light
- H = Height
- L.M.E. = Lake Maintenance Easement
- (M) = Measured
- (P) = Platted
- P.O.B. = Point of Beginning
- P.O.C. = Point of Commencement
- (R) = Record
- Res. = Residence
- SIP/R = Set Iron Pin/Rebar
- S = Spread
- U.E. = Utility Easement
- + 0.00' = Existing Elevations
- ☒ = Catch Basin
- ⊗ = Water Meter
- ⊗ = Electric Box
- ⊗ = Sanitary Manhole
- ⊗ = Sprinkler Pump
- ⊗ = Wood Pole
- ⊗ = Conc. Pole
- ⊗ = Light Pole
- ⊗ = Fire Hydrant
- ⊗ = Water Valve
- ⊗ = Inlet
- ⊗ = Cable Tv Box
- ⊗ = Electric Meter Box
- ⊗ = Traffic Signal Box
- ⊗ = Gas Valve
- ⊗ = Monitoring Valve
- ⊗ = Manhole



VICINITY MAP
NOT TO SCALE

PROPERTY ADDRESS:
455 LINCOLN ROAD MIAI BEACH, FL 33139
Folio# 02-3234-005-0100

LEGAL DESCRIPTION
Lot 1, in Block 3, of "LINCOLN ROAD SUBDIVISION", according to the Plat thereof, as recorded in Plat Book 34, Page 66, of the Public Records of Miami-Dade County, Florida.

- SURVEYOR'S NOTES:**
- The Legal Description was provided by the Client from most recent County Records available.
 - This is not a Certification of Title, Zoning, Easements, or Freedom of Encumbrances. ABSTRACT NOT REVIEWED.
 - There may be additional Restrictions not shown on this survey that may be found in the Public Records of this County. Examination of ABSTRACT OF TITLE will have to be made to determine recorded instruments, if any affecting this property.
 - No attempt was made by this firm to locate underground utilities, foundations and/or footings of buildings, walls or fences, except as shown hereon, if any.
 - Underground utilities are not depicted hereon, contact the appropriate authority prior to any design work or construction on the property herein described. Surveyor shall be notified as to any deviation from utilities shown hereon.
 - Contact the appropriate authority prior to any design work on the herein - described parcel for Building and Zoning information.
 - The surveyor does not determine fence and/or wall ownership.
 - Accuracy:**
The Horizontal positional accuracy of well-defined improvement on this survey is +/-0.2'.
The Vertical accuracy of elevations of well-defined improvement on this survey is +/-0.1'.
 - All measurements shown hereon are made in accordance with the United States Standard Feet.
 - Type of survey BOUNDARY SURVEY.
 - North arrow direction and/or Bearings are based on an assumed meridian with a value of: N88°26'30"E along the centerline of Lincoln Road as shown on the aforementioned Plat.
 - Elevations shown hereon are relative to National Geodetic Vertical Datum (1929 Mean Sea Level)
 - Benchmark Used: Miami-Dade County Benchmark #17CH. Elevation = +4.02'.
 - Flood Zone Data: Community/ Panel #120651/0317/L Dated: 9/11/09 Flood Zone: "AE" Base Flood Elevation = +8.0'
 - This SURVEY has been prepared for the exclusive use of the entities named hereon. The Certificate does not extend to any unnamed party.

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY:
That this Survey meets the intent of the required Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.
Additions or deletions to this survey by other than the signing party are prohibited without written consent of the signing party.

MANHOLE TABULATION DATA:

MANHOLE #	RIM ELEVATION	NORTH INVERT EL./ PIPE SIZE	SOUTH INVERT EL./ PIPE SIZE	EAST INVERT EL./ PIPE SIZE	WEST INVERT EL./ PIPE SIZE
1 - STORM	+5.18	N/A	+1.37 / 18"	+1.38 / 11"	+1.38 / 11"
2 - STORM	+4.90	+1.94 / 12"	N/A	N/A	-0.66 / 18"
3 - STORM	+5.10	+1.94 / 12"	+1.94 / 12"	+0.74 / 12"	N/A
4 - STORM	+5.11	+1.85 / 12"	+1.85 / 12"	+2.63 / 12"	+2.76 / 12"
5 - SEWER	+5.02	N/A	N/A	+0.91 / 9"	+0.92 / 9"
6 - SEWER	+4.91	+1.66 / 12"	+1.61 / 12"	N/A	N/A
7 - STORM	+4.71	+0.31 / 9"	+1.36 / 12"	N/A	+1.51 / 12"



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LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155
PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:



FORM GROUP, INC.
4300 SW 73 AVE, SUITE 106, MIAMI, FL 33155
TEL: 305.443.4244 FX: 305.443.3338
ARCHITECT OF RECORD: OMAR MORALES, AIA
AA00148851

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PROJECT NO.
19-1007
TITLE:
EXISTING SURVEY
DATE:
DECEMBER 2, 2019
SCALE:
AS SHOWN
DRAWING NO.:
G-02



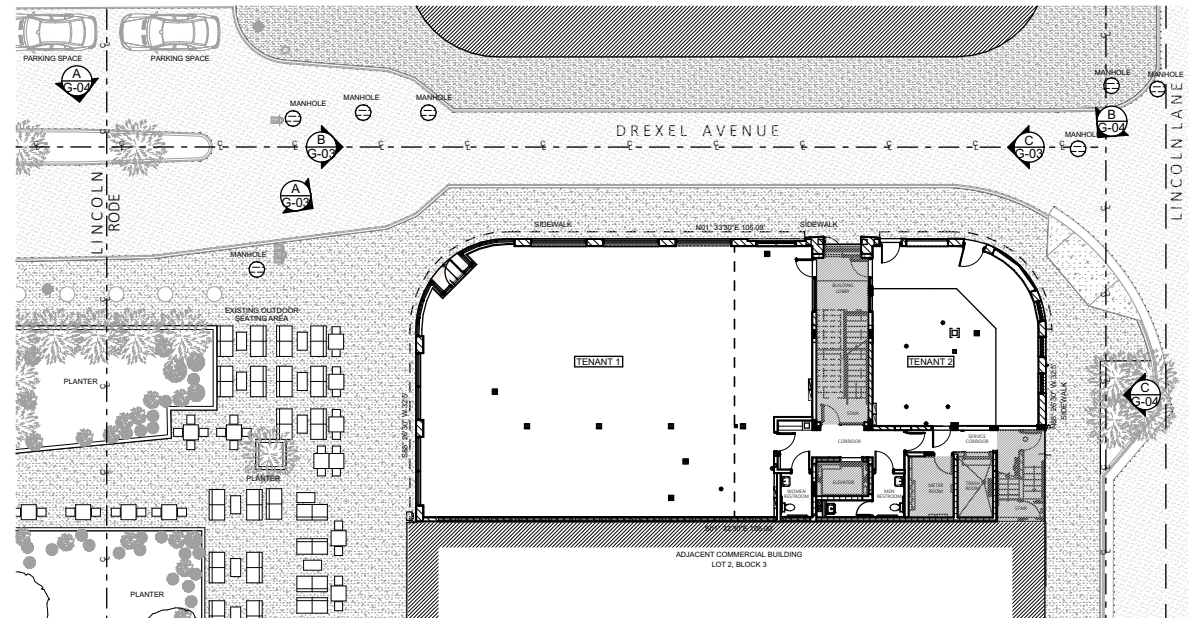
B STREET VIEW-DREXEL AVE
NOT TO SCALE



A STREET VIEW-LINCOLN RD & DREXEL AVE
NOT TO SCALE



C STREET VIEW ALONG DREXEL AVE
NOT TO SCALE



1 PLAN REFERENCE
SCALE: 1/32" = 1'-0"



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155
PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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architecture .planning

FORM GROUP, INC.
4300 SW 73 AVE, SUITE 106, MIAMI, FL 33155
TEL: 305.443.4244 FAX: 305.443.3338
ARCHITECT OF RECORD: OMAR MORALES, AIA
AA0018851

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PROJECT NO. 19-1007 TITLE: CONTEXTUAL PHOTOGRAPHS
DATE: DECEMBER 2, 2019
SCALE: AS SHOWN DRAWING NO.: **G-03**



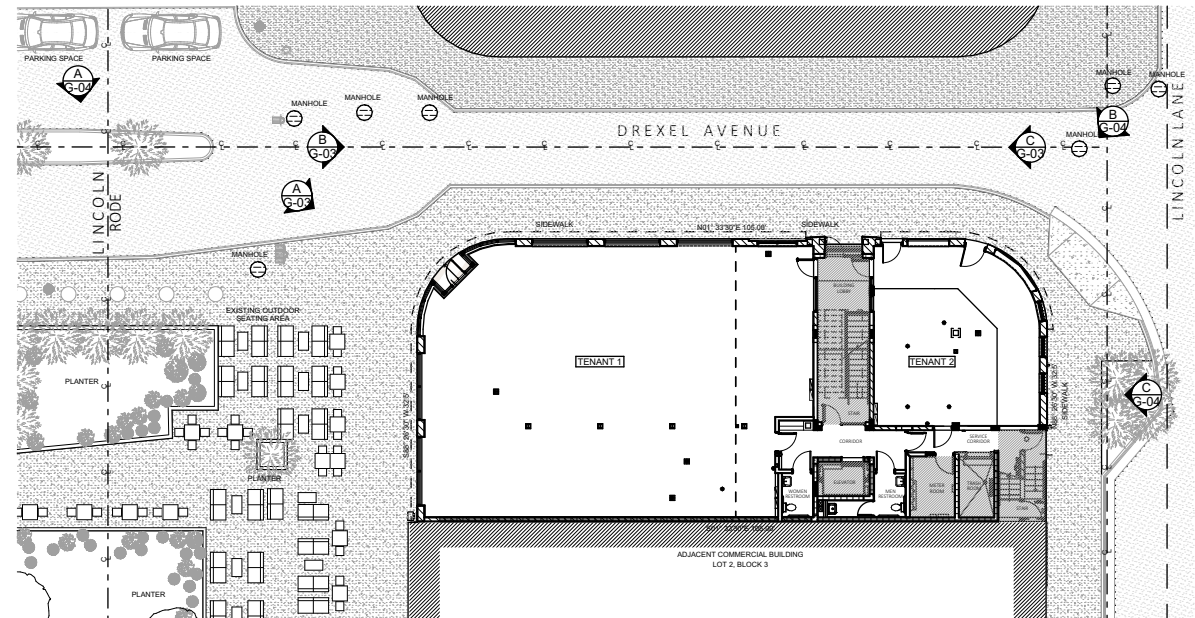
B STREET VIEW-LINCOLN LN & DREXEL AVE
NOT TO SCALE



A STREET VIEW- DREXEL AVE
NOT TO SCALE



C STREET VIEW- LINCOLN LANE
NOT TO SCALE



1 PLAN REFERENCE
SCALE: 1/32" = 1'-0"



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC
4300 SW 73 AVE, #106
MIAMI, FL, 33155

PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

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CARNE DE RES**

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1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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PROJECT NO.
19-1007

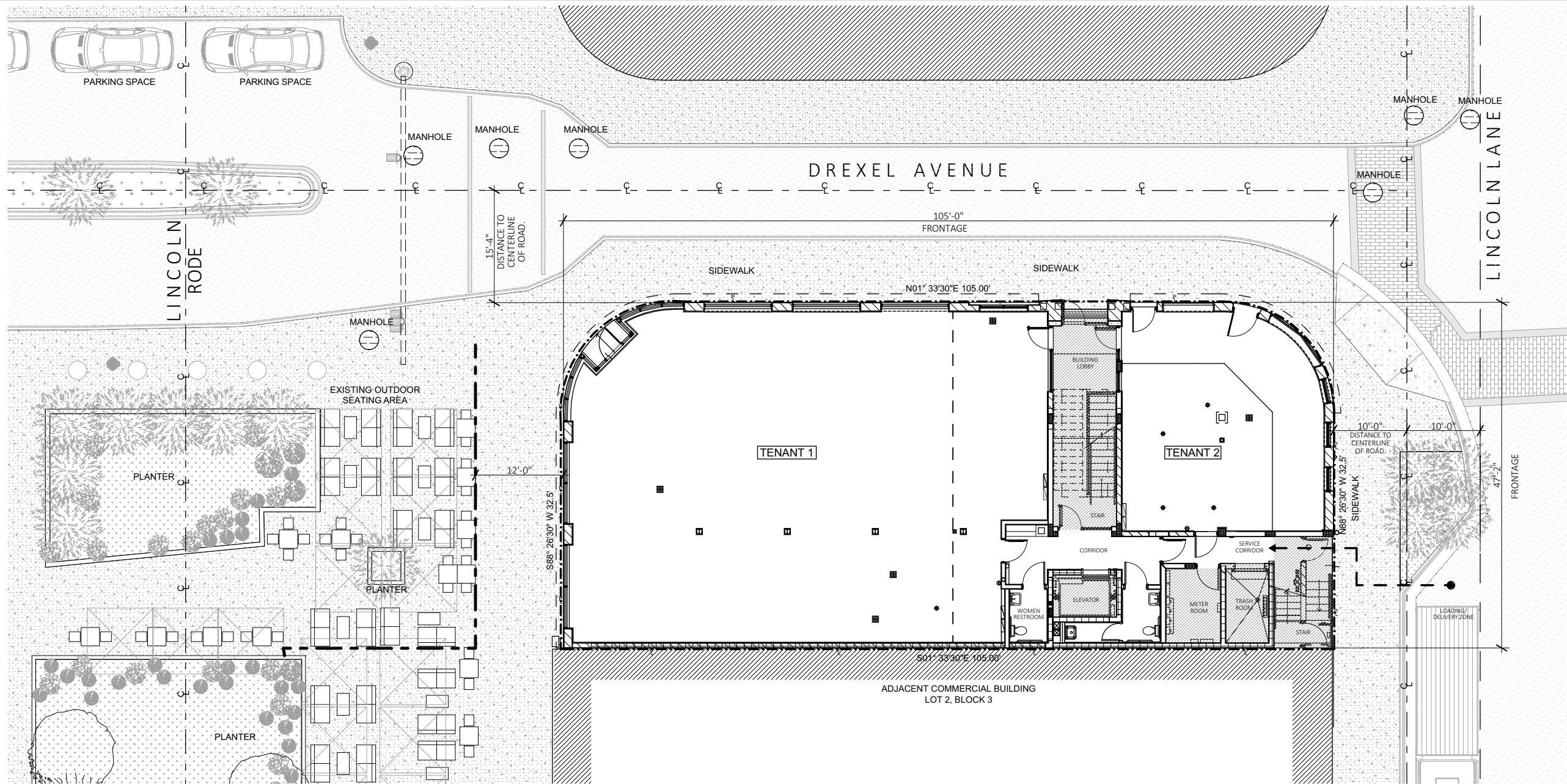
DATE:
DECEMBER 2, 2019

SCALE:
AS SHOWN

TITLE:
CONTEXTUAL
PHOTOGRAPHS

DRAWING NO.:

G-04



A SITE PLAN- EXISTING CONDITION
SCALE: 1/16" = 1'-0"

ASSEMBLY - COMMERCIAL - ZONING DATA SHEET				
ITEM #	Zoning Information			
1	Address:	1655 Drexel Avenue. Miami Beach, FL. 33139		
2	Board and file numbers :	HPB 18-0225		
3	Folio number(s):	02-3234-005-0100		
4	Year constructed:	1937	Zoning District / Overlay:	CD-3
5	Based Flood Elevation:		Grade value in NGVD:	+5.46' NGVD
6	Lot Area:	4,890 SF	Lot Depth:	47.5'
7	Lot width:	105'		
8	Minimum Unit Size		Average Unit Size:	
9	Existing use:	Mixed Use. Commercial	Proposed use:	Assembly
		Maximum	Existing	Proposed
10	Height:		45'-9"	45'-9"
11	Number of Stories:		4	4
12	FAR:	11,002 s.f	10,945 s.f.	13,289 s.f.
13	Gross square footage:	N/A	10,945 s.f.	13,289 s.f
14	Square Footage by use:	N/A	1st Level: 4,589.26 s.f. 2nd Level: 1,698.22 s.f. 3rd Level: 4,345.83 s.f. 4th Level: 311.69 s.f.	1st Level: 4,515 s.f. 2nd Level: 2,247 s.f. 3rd Level: 4,632 s.f. 4th Level: 1,895 s.f.
15	Number of units Residential:	N/A	N/A	N/A
16	Number of units Hotel:	N/A	N/A	N/A
17	Number of seats:	N/A	N/A	288
18	Occupancy load:	N/A	388	413
	Setbacks	Required	Existing	Proposed
20	Setback:	N/A	N/A	N/A
	Parking	Required	Existing	Proposed
40	Parking:	N/A	N/A	N/A



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155
PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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FORM GROUP, INC.
4300 SW 73 AVE, SUITE 106, MIAMI, FL 33155
TEL: 305.443.4244 FAX: 305.443.3338
ARCHITECT OF RECORD: OMAR MORALES, AIA
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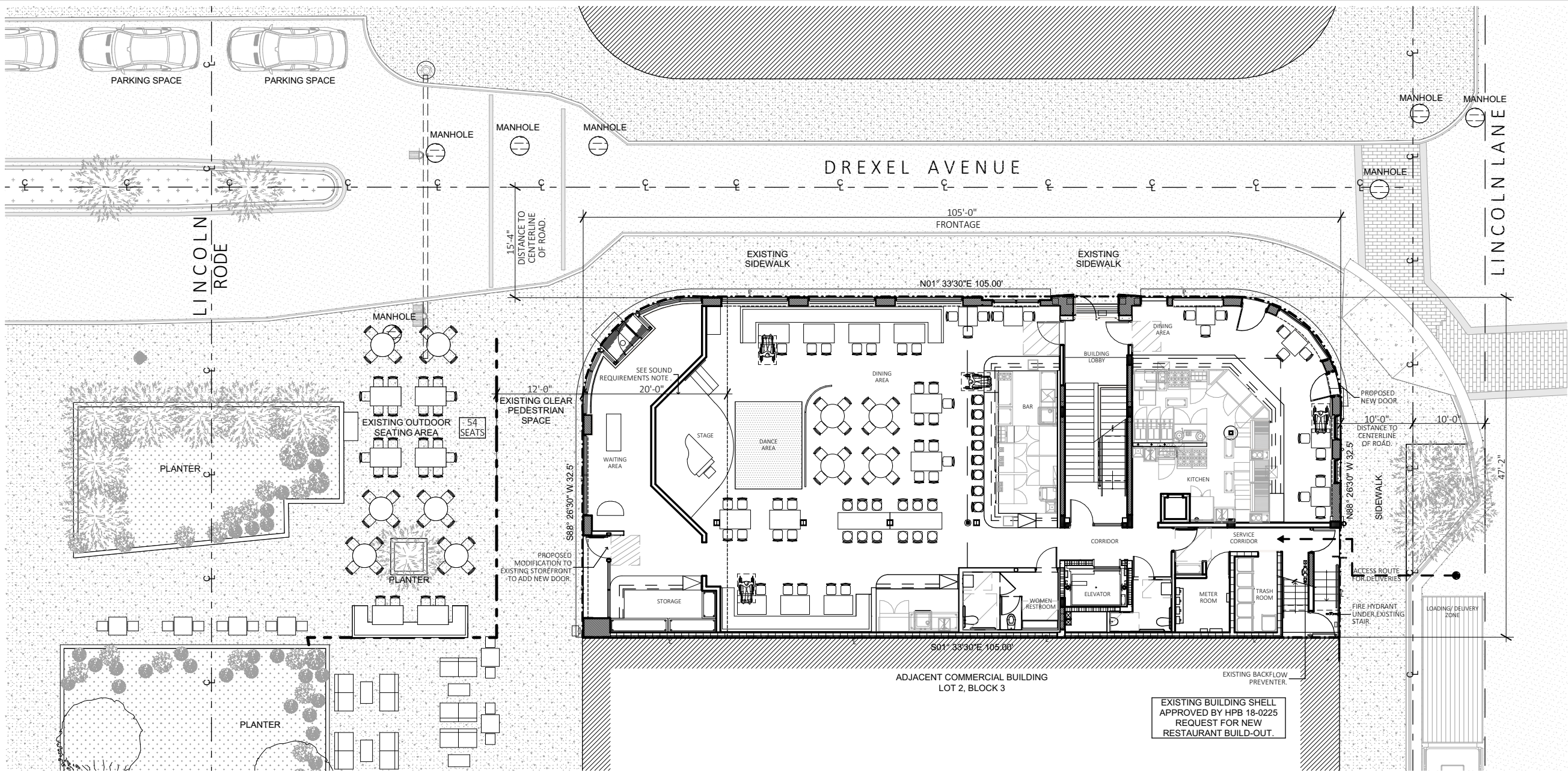
PROJECT NO. 19-1007 TITLE: EXISTING SITE PLAN

DATE:
DECEMBER 2, 2019

SCALE:
AS SHOWN

DRAWING NO.:

A-100



A PROPOSED SITE PLAN
SCALE: 1/16" = 1'-0"

SPEAKERS LOCATION NOTE

PERSUANT TO SECTION 142- 336, LINCOLN ROAD REQUIREMENTS:
INTERIOR SPEAKERS MAY BE PERMITTED WITHIN THE FIRST 20 FEET OF THE BOUNDARY FACING LINCOLN ROAD OR WITHIN THE FIRST 20 FEET OF THE BOUNDARY OF THE SIDE STREET ANY MUSIC OR OTHER SOUND THAT IS PLAYED DOES NOT EXCEED AMBIENT LEVELS. SOUND PLAYED INDOORS AT A VOLUME ABOVE AMBIENT LEVELS MUST BE INAUDIBLE FROM THE EXTERIOR.

OCCUPANT LOAD			
PURSUANT TO FLORIDA BUILDING CODE, TABLE 1004.1.2			
USE	OCCUPANCY	AREA	QTY. OF PERSONS
ASSEMBLY USE (DINING AREAS)	LESS CONCENTRATED USE (1 / 15 NET)	5,043 S.F.	337 PERSONS
ASSEMBLY USE (WAITING AREAS)	CONCENTRATED USE (1 / 7 NET)	295 S.F.	43 PERSONS
BUSINESS USE (OFFICE AREAS)	(1 / 100 GROSS)	228 S.F.	3 PERSONS
KITCHEN USE (KITCHEN & BAR AREAS)	(1 / 200 GROSS)	2,340 S.F.	15 PERSONS
STAGES & PLATFORMS (STAGE AREA)	(1 / 15 NET)	151 S.F.	11 PERSONS
STORAGE USE (STORAGE AREAS)	(1 / 300 GROSS)	634 S.F.	4 PERSON
WALLS, CIRC., RESTROOMS, STAIRS & MISC. AREAS	TEMP. OCCUPIED ONLY	4,598 S.F.	-
TOTAL BUILDING OCCUPANTS:		13,289 S.F.	413 PERSONS

NEW DOORS NOTES:

NEW DOORS TO BE APPROVED ADMINISTRATIVELY AND NOT SUBJECT TO PB/HPB APPLICATION.

SEATING PROVIDED

TOTAL INTERIOR SEATING PROVIDED	288 SEATS
TOTAL OUTDOOR SEATING PROVIDED	54 SEATS
TOTAL OF WHEELCHAIR PROVIDED	12 SEATS

ASSEMBLY - COMMERCIAL - ZONING DATA SHEET

ITEM #	Zoning Information				
1	Address:	1655 Drexel Avenue. Miami Beach, FL. 33139			
2	Board and file numbers :	HPB 18-0225			
3	Folio number(s):	02-3234-005-0100			
4	Year constructed:	1937	Zoning District / Overlay:	CD-3	
5	Based Flood Elevation:		Grade value in NGVD:	+5.46' NGVD	
6	Lot Area:	4,890 SF	Lot Depth:	47,5'	
7	Lot width:	105'			
8	Minimum Unit Size		Average Unit Size:		
9	Existing use:	Mixed Use. Commercial	Proposed use:	Assembly	
		Maximum	Existing	Proposed	Deficiencies
10	Height:		45'-9"	45'-9"	
11	Number of Stories:		4	4	
12	FAR:	11,002 s.f	10,945 s.f.	13,289 s.f.	
13	Gross square footage:	N/A	10,945 s.f.	13,289 s.f.	
14	Square Footage by use:	N/A	1St Level: 4,589.26 s.f.	1St Level: 4,515 s.f.	
			2nd Level: 1,698.22 s.f.	2nd Level: 2,247 s.f.	
			3rd Level: 4,345.83 s.f.	3rd Level: 4,632 s.f.	
			4th Level: 311.69 s.f.	4th Level: 1,895 s.f.	
15	Number of units Residential:	N/A	N/A	N/A	
16	Number of units Hotel:	N/A	N/A	N/A	
17	Number of seats:	N/A		288	
18	Occupancy load:	N/A	388	413	
	Setbacks	Required	Existing	Proposed	Deficiencies
20	Setback:	N/A	N/A	N/A	
	Parking	Required	Existing	Proposed	Deficiencies
40	Parking:	N/A	N/A	N/A	



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155

PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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architecture .planning

FORM GROUP, INC.
4300 SW 73 AVE, SUITE 106, MIAMI, FL 33155
TEL: 305.443.4244 FAX: 305.443.3338
ARCHITECT OF RECORD: OMAR MORALES, AIA
AA0018851

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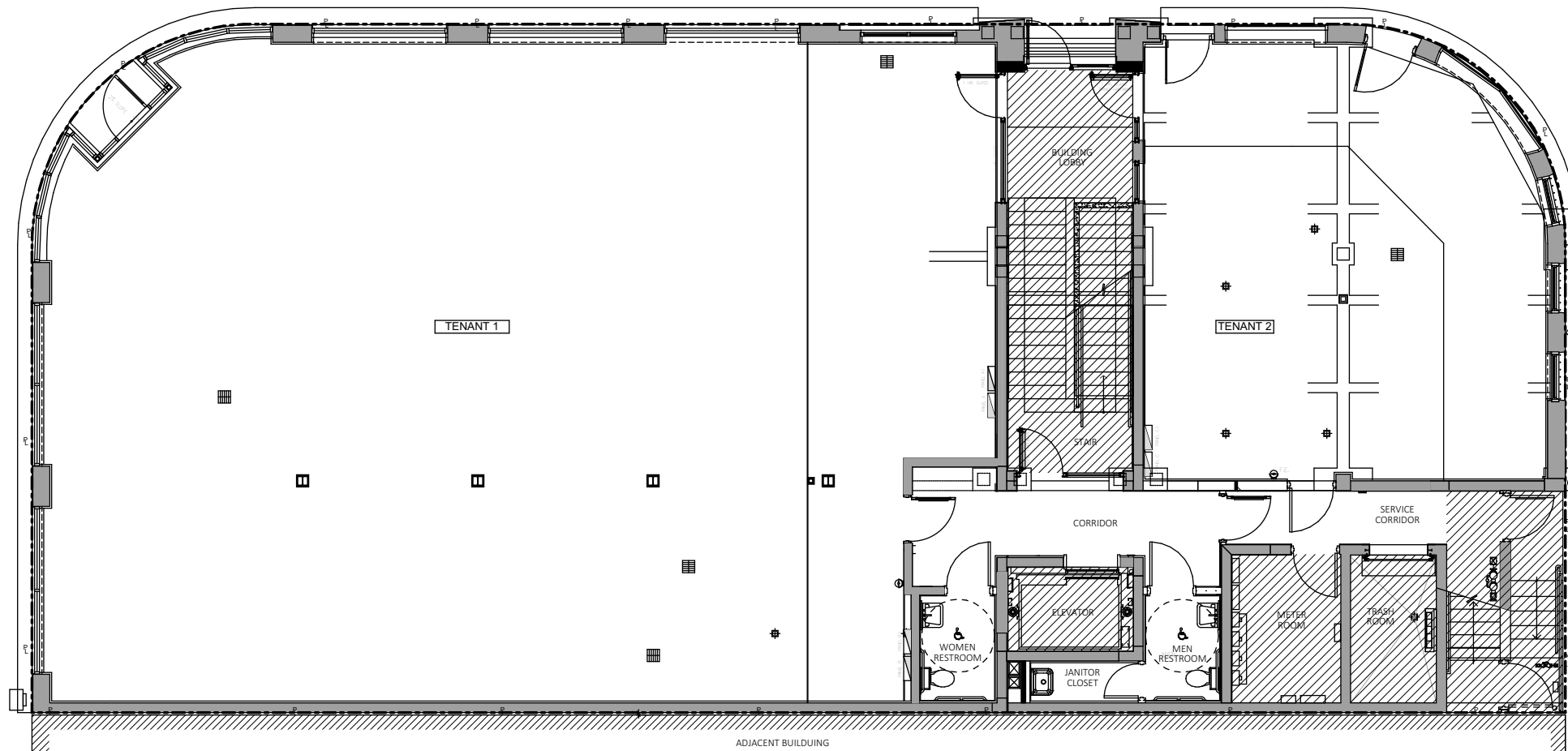
PROJECT NO. 19-1007 TITLE: PROPOSED SITE PLAN

DATE: DECEMBER 2, 2019

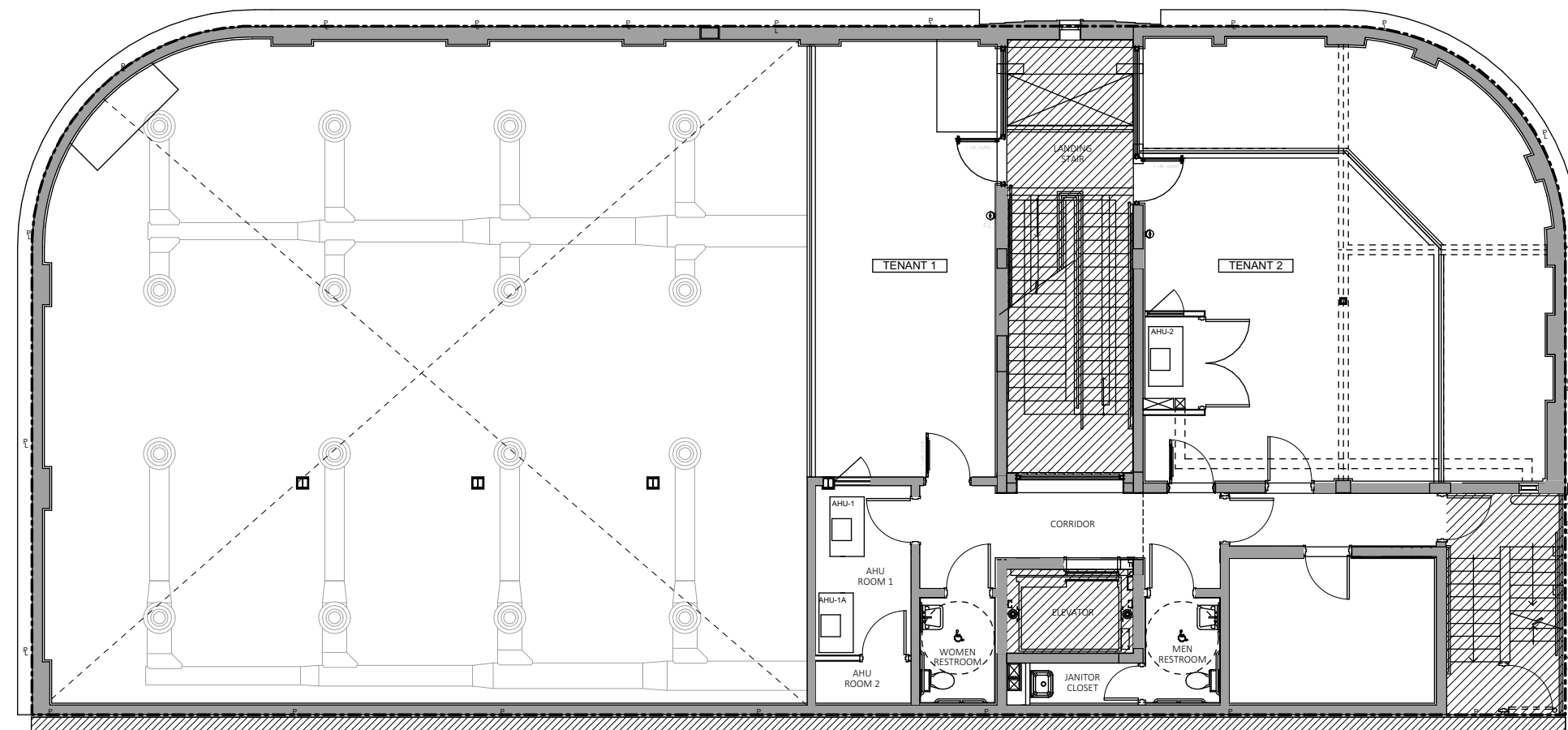
SCALE: AS SHOWN

DRAWING NO.:

A-101



A GROUND FLOOR PLAN- EXISTING
SCALE: 3/32" = 1'-0"



B SECOND FLOOR PLAN- EXISTING
SCALE: 3/32" = 1'-0"



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155
PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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FORM GROUP, INC.
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TEL: 305-443-4244 FAX: 305-443-3338
ARCHITECT OF RECORD: OMAR MORALES, AIA
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PROJECT NO. 19-1007 **TITLE:** EXISTING GROUND AND
SECOND FLOOR PLAN

DATE: DECEMBER 2, 2019

SCALE: AS SHOWN

DRAWING NO.:

A-102



OWNER:
LINCOLN DREXEL LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155
PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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FORM GROUP, INC.
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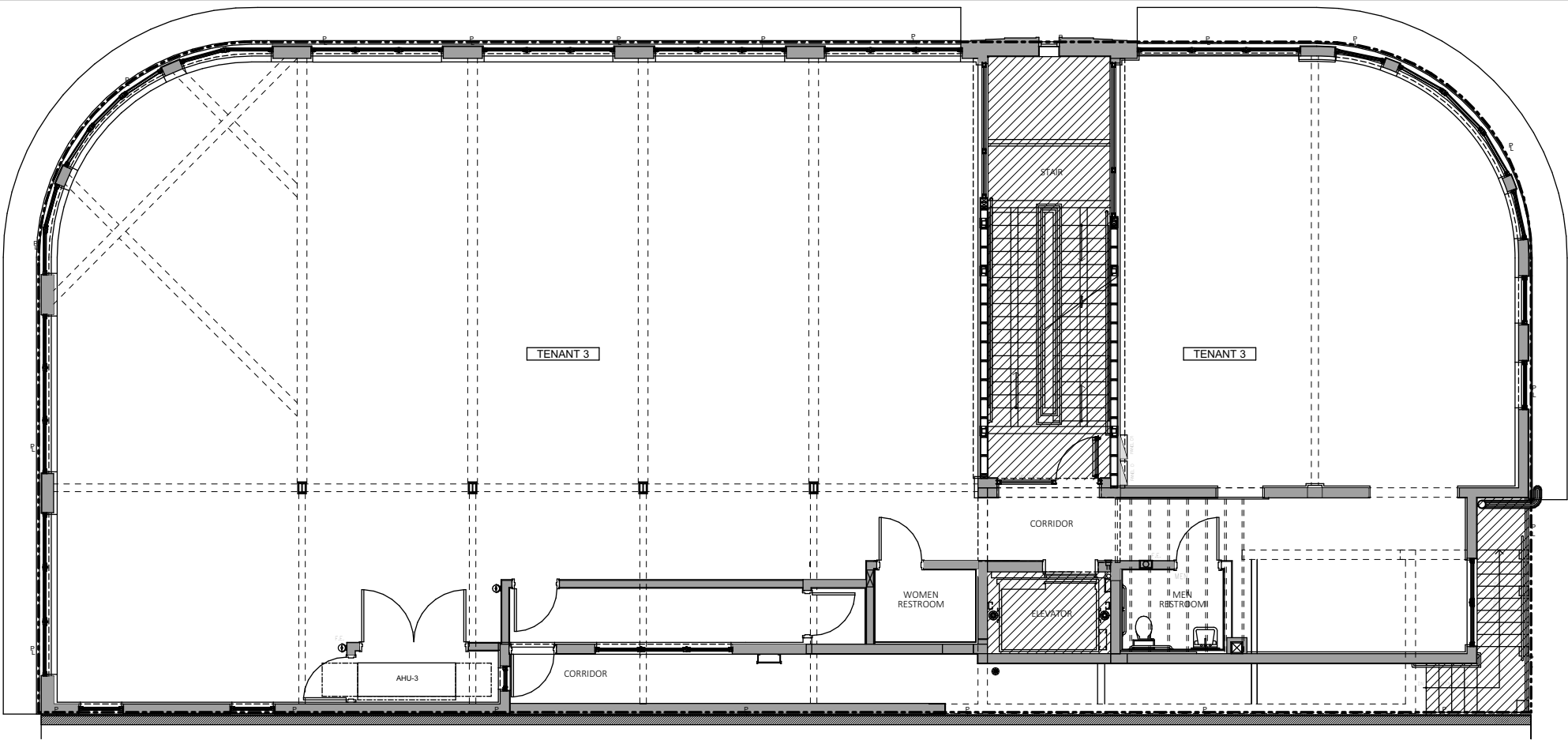
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PROJECT NO. 19-1007
DATE: DECEMBER 2, 2019
SCALE: AS SHOWN

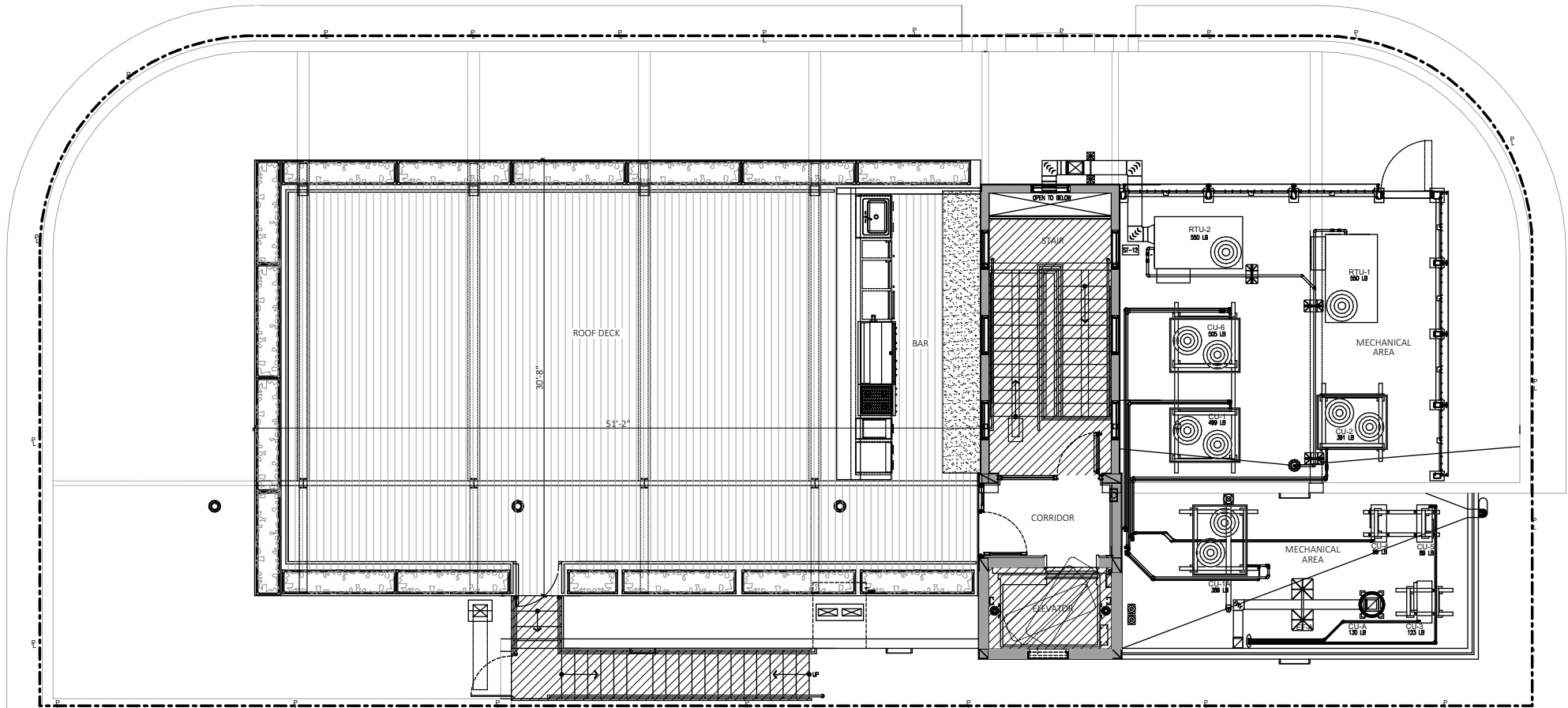
TITLE: EXISTING THIRD AND
ROOF FLOOR PLAN

DRAWING NO.:

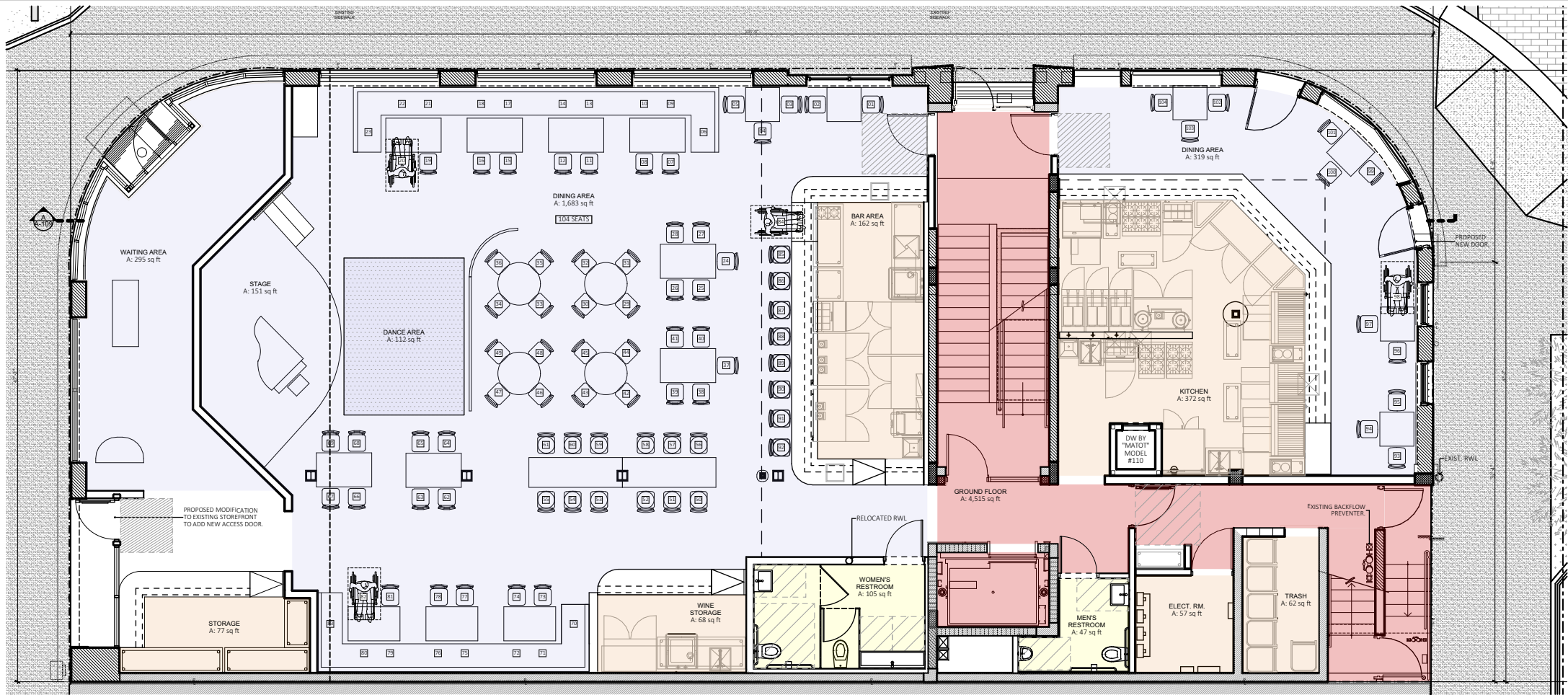
A-103



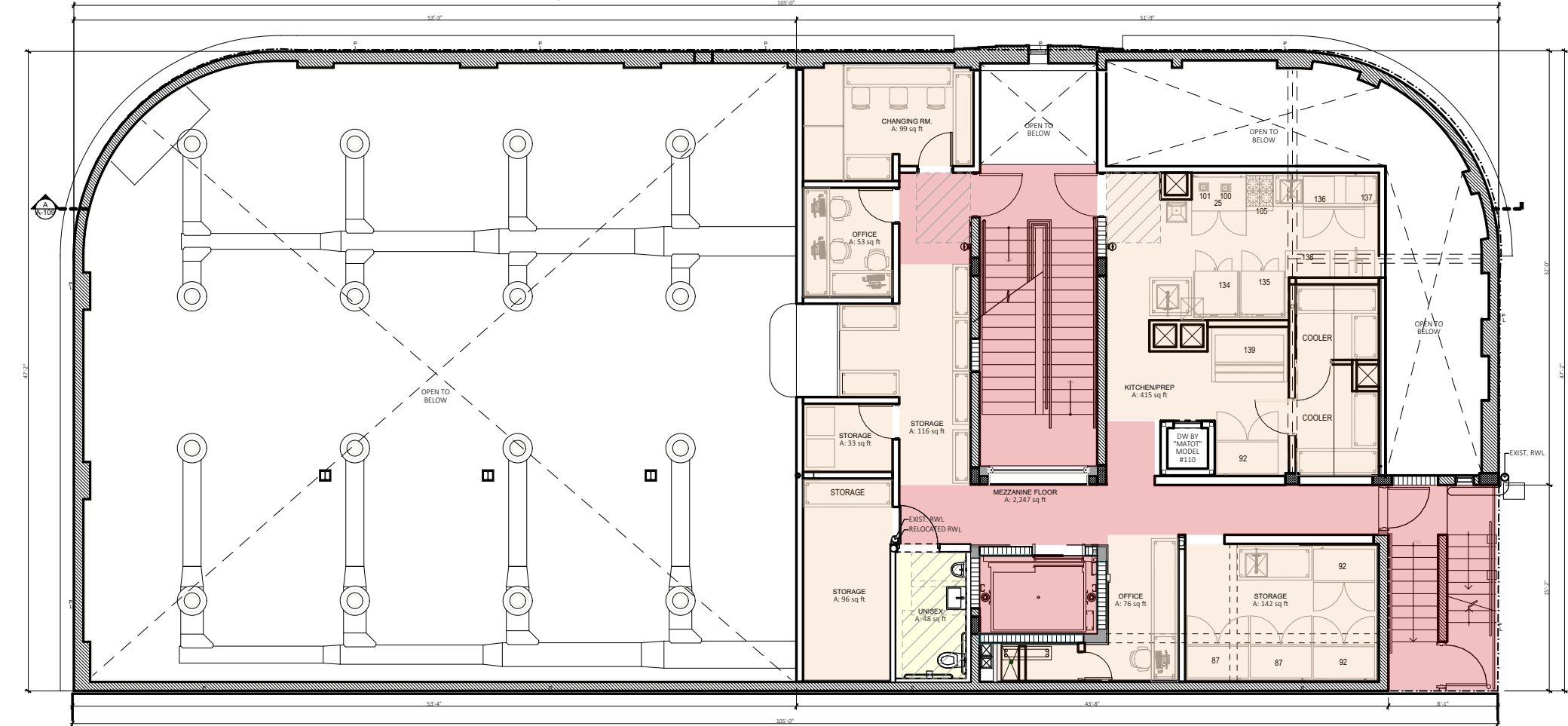
A THIRD FLOOR PLAN- EXISTING
SCALE: 3/32" = 1'-0"



B ROOF FLOOR PLAN- EXISTING
SCALE: 3/32" = 1'-0"



B PROPOSED GROUND FLOOR PLAN
SCALE: 3/32" = 1'-0"



A PROPOSED MEZZANINE FLOOR PLAN
SCALE: 3/32" = 1'-0"



METHOD OF OPERATION

THE ESTABLISHMENT WILL BE OPERATING AS:
-RESTAURANT / BAR.
-ENTERTAINMENT VENUE

OCCUPANCY LOAD CALCULATIONS

GROUND FLOOR:

DINING: 2,002 S.F. / 15 NET = 134 PERSONS
WAITING AREA: 295 S.F. / 7 NET = 43 PERSONS
KITCHEN: 531 S.F. / 200 GROSS = 3 PERSONS
STAGE AREA: 151 S.F. / 15 NET = 11 PERSONS
STORAGE: 145 S.F. / 300 GROSS = 1 PERSONS
TOTAL = 192 PERSONS

MEZZANINE FLOOR:

OFFICE: 228 S.F. / 100 GROSS = 3 PERSONS
KITCHEN: 415 S.F. / 200 GROSS = 3 PERSONS
STORAGE: 387 S.F. / 300 GROSS = 2 PERSONS
TOTAL = 8 PERSONS

TOTAL GROUND FLOOR AND MEZZANINE: 200 PERSONS
TOTAL BUILDING OCCUPANTS: 413 PERSONS
NUMBER OF EXISTS PROVIDED: 6

INTERIOR SEATING COUNT

QTY.	DESCRIPTION	LOCATION
9	BAR AREA	GROUND
95	DINING AREA	GROUND
104	TOTAL	

TABLE 221.2.1 WHEELCHAIR SPACES IN ASSEMBLY AREAS

51 TO 150	4
-----------	---

PLAN LEGEND

- ASSEMBLY AREAS (DINING AREAS).
- KITCHEN / BAR AREAS.
- RESTROOMS.
- STAIR / ELEVATOR / CORRIDORS.



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155

PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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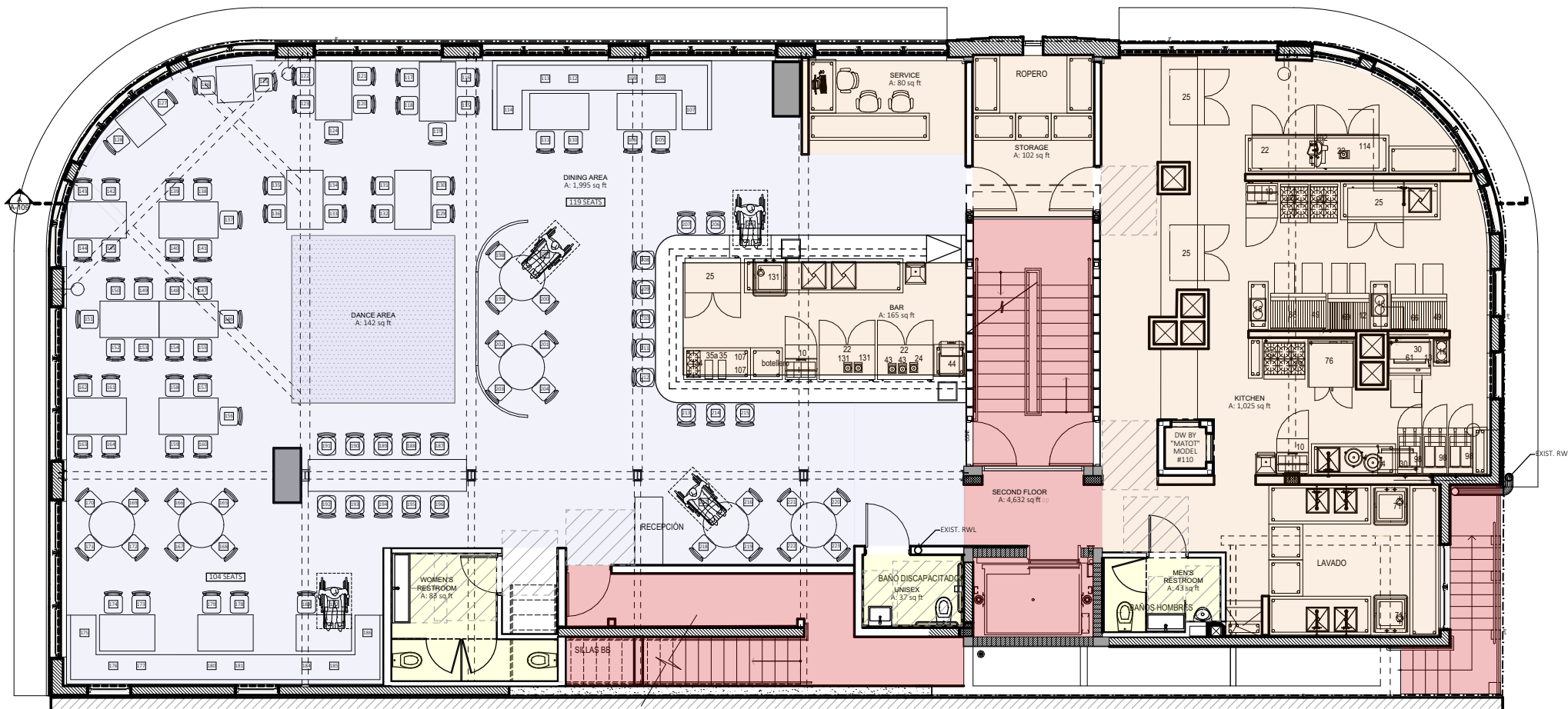
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PROJECT NO.
19-1007
DATE:
DECEMBER 2, 2019

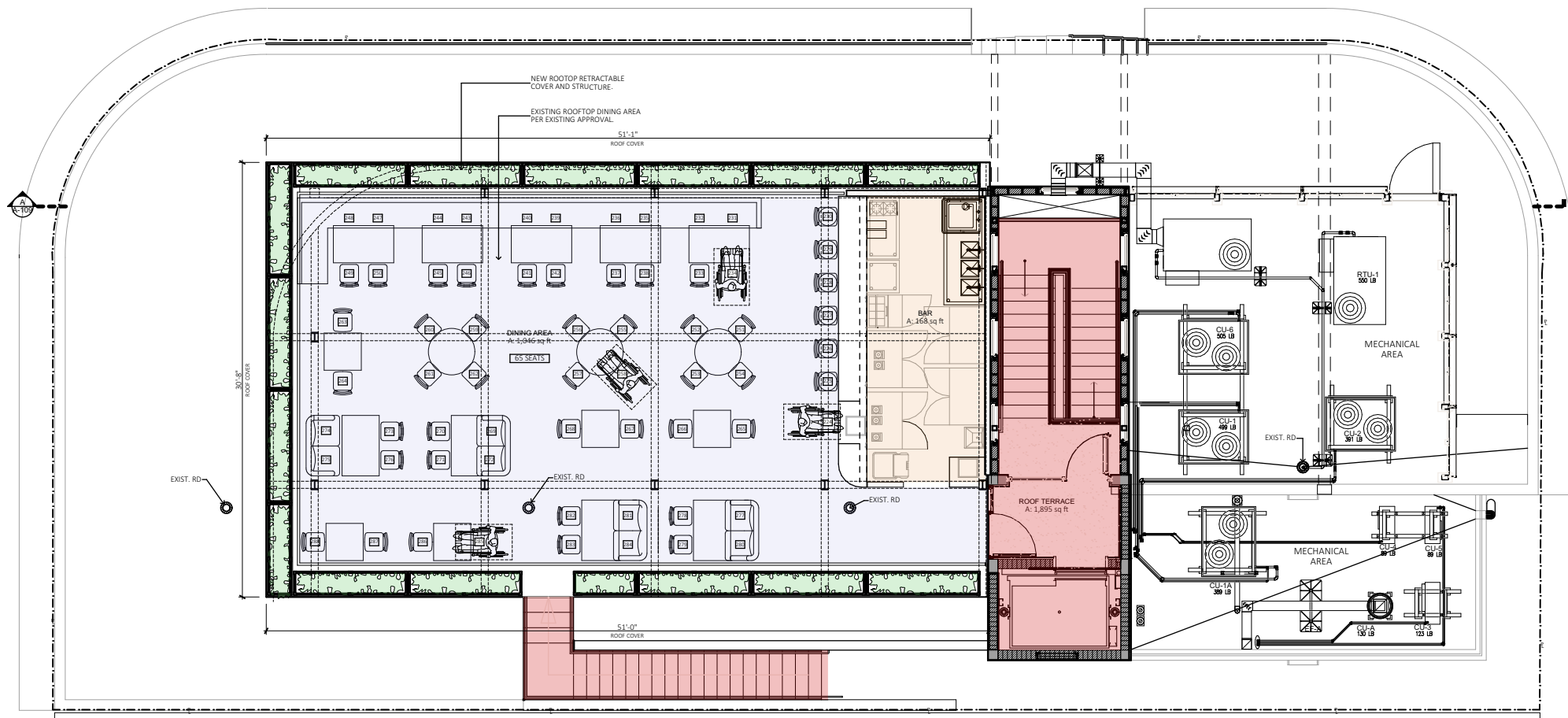
SCALE:
AS SHOWN

DRAWING NO.:

A-104



A PROPOSED THIRD FLOOR PLAN
SCALE: 3/32" = 1'-0"



B PROPOSED ROOF TERRACE PLAN
SCALE: 3/32" = 1'-0"

METHOD OF OPERATION

THE ESTABLISHMENT WILL BE OPERATING AS:
-RESTAURANT / BAR.
-ENTERTAINMENT VENUE

OCCUPANCY LOAD CALCULATIONS

THIRD FLOOR:

DINING: 1,995 S.F. / 15 NET = 133 PERSONS
KITCHEN: 1,226 S.F. / 200 GROSS = 7 PERSONS
STORAGE: 102 S.F. / 300 GROSS = 1 PERSONS
TOTAL = 141 PERSONS

ROOF TERRACE:

DINING: 1,046 S.F. / 15 NET = 70 PERSONS
KITCHEN: 168 S.F. / 200 GROSS = 2 PERSONS
TOTAL = 72 PERSONS

TOTAL THIRD FLOOR AND ROOF: 213 PERSONS
TOTAL BUILDING OCCUPANTS: 413 PERSONS

INTERIOR SEATING COUNT

QTY.	DESCRIPTION	LOCATION
119	DINING AREA	THIRD
65	DINING AREA	ROOF
184	TOTAL	

TABLE 221.2.1 WHEELCHAIR SPACES IN ASSEMBLY AREAS

51 TO 150	4
TOTAL	8

PLAN LEGEND

- ASSEMBLY AREAS (DINING AREAS).
- KITCHEN / BAR AREAS.
- RESTROOMS.
- STAIR / ELEVATOR / CORRIDORS.

NOTE

NO ROOFTOP ENTERTAINMENT PROPOSED.
PROPOSED SOUND OR MUSIC PLAYED WILL NOT
INTERFERE WITH NO-ENTERTAINMENT AREAS.



OWNER:
LINCOLN DREXEL LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC.
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MIAMI, FL, 33155

PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

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1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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architecture .planning

FORM GROUP, INC.
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TEL: 305-443-4244 FAX: 305-443-3338
ARCHITECT OF RECORD: OMAR MORALES, AIA
AA0014881

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PROJECT NO. 19-1007 **TITLE:** PROPOSED THIRD AND
ROOF FLOOR PLAN
DATE: DECEMBER 2, 2019

SCALE: AS SHOWN

DRAWING NO.:

A-105



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155
PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:
**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

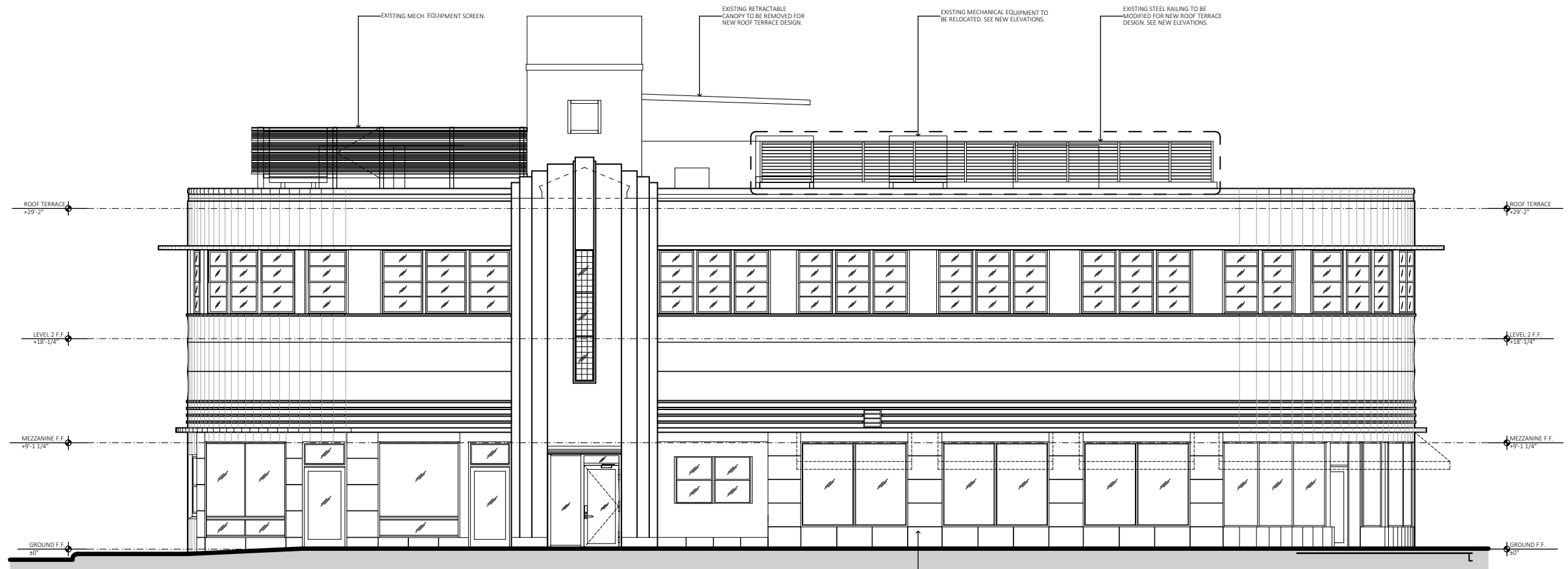
REVISIONS:

FORMGROUP
architecture .planning

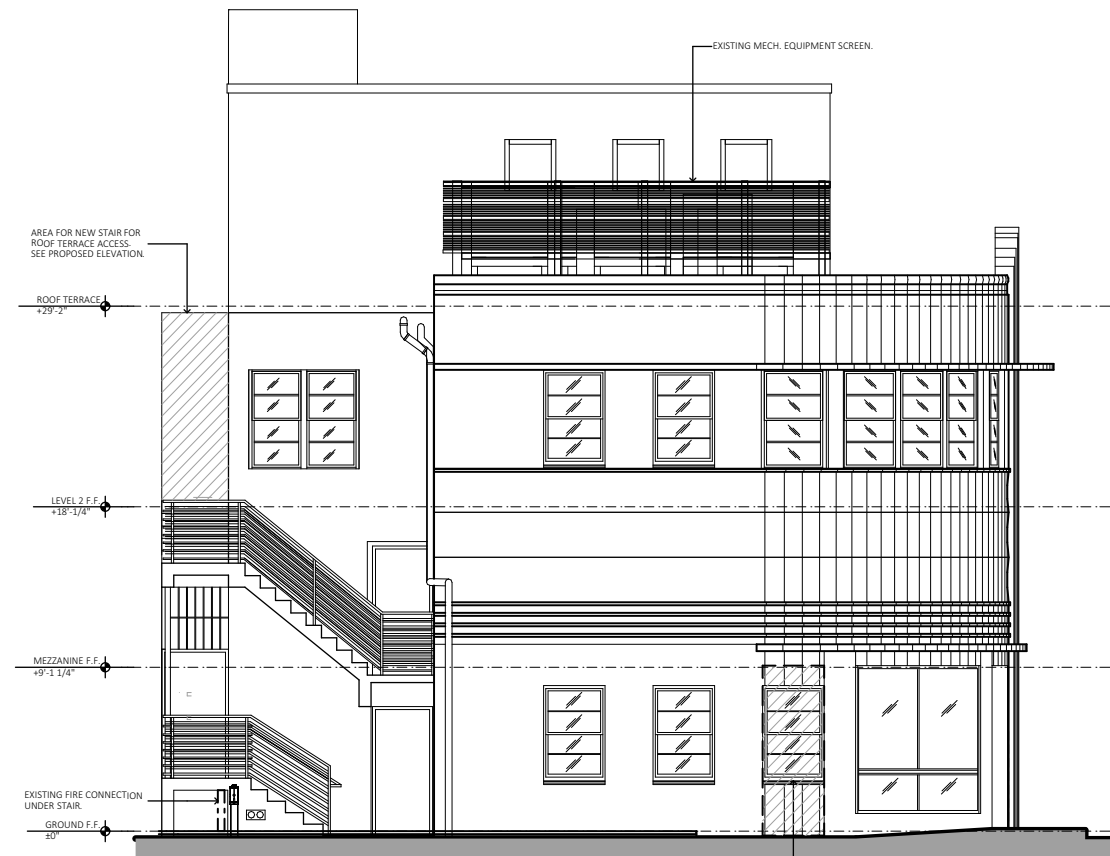
FORM GROUP, INC.
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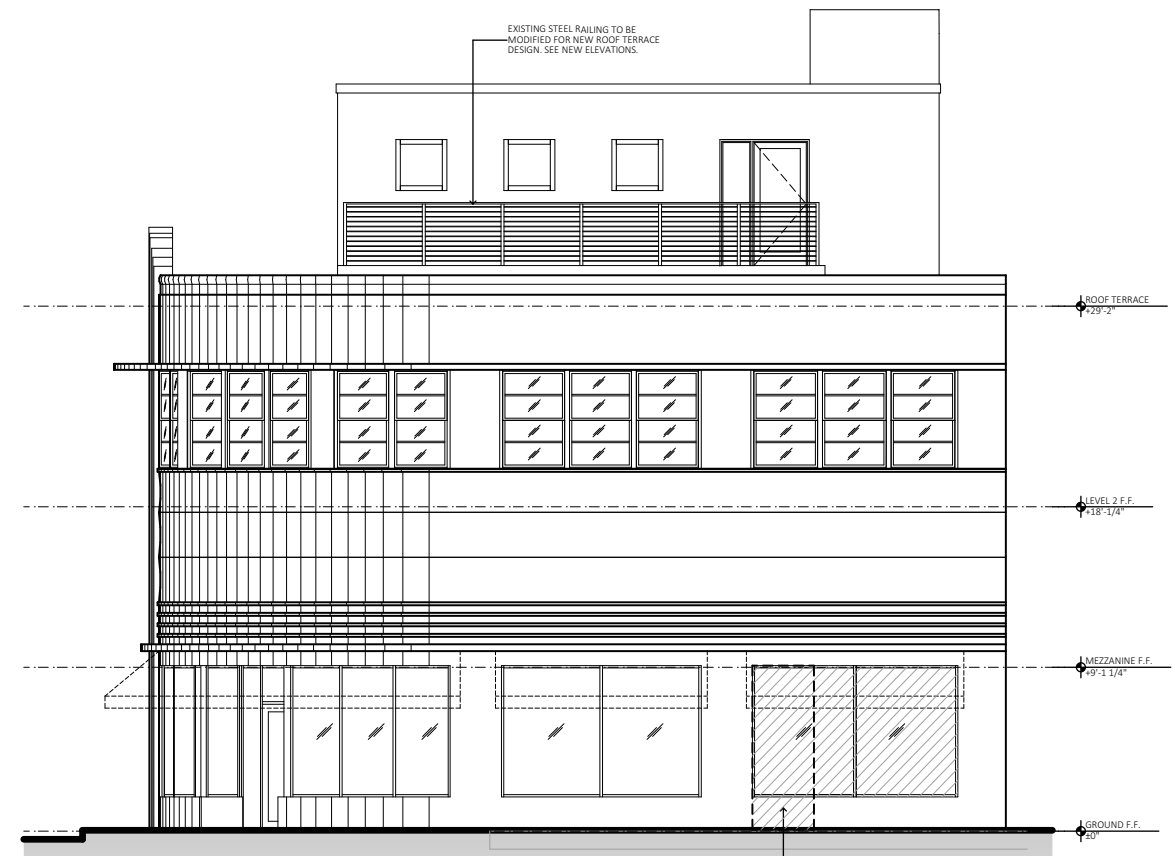
PROJECT NO. 19-1007 TITLE: EXISTING ELEVATIONS
DATE: DECEMBER 2, 2019
SCALE: AS SHOWN DRAWING NO.: **A-106**



1 EXISTING WEST ELEVATION
SCALE: 3/32" = 1'-0"



3 EXISTING NORTH ELEVATION
SCALE: 3/32" = 1'-0"



2 EXISTING SOUTH ELEVATION
SCALE: 3/32" = 1'-0"



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

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FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155

PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

FORMGROUP
architecture .planning

FORM GROUP, INC.
4300 SW 73 AVE, SUITE 106, MIAMI, FL 33155
TEL: 305-443-4244 FAX: 305-443-3338
ARCHITECT OF RECORD: OMAR MORALES, AIA
AA0018851

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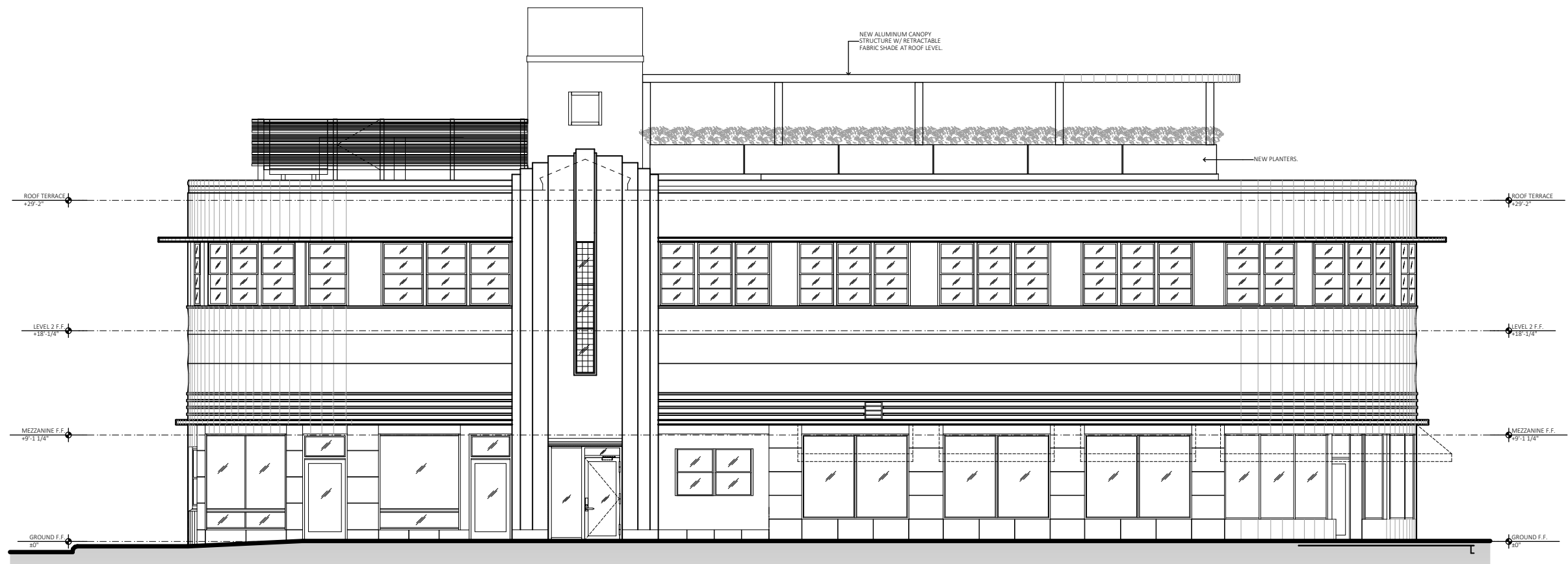
PROJECT NO. 19-1007 TITLE: PROPOSED ELEVATIONS

DATE: DECEMBER 2, 2019

SCALE: AS SHOWN

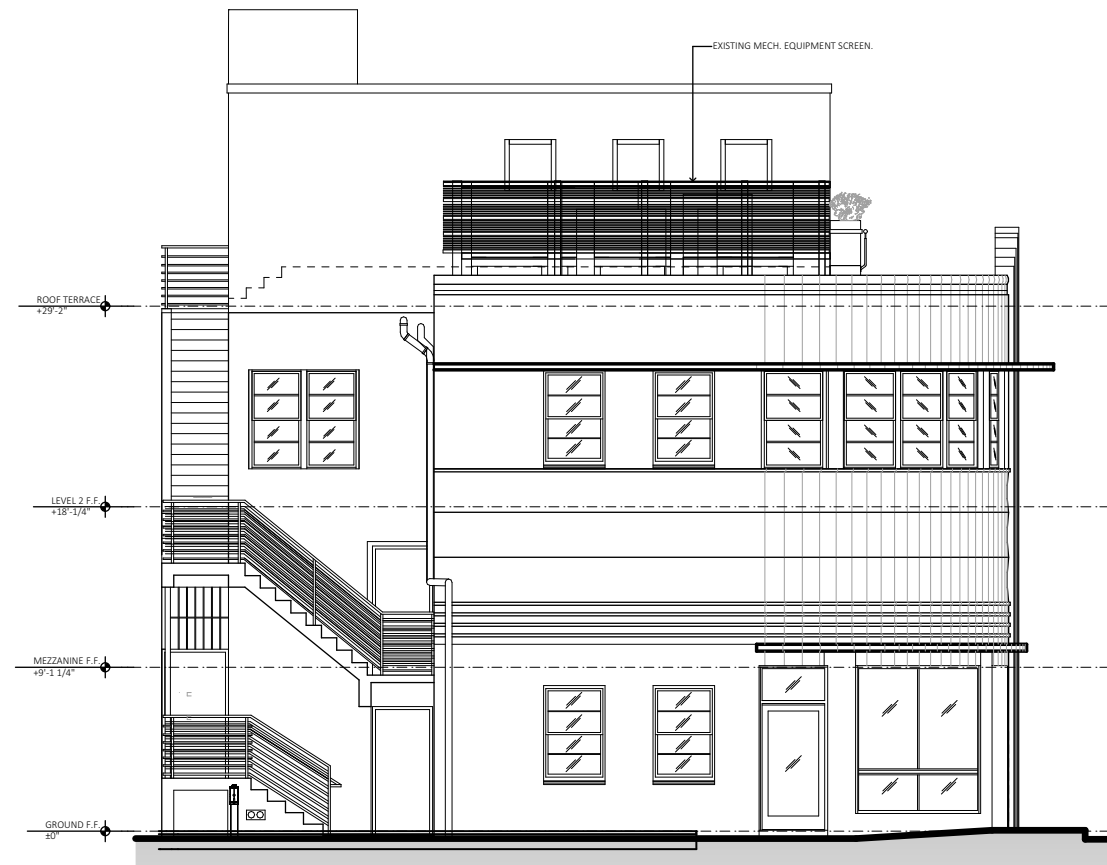
DRAWING NO.:

A-107



1 PROPOSED WEST ELEVATION
SCALE: 3/32" = 1'-0"

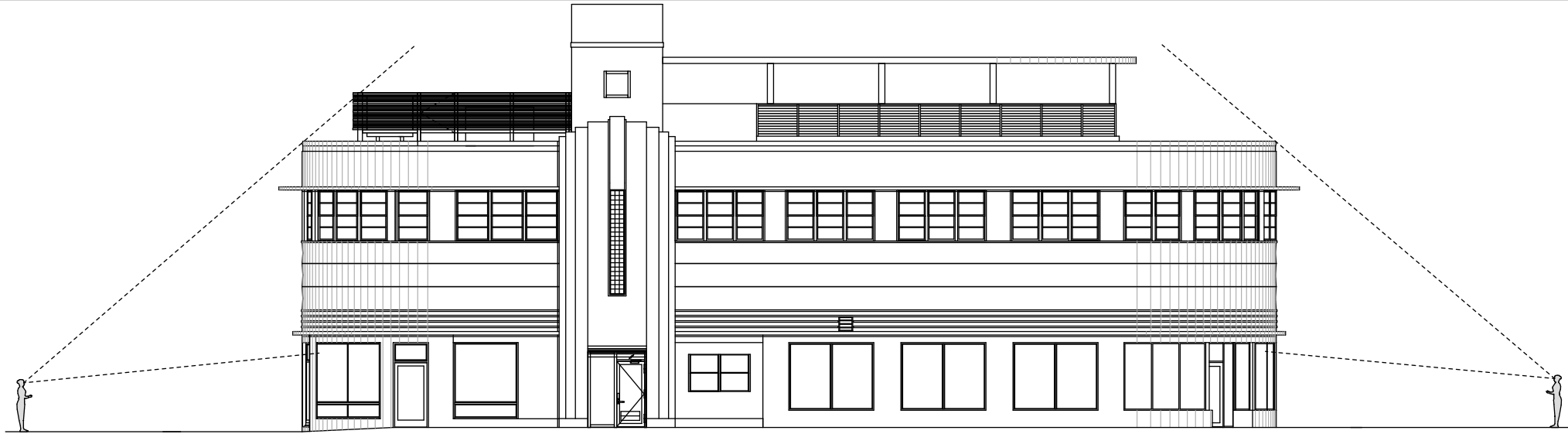
NOTE:
ALL EXISTING FINISHES, STUCCO BANDING AND
ARCHITECTURAL FEATURES ARE TO REMAIN
UNDISTURBED UNLESS OTHERWISE NOTED



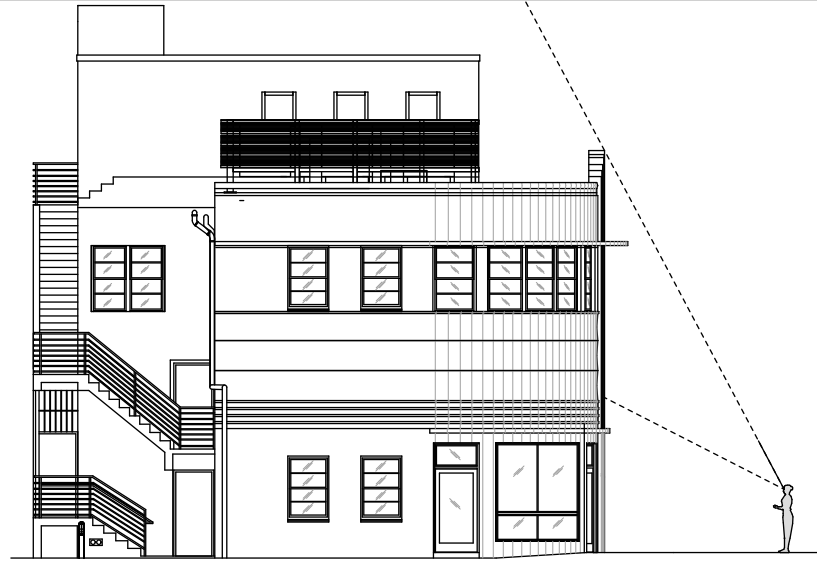
2 PROPOSED NORTH ELEVATION
SCALE: 3/32" = 1'-0"



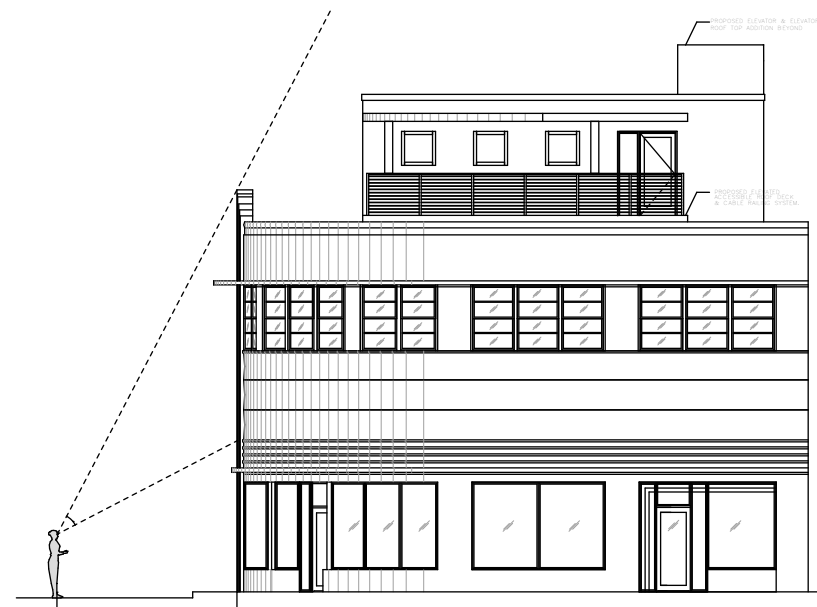
1 PROPOSED SOUTH ELEVATION
SCALE: 3/32" = 1'-0"



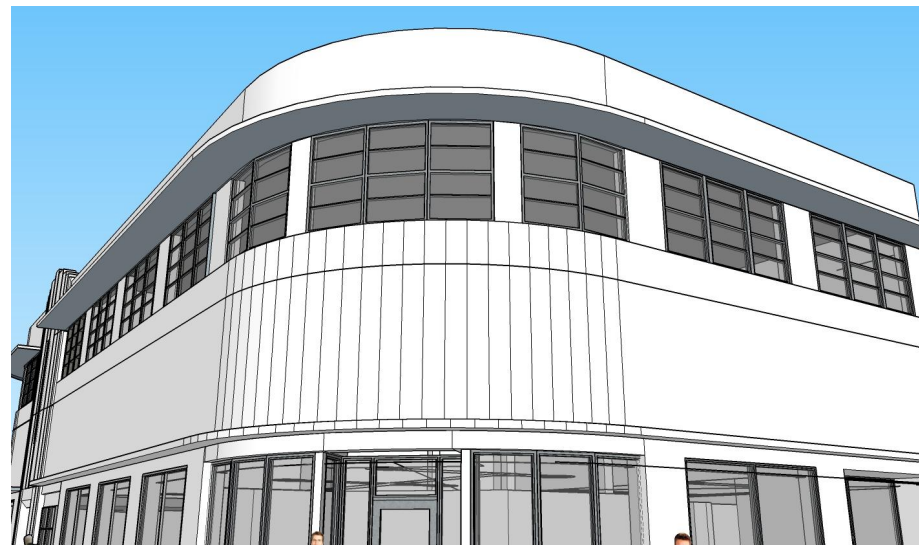
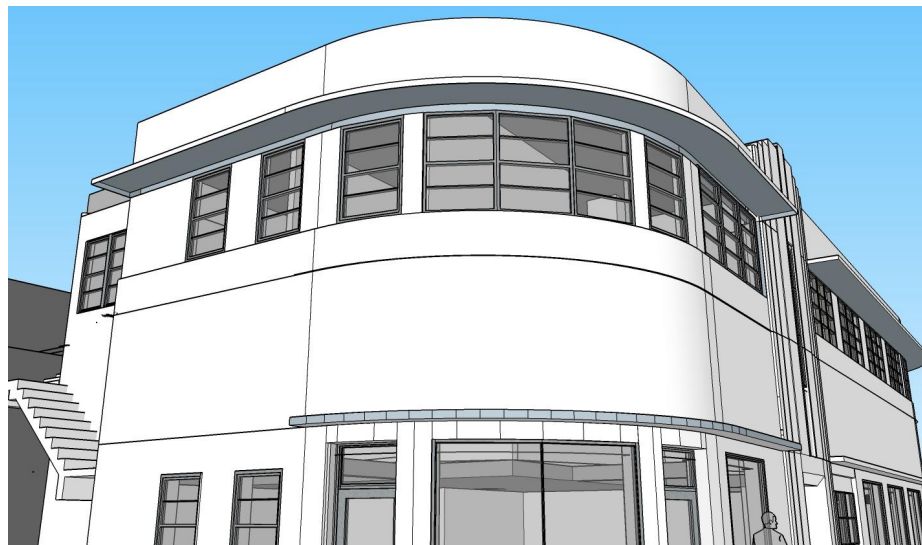
B WEST ELEVATION- VIEW ANGLE
SCALE: 1/16" = 1'-0"



A NORTH ELEVATION- VIEW ANGLE
SCALE: 1/16" = 1'-0"



C SOUTH ELEVATION- VIEW ANGLE
SCALE: 1/16" = 1'-0"



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155
PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:
**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

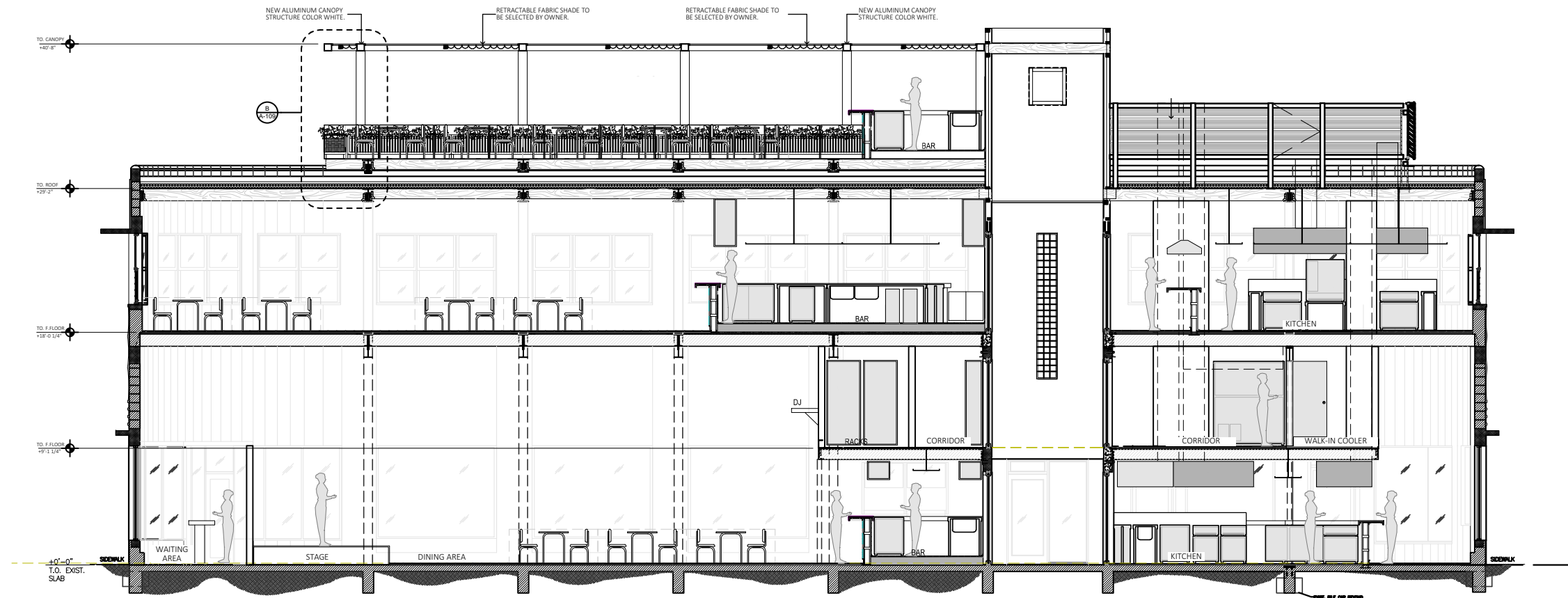
REVISIONS:



FORM GROUP, INC.
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TEL: 305-443-4244 FAX: 305-443-3338
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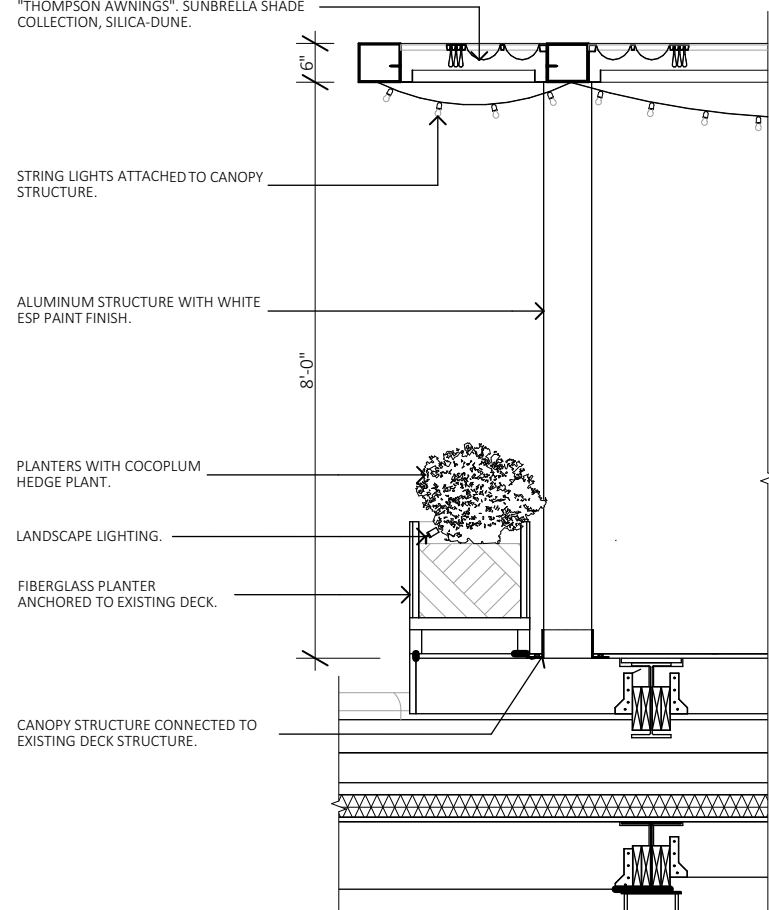
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PROJECT NO. 19-1007 **TITLE:** VIEW ANGLES
DATE: DECEMBER 2, 2019
SCALE: AS SHOWN **DRAWING NO.:** **A-108**

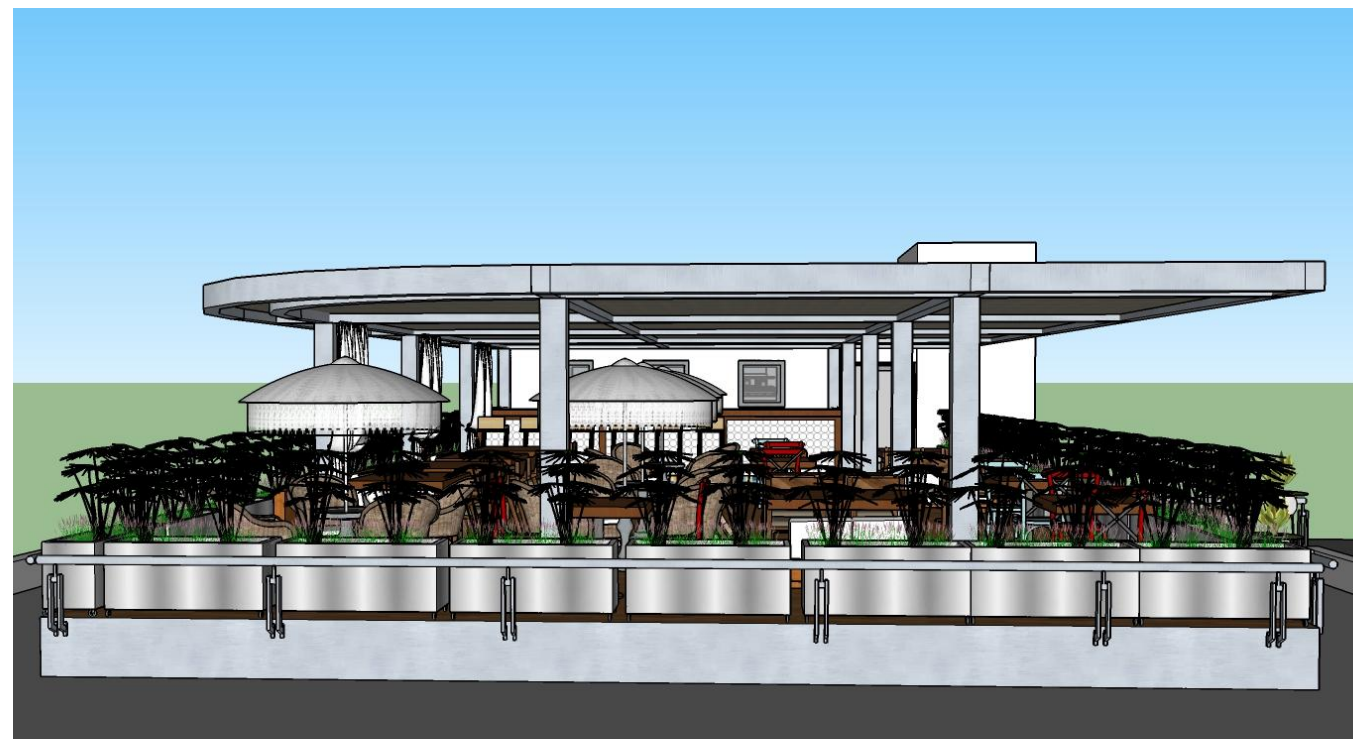


A PROPOSED BUILDING SECTION
SCALE: 3/32" = 1'-0"

RETRACTABLE FABRIC AWNING BY
"THOMPSON AWNINGS". SUNBRELLA SHADE
COLLECTION, SILICA-DUNE.



B ROOF CANOPY- SECTION DETAIL
SCALE: 3/8" = 1'-0"



1 CANOPY@ ROOF TERRRACE- 3D VIEW
NOT TO SCALE



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

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FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155
PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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FORM GROUP, INC.
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AA0018851

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PROJECT NO. 19-1007 **TITLE:** PROPOSED SECTION

DATE: DECEMBER 2, 2019

SCALE: AS SHOWN

DRAWING NO.: A-109



CANOPY- CONCEPT.



RETRACTABLE AWNINGS
FABRIC- SILICA DUNE.



STRING LIGHT-TERRACE
LIGHING CONCEPT.



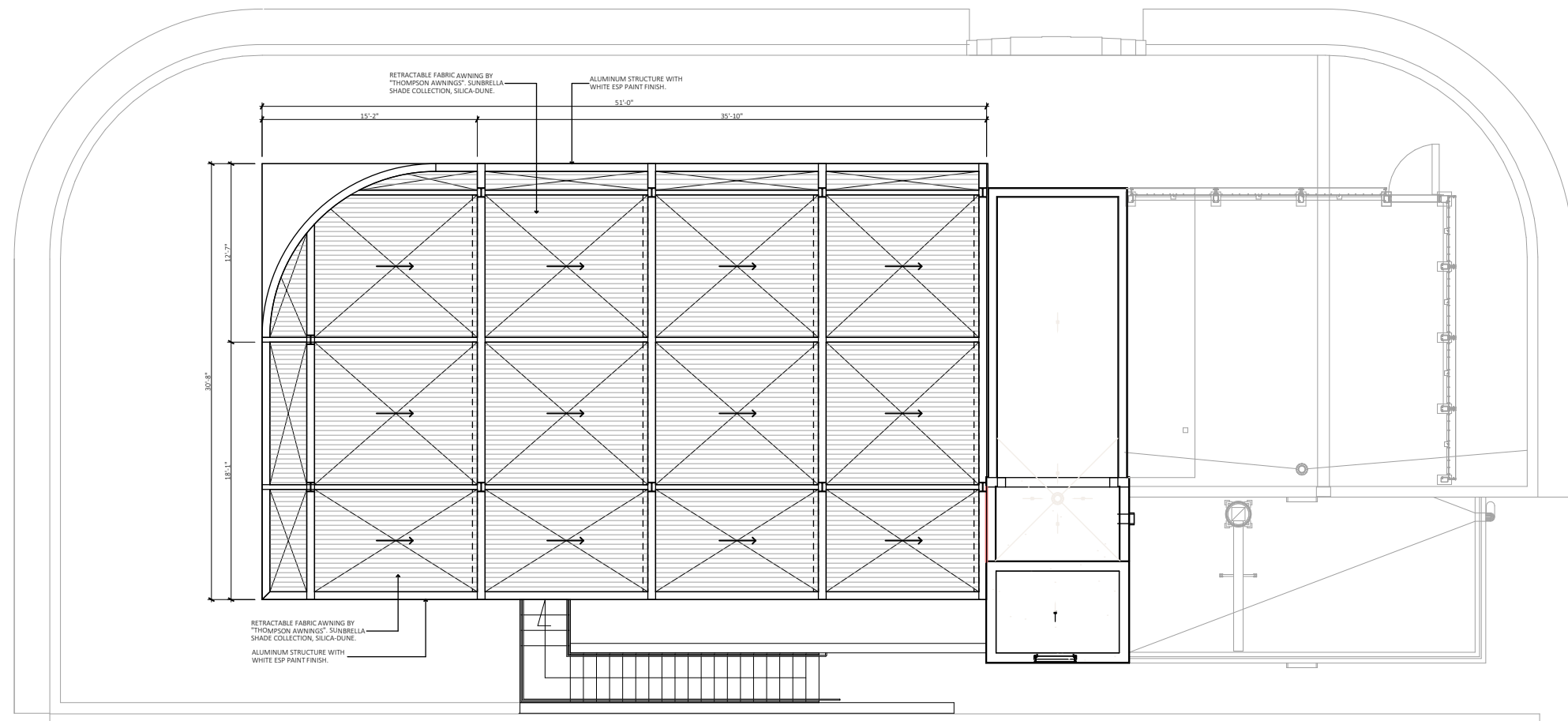
FIBERGLASS PLANTER- CONCEPT.



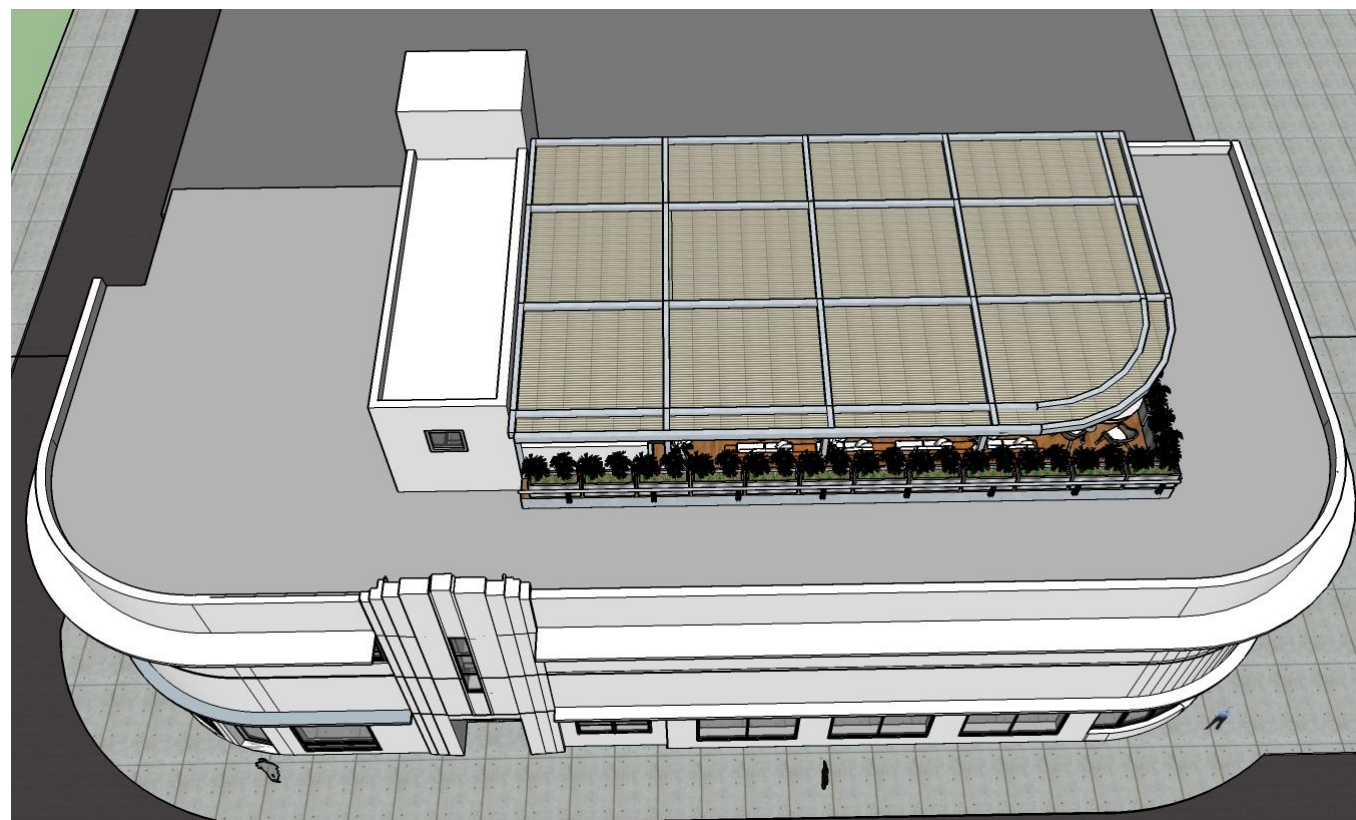
LIGHTING FOR PLANTER. CONCEPT.



COCOPLUM EDGE-
LANDSCAPING CONCEPT.



A PROPOSED CANOPY @ ROOF TERRACE
SCALE: 3/32" = 1'-0"



2 CANOPY@ ROOF TERRRACE- 3D VIEW
NOT TO SCALE



3 CANOPY@ ROOF TERRRACE- 3D VIEW
NOT TO SCALE



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

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4300 SW 73 AVE, #106
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PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

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PROJECT NO. 19-1007 **TITLE:** PROPOSED CANOPY

DATE: DECEMBER 2, 2019

SCALE: AS SHOWN

DRAWING NO.:

A-110



B GROUND FLOOR BAR- INTERIOR RENDERING
NOT TO SCALE



A GROUND FLOOR DINING AREA- INTERIOR RENDERING
NOT TO SCALE



B STAGE- INTERIOR RENDERING
NOT TO SCALE



C STAGE/ DINING AREA- INTERIOR RENDERING
NOT TO SCALE



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

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FORM GROUP, INC.
4300 SW 73 AVE, #106
MIAMI, FL, 33155

PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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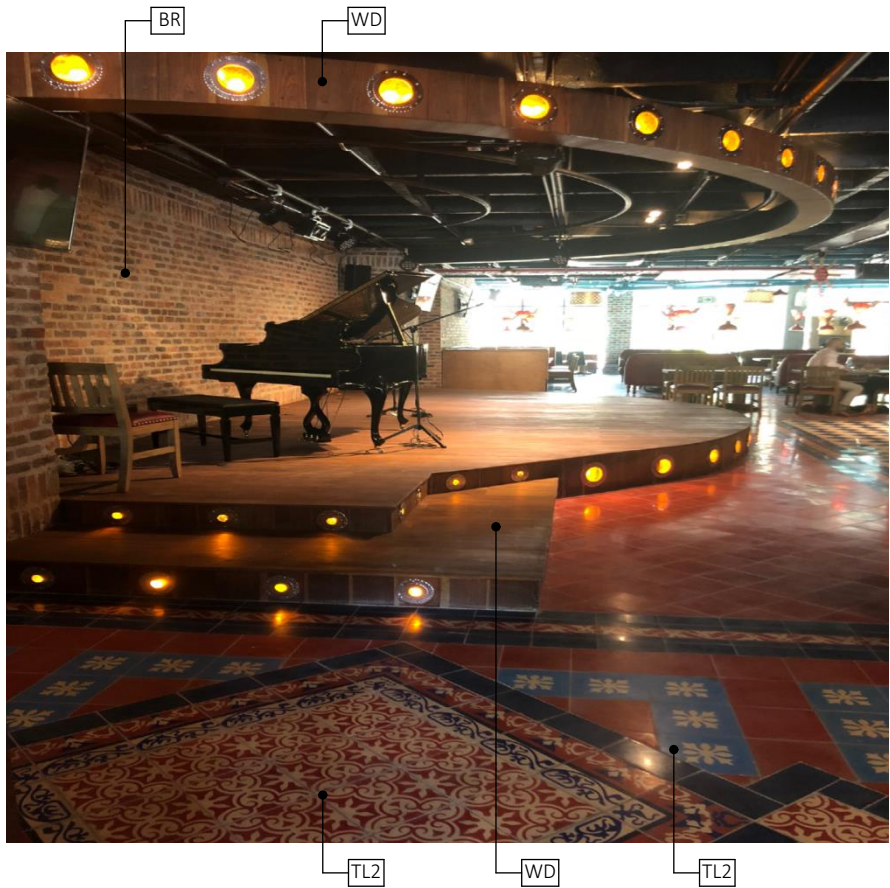
PROJECT NO. 19-1007 **TITLE:** INTERIOR RENDERINGS

DATE: DECEMBER 2, 2019

SCALE: AS SHOWN

DRAWING NO.:

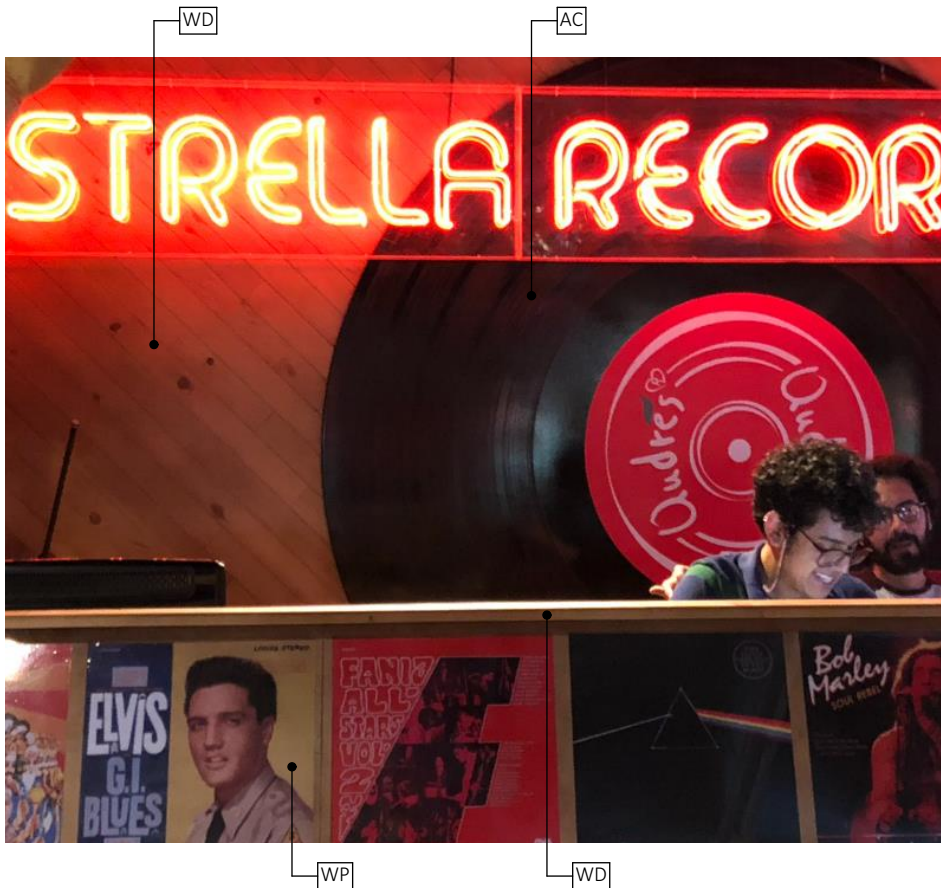
A-111



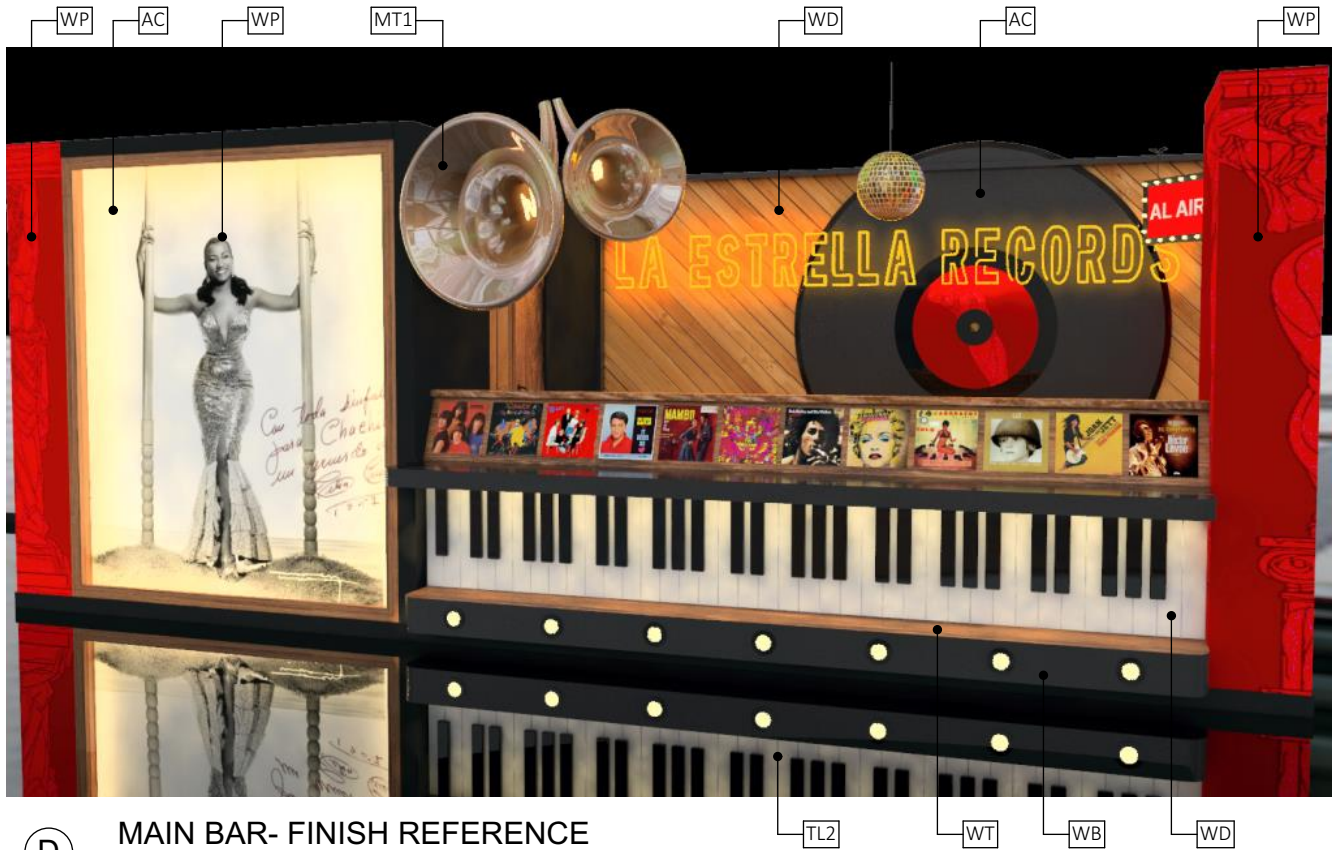
A PIANO STAGE- FINISH REFERENCE
NOT TO SCALE



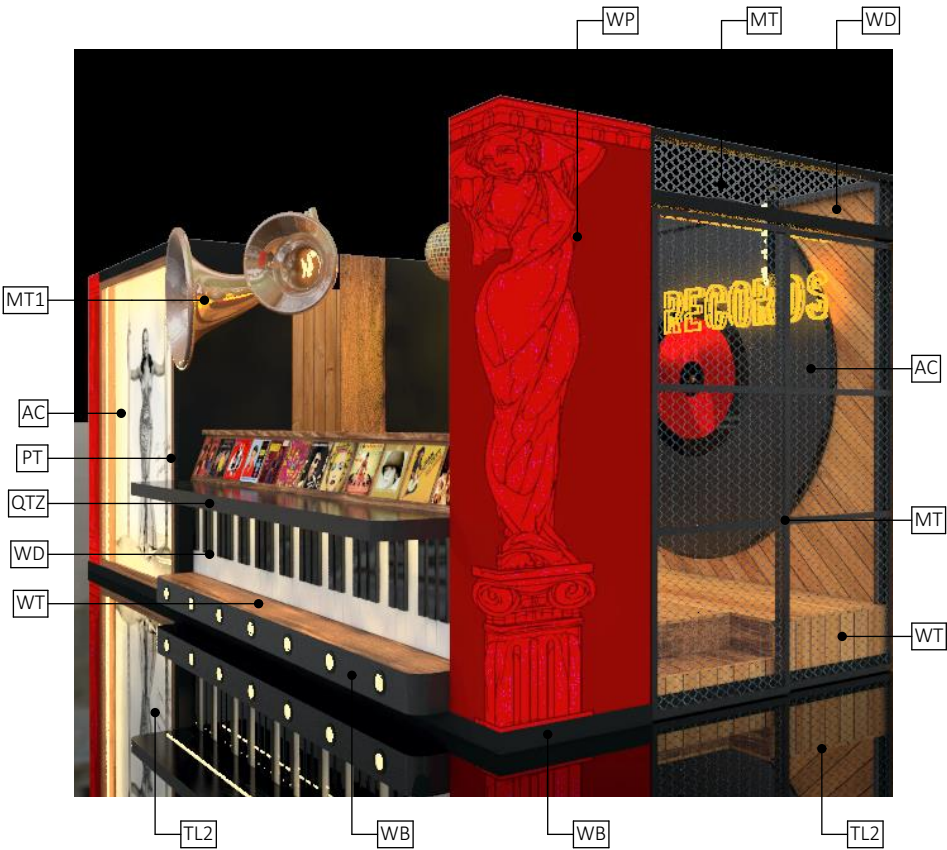
B INTERIOR LIGHTING- FINISH REFERENCE
NOT TO SCALE



C BACKBAR- FINISH REFERENCE
SCALE: 1:0.74



D MAIN BAR- FINISH REFERENCE
NOT TO SCALE



FINISH LEGEND	
AC	ACRYLIC. CUSTOM COLOR BY I.D.
BR	BRICK TILE. CUSTOM COLOR BY I.D.
MT	METAL PANEL.
MT1	METAL FINISH.
PT	PAINT. COLOR BY I.D.
QTZ	QUARTZ. COLOR BY I.D.
TL1	TILE. CUSTOM COLOR BY I.D.
TL2	TILE. CUSTOM COLOR BY I.D.
TL3	TILE. CUSTOM COLOR BY I.D.
WB	WOOD BASE.
WD	WOOD.
WT	WOOD TILE. CUSTOM COLOR BY I.D.
WP	WALLPAPER.



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

ARCHITECT:
FORM GROUP, INC
4300 SW 73 AVE, #106
MIAMI, FL, 33155

PH: 305-443-4244

INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

ANDRÉS
CARNE DE RES

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:

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architecture .planning

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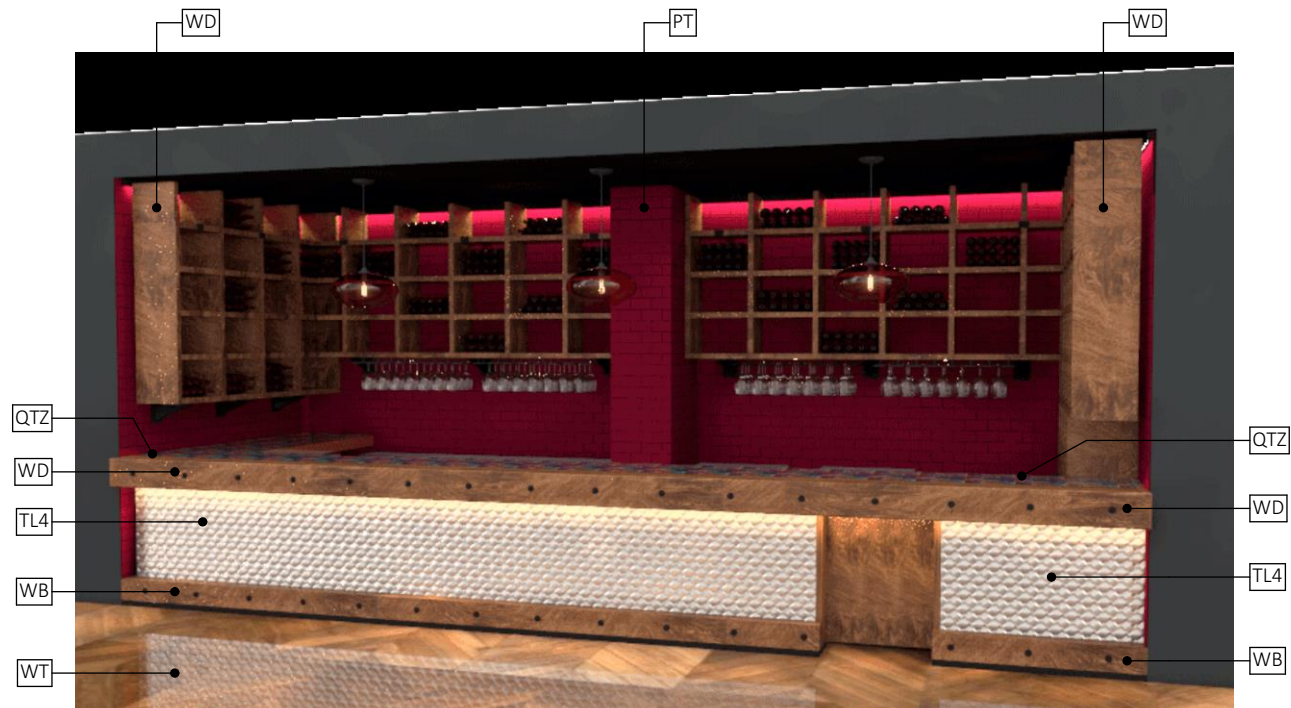
PROJECT NO.
19-1007
DATE:
DECEMBER 2, 2019

SCALE:
AS SHOWN

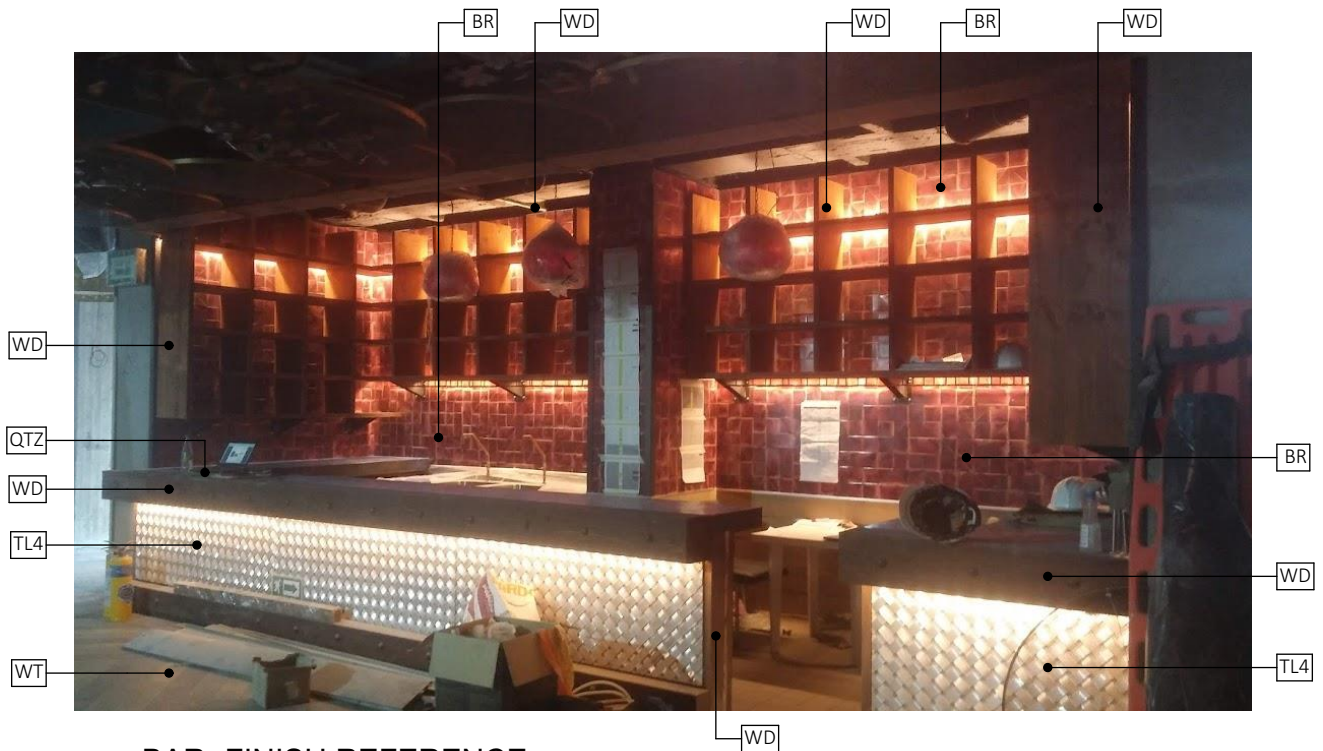
TITLE:
INTERIOR FINISHES-
SAMPLE REFERENCE

DRAWING NO.:

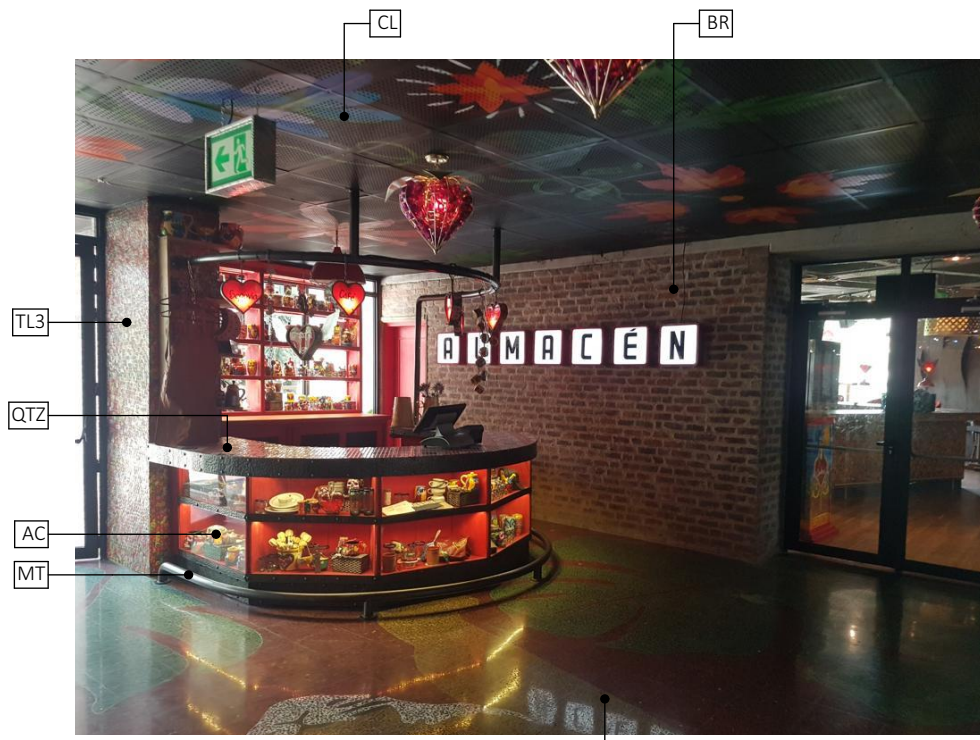
A-112



A BAR- FINISH REFERENCE
NOT TO SCALE



B BAR- FINISH REFERENCE
NOT TO SCALE



C STREET VIEW-DREXEL AVE
NOT TO SCALE

FINISH LEGEND	
AC	ACRYLIC. CUSTOM COLOR BY I.D.
BR	BRICK TILE. CUSTOM COLOR BY I.D.
CL	ACOUSTIC CEILING. COLOR BY I.D.
MT	METAL PANEL.
MT1	METAL FINISH.
PT	PAINT. COLOR BY I.D.
QTZ	QUARTZ. COLOR BY I.D.
TL1	TILE. CUSTOM COLOR BY I.D.
TL2	TILE. CUSTOM COLOR BY I.D.
TL3	TILE. CUSTOM COLOR BY I.D.
TL4	TILE. CUSTOM COLOR BY I.D.
WB	WOOD BASE.
WD	WOOD.
WT	WOOD TILE. CUSTOM COLOR BY I.D.
WP	WALLPAPER.



OWNER:
LINCOLN DREXEL, LTD AND
LINCOLN DREXEL II, LTD.
3921 ALTON ROAD #463
MIAMI BEACH, FL 33140

DEVELOPER:

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4300 SW 73 AVE, #106
MIAMI, FL, 33155
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INTERIOR DESIGNER:

PLANNING APPLICATION FOR:

**ANDRÉS
CARNE DE RES**

LINCOLN DREXEL BUILDING
1655 DREXEL AVENUE
MIAMI BEACH, FL 33139

REVISIONS:



FORM GROUP, INC.
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TEL: 305.443.4244 FX: 305.443.3338
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AA0018851

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PROJECT NO.
19-1007
DATE:
DECEMBER 2, 2019
SCALE:
AS SHOWN
TITLE:
INTERIOR FINISHES-
SAMPLE REFERENCE
DRAWING NO.:
A-113

MARIA GRAZIA BOLDROCCHI
VIA PAOLO GIOVIO 9
MILANO 20144
ITALY

ROBERTO POLILLO
VIA ANDREA PONTI 15
MILANO 20143
ITALY

420 LINCOLN RD DEVELOPMENT LLC
420 LINCOLN RD STE 330
MIAMI BEACH, FL 33139

420 LINCON RD ASSOCIATES LTD
% PLC REAL ESTATE HOLDINGS INC
420 LINCOLN RD #2D
MIAMI BEACH, FL 33139

433 LINCOLN ROAD LLC
1244 SIXTH STREET
SANTA MONICA, CA 90401

530 LINCOLN OWNER LLC
801 GRAND AVE
DES MOINES, IA 50392

ALTONSTAR LLC
C/O SOUTH BEACH TRISTAR CAPITAL
1407 BROADWAY 41 FL
NEW YORK, NY 10018

BARTHELEMY GARNIER
CHARLOTTE JONCQUIERT
1616 DREXEL AVE 4
MIAMI BEACH, FL 33139

CITY OF MIAMI BEACH
1700 CONVENTION CENTER DR
MIAMI BEACH, FL 33139

CITY OF MIAMI BEACH
NEW WORLD SYMPHONY LESSEE
500 17 STREET
MIAMI BEACH, FL 33139

CITY OF MIAMI BEACH
FLA BAY SHORE CLUB COURSE
MIAMI, FL 33125

EUROAMERICAN GROUP INC
407 LINCOLN RD PH-N
MIAMI BEACH, FL 33139

J BERENS & SONS DEV CORP INC
9623 E BROADVIEW DR
BAY HARBOR ISLAND, FL 33154

LINCOLN 511 LLC
% JENEL MGMT CORP
275 MADISON AVE STE 702
NEW YORK, NY 10016

LINCOLN DREXEL II LTD
LINCOLN DREXEL LTD
1655 DREXEL AVE STE 208
MIAMI BEACH, FL 33139

MED PROPERTIES OF MIAMI BEACH INC
% SHAUL ZISLIN
4100 NORTH 28 TERRACE
HOLLYWOOD, FL 33020

MIAMI BEACH COMMUNITY CH INC
1620 DREXEL AVE
MIAMI BEACH, FL 33139

MIAMI BEACH FED SAV & LOAN ASSOC
% NC1-001-03-81
101 N TRYON ST
CHARLOTTE, NC 28255

RDB&J INVESTMENTS LLC
560 LINCOLN RD STE 204
MIAMI BEACH, FL 33139-2906

SABRINA 1616 INC
3370 MARY STREET
MIAMI, FL 33133

SRA LINCOLN THEATER LLC
5345 PINE TREE DR
MIAMI BEACH, FL 33140

THE DENISON CORP
% DR D QUITTNER
560 LINCOLN RD STE 204
MIAMI BEACH, FL 33139

TOROLUPA INC
525 LINCOLN RD
MIAMI BEACH, FL 33139-2913

Name	Address	City	State	Zip	Country
MARIA GRAZIA BOLDROCCHI	VIA PAOLO GIOVIO 9	MILANO 20144			ITALY
ROBERTO POLILLO	VIA ANDREA PONTI 15	MILANO 20143			ITALY
420 LINCOLN RD DEVELOPMENT LLC	420 LINCOLN RD STE 330	MIAMI BEACH	FL	33139	USA
420 LINCON RD ASSOCIATES LTD % PLC REAL ESTATE HOLDINGS INC	420 LINCOLN RD #2D	MIAMI BEACH	FL	33139	USA
433 LINCOLN ROAD LLC	1244 SIXTH STREET	SANTA MONICA	CA	90401	USA
530 LINCOLN OWNER LLC	801 GRAND AVE	DES MOINES	IA	50392	USA
ALTONSTAR LLC C/O SOUTH BEACH TRISTAR CAPITAL	1407 BROADWAY 41 FL	NEW YORK	NY	10018	USA
BARTHELEMY GARNIER CHARLOTTE JONCQUIERT	1616 DREXEL AVE 4	MIAMI BEACH	FL	33139	USA
CITY OF MIAMI BEACH	1700 CONVENTION CENTER DR	MIAMI BEACH	FL	33139	USA
CITY OF MIAMI BEACH NEW WORLD SYMPHONY LESSEE	500 17 STREET	MIAMI BEACH	FL	33139	USA
CITY OF MIAMI BEACH	FLA BAY SHORE CLUB COURSE	MIAMI	FL	33125	USA
EUROAMERICAN GROUP INC	407 LINCOLN RD PH-N	MIAMI BEACH	FL	33139	USA
J BERENS & SONS DEV CORP INC	9623 E BROADVIEW DR	BAY HARBOR ISLAND	FL	33154	USA
LINCOLN 511 LLC % JENEL MGMT CORP	275 MADISON AVE STE 702	NEW YORK	NY	10016	USA
LINCOLN DREXEL II LTD LINCOLN DREXEL LTD	1655 DREXEL AVE STE 208	MIAMI BEACH	FL	33139	USA
MED PROPERTIES OF MIAMI BEACH INC % SHAUL ZISLIN	4100 NORTH 28 TERRACE	HOLLYWOOD	FL	33020	USA
MIAMI BEACH COMMUNITY CH INC	1620 DREXEL AVE	MIAMI BEACH	FL	33139	USA
MIAMI BEACH FED SAV & LOAN ASSOC % NC1-001-03-81	101 N TRYON ST	CHARLOTTE	NC	28255	USA
RDB&J INVESTMENTS LLC	560 LINCOLN RD STE 204	MIAMI BEACH	FL	33139-2906	USA
SABRINA 1616 INC	3370 MARY STREET	MIAMI	FL	33133	USA
SRA LINCOLN THEATER LLC	5345 PINE TREE DR	MIAMI BEACH	FL	33140	USA
THE DENISON CORP % DR D QUITTNER	560 LINCOLN RD STE 204	MIAMI BEACH	FL	33139	USA
TOROLUPA INC	525 LINCOLN RD	MIAMI BEACH	FL	33139-2913	USA

Name	Address	City	State	Zip	Country
MARIA GRAZIA BOLDROCCHI	VIA PAOLO GIOVIO 9	MILANO 20144			ITALY
ROBERTO POLILLO	VIA ANDREA PONTI 15	MILANO 20143			ITALY
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420 LINCON RD ASSOCIATES LTD % PLC REAL ESTATE HOLDINGS INC	420 LINCOLN RD #2D	MIAMI BEACH	FL	33139	USA
433 LINCOLN ROAD LLC	1244 SIXTH STREET	SANTA MONICA	CA	90401	USA
530 LINCOLN OWNER LLC	801 GRAND AVE	DES MOINES	IA	50392	USA
ALTONSTAR LLC C/O SOUTH BEACH TRISTAR CAPITAL	1407 BROADWAY 41 FL	NEW YORK	NY	10018	USA
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CITY OF MIAMI BEACH	1700 CONVENTION CENTER DR	MIAMI BEACH	FL	33139	USA
CITY OF MIAMI BEACH NEW WORLD SYMPHONY LESSEE	500 17 STREET	MIAMI BEACH	FL	33139	USA
CITY OF MIAMI BEACH	FLA BAY SHORE CLUB COURSE	MIAMI	FL	33125	USA
EUROAMERICAN GROUP INC	407 LINCOLN RD PH-N	MIAMI BEACH	FL	33139	USA
J BERENS & SONS DEV CORP INC	9623 E BROADVIEW DR	BAY HARBOR ISLAND	FL	33154	USA
LINCOLN 511 LLC % JENEL MGMT CORP	275 MADISON AVE STE 702	NEW YORK	NY	10016	USA
LINCOLN DREXEL II LTD LINCOLN DREXEL LTD	1655 DREXEL AVE STE 208	MIAMI BEACH	FL	33139	USA
MED PROPERTIES OF MIAMI BEACH INC % SHAUL ZISLIN	4100 NORTH 28 TERRACE	HOLLYWOOD	FL	33020	USA
MIAMI BEACH COMMUNITY CH INC	1620 DREXEL AVE	MIAMI BEACH	FL	33139	USA
MIAMI BEACH FED SAV & LOAN ASSOC % NC1-001-03-81	101 N TRYON ST	CHARLOTTE	NC	28255	USA
RDB&J INVESTMENTS LLC	560 LINCOLN RD STE 204	MIAMI BEACH	FL	33139-2906	USA
SABRINA 1616 INC	3370 MARY STREET	MIAMI	FL	33133	USA
SRA LINCOLN THEATER LLC	5345 PINE TREE DR	MIAMI BEACH	FL	33140	USA
THE DENISON CORP % DR D QUITTNER	560 LINCOLN RD STE 204	MIAMI BEACH	FL	33139	USA
TOROLUPA INC	525 LINCOLN RD	MIAMI BEACH	FL	33139-2913	USA

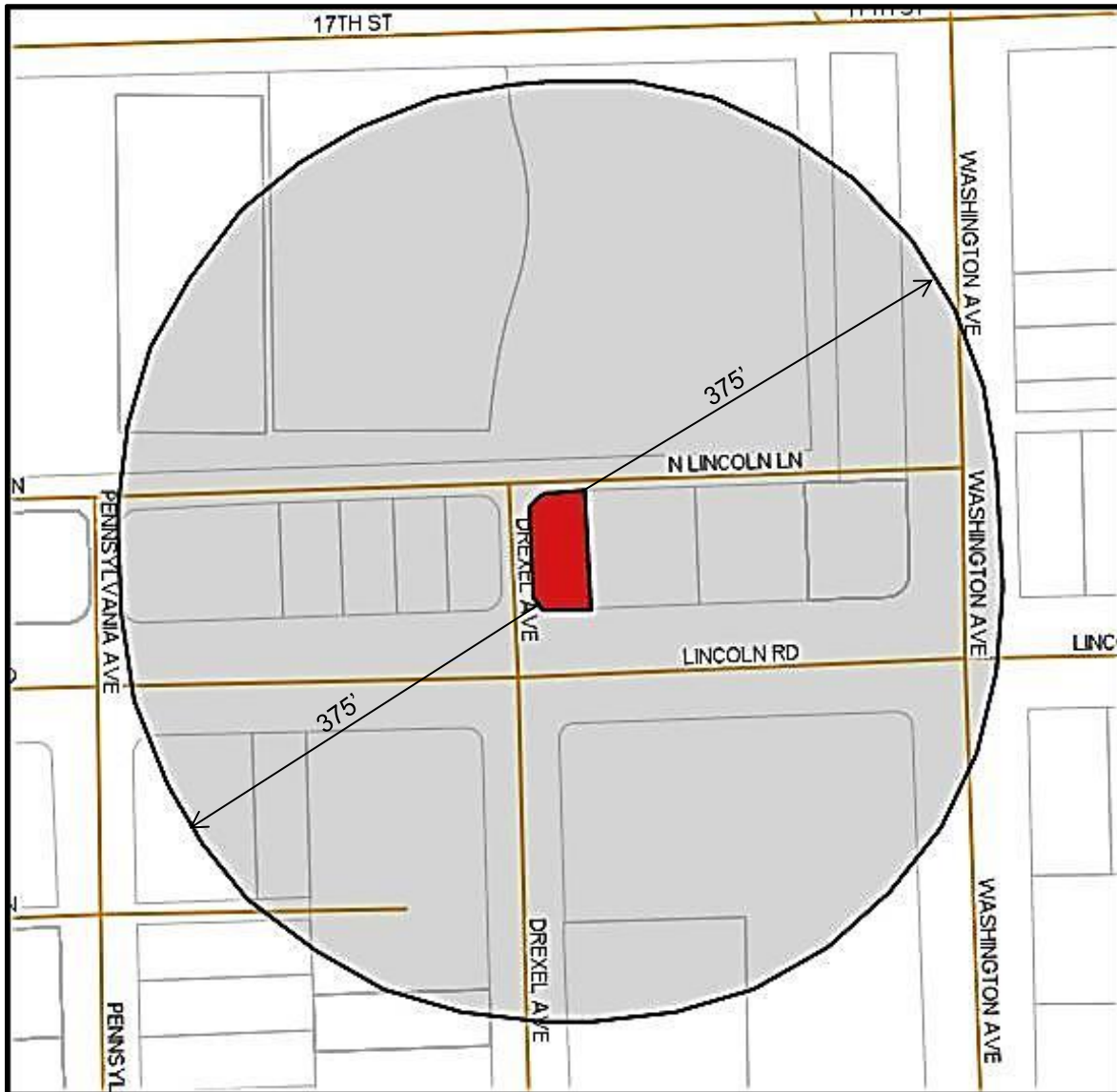


rdr miami | public hearing notification services

certified lists of property owners within a specific radius + radius maps + mailing labels + mailouts + notice of public hearing site posting

rdrmiami.com | diana@rdrmiami.com | 305.498.1614

375' RADIUS MAP



SUBJECT: 455 Lincoln Road, Miami Beach, FL 33139

FOLIO NUMBER: 02-3234-005-0100

LEGAL DESCRIPTION: LINCOLN RD SUB A PB 34-66 LOT 1 BLK 3



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certified lists of property owners within a specific radius + radius maps + mailing labels + mailouts + notice of public hearing site posting
rdrmiami.com | diana@rdrmiami.com | 305.498.1614

October 26, 2019

City of Miami Beach
Planning Department
1700 Convention Center Dr.
Miami Beach, FL 33139

Re: Property owners within 375 feet of:

SUBJECT: 455 Lincoln Road, Miami Beach, FL 33139

FOLIO NUMBER: 02-3234-005-0100

LEGAL DESCRIPTION: LINCOLN RD SUB A PB 34-66 LOT 1 BLK 3

This is to certify that the attached ownership list, map and mailing labels are a complete and accurate representation of the real estate property and property owners within 375 feet radius of the external boundaries of the subject property listed above, including the subject property. This reflects the most current records on file in the Miami-Dade County Property Appraisers' Office.

Sincerely,

Diana B. Rio

Total number of property owners without repetition: **23, including 2 international**

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: January 28, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 19-0330, 455 Lincoln Road – Andres Carne de Res**

An application has been filed requesting a conditional use permit for a Neighborhood Impact Establishment with Entertainment with an occupant content in excess of 200 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

RECOMMENDATION

Approval with conditions

ZONING/SITE DATA

Legal Description:

LOT 1, Block 3, of "Lincoln Road Subdivision", according to the Plat thereof as recorded in Plat book 34, at Page 66, of the Public Records of Miami-Dade County.

Zoning District:

CD-3 (Commercial High Intensity District)

Future Land Use Designation:

CD-3 (High Intensity Commercial Category)

Surrounding Uses:

North:	Public park
South:	Commercial Establishments
West:	Commercial Establishments
East:	Commercial Establishments

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

THE PROJECT

The applicant, Opereta Ciudad Del Sol, LLC, has submitted plans entitled "Andres Carne De Res". The proposal is for a restaurant that occupies the existing two-story commercial building including the rooftop located at 455 Lincoln Road.

Page A-104 of the plans, prepared by Form Group, provides the proposed ground floor plan with 104 seats, an occupancy load of 192 with indoor entertainment and the mezzanine floor plan with kitchen preparation areas, storage and office space. Page A-105 provides the proposed second floor plan called: "third floor plan" with 119 seats, an occupancy load of 141 with indoor entertainment and the roof top plan with 65 seats and an occupancy load of 72 with no entertainment. Only music played at background level that does not interfere with normal conversation is proposed at the rooftop..

The total occupancy load projected is 413, with alcohol service and indoor entertainment. Per Section 142-1361 of the Land Development Regulations, an alcoholic beverage establishment or

Section 142-1361 of the Land Development Regulations, an alcoholic beverage establishment or restaurant, which is also operating as an entertainment establishment or dance hall, with an occupant content of 200 or more persons constitutes a Neighborhood Impact Establishment (NIE).

The proposal is scheduled to be considered by the Historic Preservation Board on March 10, 2020 (File No. HPB19-0367).

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 permissible uses in the High Intensity Commercial Category (CD-3) as designated on the Future Land Use Map within the Comprehensive Plan.

- 2. The intended Use or construction would not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan**

Consistent – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.

- 3. Structures and uses associated with the request are consistent with these Land Development Regulations.**

Consistent – Entertainment and Neighborhood Impact Establishments are permitted as conditional uses in this zoning district. This comment shall not be considered final zoning review or approval. The proposed outdoor bar must close at 12 am, unless a variance for extended hours is granted by the Historic Preservation Board. This and all zoning matters shall require final review and verification prior to the issuance of a Building Permit.

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

Consistent – The proposed establishment may adversely affect the general welfare of nearby residents if noise and other issues are not controlled. The facility would have to comply with all applicable laws and regulations for licensure.

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

Consistent – The site is located in parking district No. 2, and as such, restaurant uses have no parking requirement. Additionally, there are adequate public parking facilities adjacent to the site. See the detailed traffic and parking study prepared by Traf Tech Engineering, Inc.

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

Consistent – Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighbors.

- 7. The concentration of similar types of uses would not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.**

Consistent – There are other restaurants within the vicinity, however restaurants and entertainment uses are appropriate for Lincoln Road and its vicinity. Therefore, no negative impact through the concentration of uses is expected.

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.**

The operational plan was submitted with the application and details hours for deliveries and trash pickup, hours of operation, number of employees, and other procedures.

- 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.**

The site is located in parking district No. 2 and as such has no parking requirement for the proposed use. The site is one block to the 17th Street parking garage which is expected to provide sufficient parking to serve the establishment.

- 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.**

The applicant has indicated that queuing is not expected in the outdoor areas, as there is plenty of room for queuing on the interior at the ground floor level.

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

The applicant has indicated that there will be trained staff and per operational plan, after 10:00 pm, there will be restrictions on admission based on patron age. Only patrons 21 years of age and older can access the second floor and rooftop levels after that time.

- 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.**

A transportation demand management plan was provided.

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

The applicant's operations plan indicates how trash pickups are handled. Pickups will occur daily between 8:00 AM and 5:00 PM along Lincoln Lane.

7. A noise attenuation plan which addresses how noise would be controlled to meet the requirements of the noise ordinance.

A sound study and peer review were not required, as no outdoor entertainment is currently proposed.

8. Proximity of proposed establishment to residential uses.

The project is surrounded by commercial uses and a public park.

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

Restaurants are a typical and encouraged use within the Lincoln Road corridor. As such, there will be no cumulative effect on adjacent pre-existing uses.

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.
Per LOI, the applicant will provide a recycling or salvage plan during demolition.
2. Windows that are proposed to be replaced shall be hurricane proof impact windows.
Per LOI, Windows will be hurricane windows.
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Per LOI, operable windows will be provided.
4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.
Not Applicable.
5. Whether 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, including a study of land elevation and elevation of surrounding properties were considered.
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.
Not Applicable.
7. Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.
Per LOI all critical mechanical and electrical systems will be located above BFE.

8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.
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. Where feasible and appropriate, water retention systems shall be provided.
Not Applicable

ANALYSIS

Project Description and Operations

The proposal is for the renovation of the existing building to operate the proposed restaurant with indoor entertainment on the ground floor and second floor and the use of the rooftop with no entertainment. Only music played at background level that does not interfere normal conversation is proposed at the rooftop. The total occupancy load is 413, with alcohol service and indoor entertainment. Per Section 142-1361 of the Land Development Regulations, an alcoholic beverage establishment or restaurant, which is also operating as an entertainment establishment or dance hall, with an occupant content of 200 or more persons constitutes a Neighborhood Impact Establishment (NIE).

As per the plans, letter of intent and operational plan, the breakdown of the areas, the occupancy, the proposed hours, and whether or not entertainment is proposed are as follows:

LOCATION	SEATING	OCCUPANCY	PROPOSED HOURS	ENTERTAINMENT
Ground Floor	Bar: 9 Dining area: 95 104	192	Restaurant: 7:00 AM to 4:00 AM Bar: cease at 3:00 AM Entertainment: (dance hall, live music) Per operational plan: only during evening hours	YES (INDOOR)
Mezzanine		8		NO
Second Floor	119	141	Restaurant: 7:00 AM to 4:00 AM Bar: cease at 3:00 AM Entertainment: (dance hall, live music) Per operational plan: only during evening hours	YES (INDOOR)
Roof top	65	72	Bar: cease at 3:00 AM	NO
TOTAL:	288	413		

Operation

Any type of entertainment including actors, live performances, DJs, dance hall, live music, are only allowed on the ground floor and second floor and only can be done if doors and windows are closed. As per the operational plan the entertainment will only take place during evening hours. The restaurant must also follow the Lincoln Road Requirements per section 142-336 of the City Code.

Sec. 142-336. - Lincoln Road requirements.

The following additional regulations shall apply to the portion of Lincoln Road that is closed to vehicular traffic:

* * *

(b) The following requirements shall apply to the installation or placement of speakers:

- (1) Restaurant uses may only be permitted to place or install exterior speakers if the following conditions have been met:
 - a. A certificate of appropriateness is granted, in accordance with the applicable requirements of chapter 118, article X of this Code.*
 - b. Music or any other sound shall be played at or below ambient volume levels at all times.*
 - c. If a restaurant use with approved exterior speakers is replaced by a use other than a restaurant, then all exterior speakers shall be removed.**
- (2) Interior speakers may be permitted within the first 20 feet of the boundary facing Lincoln Road or within the first 20 feet of the boundary of a side street, provided, however, that any music or other sound that is played does not exceed ambient levels. Additionally, any music or other sound played indoors at a volume above ambient levels must be inaudible from the exterior of the premises at all times.*
- (3) In the event that the doors of an establishment remain open to the sidewalk, only ambient music shall be permitted within the premises.*
- (4) No variances shall be granted from the requirements of this subsection 142-336(b).*
- (5) Except as provided in this subsection (b), no other commercial establishments shall be permitted to place or install exterior speakers.*

* * *

It should also be noted that unless a variance is granted by the Historic Preservation Board, the outdoor bar, which is on the rooftop, must close at 12:00 am nightly.

The operations plan indicates that all deliveries and trash pickups will be made on Lincoln Lane and will occur daily between 8:00 AM and 5:00 PM. The establishment will be accessible to tenants and patrons between hours of 7 am and 4 am, seven days a week.

Staff has recommended conditions in the attached draft order to ensure that the impacts of the operations are minimized.

Sound

A sound study was not required for this proposal, as no outdoor entertainment is proposed.

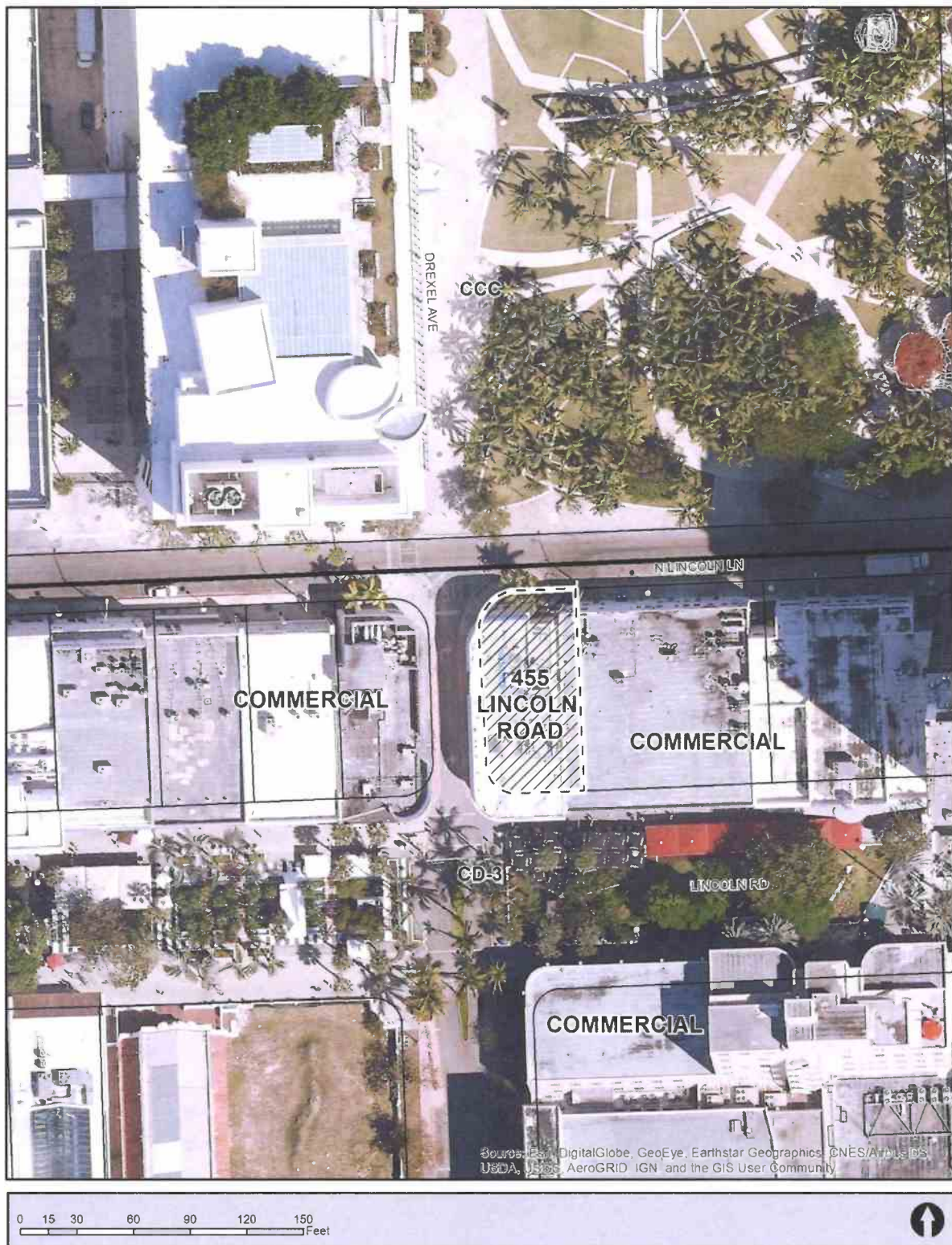
Security and Crowd Control

The applicant is proposing to have a hostess and a minimum on two ushers to greet and escort patrons into the facility, which will also serve as security for the facility. Any queuing will be done internally, and any additional queuing will be done in the surrounding sidewalk areas. Staff does not support any queueing on the sidewalk which may interrupt the pedestrian flow on Lincoln road, the small sidewalk on Drexel Avenue or on Lincoln Lane. Staff has recommended conditions in the attached draft order to address this.

STAFF RECOMMENDATION

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

ZONING/SITE MAP



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

PROPERTY: 455 Lincoln Road

FILE NO. PB 19-0330

IN RE: An application for a conditional use permit for a Neighborhood Impact Establishment with Entertainment with an occupant content in excess of 200 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: LOT 1, Block 3, of "Lincoln Road Subdivision", according to the Plat thereof as recorded in Plat book 34, at Page 66, of the Public Records of Miami-Dade County.

MEETING DATE: January 28, 2020

CONDITIONAL USE PERMIT

The applicant, Opereta Ciudad Del Sol, LLC, requested a Conditional Use Permit, pursuant to Chapter 118, Articles IV and V, for a Neighborhood Impact Establishment (NIE) with a combined maximum occupant content in excess of 200 persons with entertainment, pursuant to Section 142, Article V. 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 CD-3, Commercial High Intensity District zoning district; and

That the use is consistent with the Comprehensive Plan for the area in which the property is located; and

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; and
That structures and uses associated with the request are consistent with the Land Development Regulations; and

That the public health, safety, morals, and general welfare will not be adversely affected; and

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, as approved by the Planning Board, and accepted by the applicant, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

1. This Conditional Use Permit is issued to Opereta Ciudad Del Sol, LLC, as owner/operator of Andres Carne De Res for a Neighborhood Impact Establishment, consisting of an over 200 seat food service establishment with entertainment. Any change of operator or fifty percent (50%) or more stock ownership shall require the new owners or operators to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owners and/or operators and acknowledging acceptance of all conditions established herein, prior to the issuance of a new Business Tax Receipt.
2. The Board hereby imposes and the Applicant agrees to the following operational conditions for all permitted and accessory uses, and the applicant shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
 - a. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed 288 seat restaurant with the criteria listed below:
 - i. The outdoor roof top may operate until 2:00 AM daily, the rooftop bar shall not be utilized or operated after 12:00 AM, unless a variance for extended hours is granted.
 - ii. Up to 123 seats may be located in the indoor area, as proposed.
 - iii. Up to 65 seats may be located in the outdoor bar area on the roof top, as proposed.
 - iv. Background music played at a volume that does not interfere with normal conversation may be permitted in the outdoor areas including the ground level and the rooftop. Entertainment shall not be permitted in the outdoor areas.
 - v. The restaurant shall comply with the Lincoln Road Requirements, per section

142-336 of the City Code, which regulate the requirements for both indoors and outdoor speakers.

- vi. A DJ or live performance may play music in the indoor portions of the restaurant only. The music may start at 10:00 AM and shall not operate past 11:00 PM, Sunday-Wednesday, and 10:00 AM to 2:00 AM, Thursday-Saturday.
 - vii. Full meals shall be available during all hours that entertainment is occurring.
 - viii. Speakers may not be installed within twenty (20) feet of the main entrance, within the interior.
 - ix. 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 shall be submitted for the review and approval of the Planning Department. Before entertainment is approved and added to the Business Tax Receipt (BTR), a field visit with the applicants and Planning staff shall be required to verify the sound system operations.
 - x. All operable windows shall be closed at all times that entertainment is occurring.
 - xi. Televisions, and projectors shall not be located anywhere in the exterior areas of the property.
 - xii. After normal operating hours the establishment shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein between the establishment's closing time and 7:00 AM.
- b. Deliveries may only occur between 8:00 AM and 5:00 PM, daily.
 - c. Delivery trucks shall only be permitted to load and unload in the designated loading zones along Lincoln Lane.
 - d. Delivery trucks shall not be allowed to idle in loading zones.
 - e. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - f. Trash collections may occur daily between 8:00 AM and 5:00 PM.
 - g. 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.

- h. 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.
 - i. Garbage dumpster covers shall be closed at all times except when in active use.
 - j. Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors shall be contained within the premises. Owner agrees to install an exhaust system, if required by code, for the kitchens on the premise that will substantially reduce grease and smoke that would otherwise escape to the surrounding area. This may include the installation of a fan in connection with kitchen exhaust systems within the interior of the building in order to reduce noise levels at the exhaust outlet substantially in compliance with the plans as approved or in the alternative any such exhaust system shall be located along the west side of the property not directly adjacent to the southernmost or northernmost property lines.
 - k. Exterior speakers for fire and life safety purposes, and background ambient music played at a volume that does not interfere with normal conversation may be permitted.
 - l. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - m. As proposed by the applicant, ushers/security staff shall be onsite between 5:00 PM and 2:00 AM. Security staff shall monitor patron circulation and occupancy levels in order to adjust crowds according to occupant loads.
 - n. Patrons shall not be allowed to queue on any public rights-of-way or the exterior premises. Security staff shall monitor the crowds to ensure that they do not interfere with the free-flow of pedestrians on the public sidewalk.
 - o. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
- 3. The Applicant shall coordinate with the Parking Department to submit a comprehensive Transportation Demand Management (TDM) Plan to the Transportation Department for review and approval prior to receiving a Temporary Certificate of Occupancy
 - 4. The Applicant shall assign personnel to manage loading operations to reduce potential conflicts with pedestrians in crosswalks.
 - 5. The Planning Board shall retain the right to call the owner or operator, both now and in the future, back before the Board and modify this Conditional Use Permit, including the hours of operation and/or the occupant load of the restaurant, as well as modifications to

the parking operations, should there be valid complaints or violations (as determined by Code Compliance) about valet operations and loud, excessive, unnecessary, or unusual noise.

6. The applicant shall address the following Concurrency and Parking requirements, as applicable:
 - 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. Prior to the issuance of a Building Permit, calculations for required parking for the project shall be determined by the Planning Department. A final determination for the required parking shall be conducted prior to the issuance of a Certificate of Occupancy or Business Tax Receipt, whichever comes first. If required, a one-time fee in lieu of providing the required parking on site, as determined by staff, shall be paid prior to the issuance of the Certificate of Occupancy.
7. 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.
8. 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. 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).
9. 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.
10. 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.
11. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.

12. 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.
13. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
14. 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.
15. 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.
16. 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 this _____ day of _____, 2020.

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 & Zoning for 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 _____ ()

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

PROPERTY: 455 Lincoln Road

FILE NO. PB 19-0330

IN RE: An application for a conditional use permit for a Neighborhood Impact Establishment with Entertainment with an occupant content in excess of 200 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: LOT 1, Block 3, of "Lincoln Road Subdivision", according to the Plat thereof as recorded in Plat book 34, at Page 66, of the Public Records of Miami-Dade County.

MEETING DATE: January 28, 2020

CONDITIONAL USE PERMIT

The applicant, Opereta Ciudad Del Sol, LLC, requested a Conditional Use Permit, pursuant to Chapter 118, Articles IV and V, for a Neighborhood Impact Establishment (NIE) with a combined maximum occupant content in excess of 200 persons with entertainment, pursuant to Section 142, Article V. 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 CD-3, Commercial High Intensity District zoning district; and

That the use is consistent with the Comprehensive Plan for the area in which the property is located; and

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; and
That structures and uses associated with the request are consistent with the Land Development Regulations; and

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That the public health, safety, morals, and general welfare will not be adversely affected; and

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, as approved by the Planning Board, and accepted by the applicant, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

1. This Conditional Use Permit is issued to Opereta Ciudad Del Sol, LLC, as owner/operator of Andres Carne De Res for a Neighborhood Impact Establishment, consisting of an over 200 seat food service establishment with entertainment. Any change of operator or fifty percent (50%) or more stock ownership shall require the new owners or operators to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owners and/or operators and acknowledging acceptance of all conditions established herein, prior to the issuance of a new Business Tax Receipt.
2. The Board hereby imposes and the Applicant agrees to the following operational conditions for all permitted and accessory uses, and the applicant shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
 - a. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed 288 seat restaurant, plus a sidewalk café, with the criteria listed below:
 - i. The outdoor roof top may operate until 4:00 AM daily. The rooftop bar shall not be utilized or operated after 12:00 AM, unless a variance for extended hours is granted.
 - ii. Up to 223 seats may be located in the indoor area, as proposed.
 - iii. Up to 65 seats may be located in the outdoor bar area on the roof top, as proposed.
 - iv. Background music played at a volume that does not interfere with normal conversation may be permitted in the outdoor areas including the ground level and the rooftop. Entertainment shall not be permitted in the outdoor areas.
 - v. The restaurant shall comply with the Lincoln Road Requirements, per section 142-336 of the City Code, which regulate the requirements for both indoors and outdoor speakers.
 - vi. A DJ or live performance may play music in the indoor portions of the

- restaurant only. The music may start at 10:00 AM and shall not operate past 4:00 AM.
- vii. Full meals shall be available during all hours that entertainment is occurring.
 - viii. Speakers, except for life-safety purposes, may not be installed within twenty (20') feet of the main entrance, within the interior of the premises.
 - ix. 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 shall be submitted for the review and approval of the Planning Department. Before entertainment is approved and added to the Business Tax Receipt (BTR), a field visit with the applicants and Planning staff shall be required to verify the sound system operations.
 - x. All operable windows shall be closed at all times that entertainment is occurring.
 - xi. Televisions, and projectors shall not be located anywhere in the exterior areas of the property.
 - xii. After normal operating hours the establishment shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein between the establishment's closing time and 7:00 AM.
- b. Deliveries may only occur between 8:00 AM and 5:00 PM, daily.
 - c. Delivery trucks shall only be permitted to load and unload in the designated loading zones along Lincoln Lane.
 - d. Delivery trucks shall not be allowed to idle in loading zones.
 - e. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - f. Trash collections may occur daily between 8:00 AM and 5:00 PM.
 - g. 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.
 - h. 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.
 - i. Garbage dumpster covers shall be closed at all times except when in active use.

- j. Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors shall be contained within the premises. Owner agrees to install an exhaust system, if required by code, for the kitchens on the premise that will substantially reduce grease and smoke that would otherwise escape to the surrounding area. This may include the installation of a fan in connection with kitchen exhaust systems within the interior of the building in order to reduce noise levels at the exhaust outlet substantially in compliance with the plans as approved or in the alternative any such exhaust system shall be located along the west side of the property not directly adjacent to the southernmost or northernmost property lines.
 - k. Exterior speakers for fire and life safety purposes, and background ambient music played at a volume that does not interfere with normal conversation may be permitted.
 - l. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - m. As proposed by the applicant, ushers/security staff shall be onsite between 5:00 PM and 4:00 AM. Security staff shall monitor patron circulation and occupancy levels in order to adjust crowds according to occupant loads.
 - n. Patrons shall not be allowed to queue on any public rights-of-way or on the exterior of the premises. Security staff shall monitor the crowds to ensure that they do not interfere with the free-flow of pedestrians on the public sidewalk.
 - o. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
- 3. The Applicant shall coordinate with the Parking Department to submit a comprehensive Transportation Demand Management (TDM) Plan to the Transportation Department for review and approval prior to receiving a Temporary Certificate of Occupancy
 - 4. The Applicant shall assign personnel to manage loading operations to reduce potential conflicts with pedestrians in crosswalks.
 - 5. The Planning Board shall retain the right to call the owner or operator, both now and in the future, back before the Board and modify this Conditional Use Permit, including the hours of operation and/or the occupant load of the restaurant, as well as modifications to the parking operations, should there be valid complaints or violations (as determined by Code Compliance) about valet operations and loud, excessive, unnecessary, or unusual noise.
 - 6. The applicant shall address the following Concurrency and Parking requirements, as applicable:
 - 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

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- 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. Prior to the issuance of a Building Permit, calculations for required parking for the project shall be determined by the Planning Department. A final determination for the required parking shall be conducted prior to the issuance of a Certificate of Occupancy or Business Tax Receipt, whichever comes first. If required, a one-time fee in lieu of providing the required parking on site, as determined by staff, shall be paid prior to the issuance of the Certificate of Occupancy.
7. 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.
 8. 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. 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).
 9. 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.
 10. 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.
 11. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
 12. 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.
 13. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
 14. 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

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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.

15. 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.
16. 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 this 12th day of FEBRUARY, 2020.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

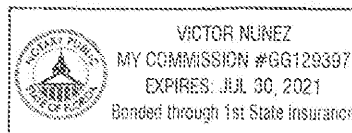
BY: Michael Belush
Michael Belush, AICP
Chief of Planning and Zoning
for Chairman

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 12th day of February, 2020, by Michael Belush, Chief of Planning & Zoning for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



Victor Nunez
Notary:
Print Name:
Notary Public, State of Florida
My Commission Expires: July 30, 2021
Commission Number: 66129397

Approved As To Form: Nickallegas (2/11/2020)
Legal Department

Filed with the Clerk of the Planning Board on Jessie Gentry (2/12/2020)

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MIAMI BEACH

LAND USE BOARDS

FILE NO.

PB 19-0335

APPLICANT:

MEETING DATE:

1/28/2020

IN RE:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE X, "HISTORIC PRESERVATION," DIVISION 1, "GENERALLY," BY AMENDING SECTION 118-503 THEREOF, ENTITLED "SCOPE, POLICIES AND EXEMPTIONS," TO AMEND THE REGULATIONS APPLICABLE TO CONTRIBUTING BUILDINGS THAT ARE DEMOLISHED WITHOUT A CERTIFICATE OF APPROPRIATENESS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

PRIOR ORDER NUMBER:

**Is this a Resident Right to
Know item?**

Yes

**Does this item utilize G.O.
Bond Funds?**

No

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Staff Report 1-28-2020	Memo
<input type="checkbox"/> Ordinance	Memo

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: January 28, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 19-0335. Demolition by Neglect - Presumption clause.**

REQUEST

PB 19-0335. Demolition by Neglect – Presumption Clause. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE X, "HISTORIC PRESERVATION," DIVISION 1, "GENERALLY," BY AMENDING SECTION 118-503 THEREOF, ENTITLED "SCOPE, POLICIES AND EXEMPTIONS," TO AMEND THE REGULATIONS APPLICABLE TO CONTRIBUTING BUILDINGS THAT ARE DEMOLISHED WITHOUT A CERTIFICATE OF APPROPRIATENESS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

HISTORY

On July 17, 2019, at the request of Commissioner Ricky Arriola, the City Commission referred a discussion item to the Land Use and Development Committee (Item C4 O), pertaining to the establishment of penalties for property owners engaging in demolition by neglect. The item was discussed at the October 30, 2019 meeting, and the Land Use Committee recommended that the City Commission refer an amendment to chapter 118, article X, pertaining to a presumption clause, to the Planning Board.

On October 30, 2019, the LUDC recommended that the City Commission referred the proposed amendment to the Planning Board. On December 11, 2019, the City Commission referred the proposed amendment to chapter 118, article X, pertaining to a presumption clause, to the Planning Board and Historic Preservation Board.

On January 14, 2020, the Historic Preservation Board reviewed the proposed ordinance amending Section 118-503 of the City Code to create a presumption for the reconstruction of demolished contributing structures. The Board voted unanimously (5-0, 2 absent) to transmit a favorable recommendation to the Planning Board and City Commission for adoption of the ordinance.

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Not applicable – The proposed amendment does not modify district boundaries.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Consistent - The proposed ordinance amendment is not out of scale with the surrounding neighborhood.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Not applicable. – The proposed amendment does not modify district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – The need to strengthen and clarify the consequences of demolition by neglect makes passage of the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed change will not create or increase traffic congestion from what is currently permitted.

9. Whether the proposed change will seriously reduce light and air to adjacent areas.

Consistent – The proposed change will not reduce light and air to adjacent areas.

10. Whether the proposed change will adversely affect property values in the adjacent area.

Consistent – The proposed change should not adversely affect property values in the adjacent areas.

11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

Consistent – The proposed change should not be a deterrent to the improvement or development of properties in the City.

12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

Not applicable.

13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.

Not applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

(1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.

Partially Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

(2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.

Partially Consistent – The proposal will not affect the resiliency of the City with respect to sea level rise.

(3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

Partially Consistent – The proposal does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

Attached is a proposed amendment to chapter 118, Article X of the Land Development Regulations, which creates a presumption clause if a contributing structure is demolished, for any reason, including, but not limited to demolition by neglect, without first obtaining a Certificate of Appropriateness from the Historic Preservation Board. The following is the specific draft amendment to section 118-503:

Sec. 118-503. - Scope, policies and exemptions.

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(b) Policies.

(1) *After-the-fact certificates of appropriateness for demolition.* In the event any demolition as described above or in subsection (b) of this section should take place prior to historic preservation board review, the demolition order shall be conditioned to require the property owner to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board, within 15 days of the issuance of the demolition order. No "after-the-fact" fee shall be assessed for such application. The board shall review the demolition and determine whether and how the demolished building, structure, landscape feature or the partially or fully demolished feature of the exterior or public interior space of a structure, shall be replaced. The property owner shall also be required, to the greatest extent possible, to retain, preserve and restore any demolished feature of a structure until such time as the board reviews and acts on the "after-the-fact" application. In the event the property owner fails to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board within 15 days of the issuance of an emergency demolition order, the city may initiate enforcement proceedings including proceedings to revoke the certificate of use, occupational license, any active building permit(s) or certificate of occupancy of the subject site, whichever is appropriate. Additionally, this article may be enforced and violations may be punished as provided in section 114-8 of this Code; or by enforcement procedures as set forth in the Charter and penalties as provided in section 1-14 of this Code.

(2) *Replacement of existing structures.* The policy of the City of Miami Beach shall be **a presumption** that a contributing building demolished without obtaining a certificate of appropriateness from the historic preservation board, shall only be replaced with a new structure that incorporates the same height, massing and square footage of the previous structure on site, not to exceed the **FAR of the demolished structure, and not to exceed the maximum FAR** and height permitted under the City Code, with no additional square footage added. This **policy presumption** shall be applicable in the event a building permit for new construction or for repair or rehabilitation is issued, and demolition occurs for any reason, including, but not limited to, an order of the building official or the county unsafe structures board. This **policy presumption** shall also be applicable to any request for an "after-the-fact" certificate of appropriateness. This **policy presumption** may be rebutted, and the historic preservation board may allow for the addition of more square footage, where appropriate, not to exceed the maximum permitted under the City Code, if it is established to the satisfaction of the historic preservation board that the following criteria have been satisfied:

- a. The proposed new structure is consistent with the context and character of the immediate area; and
- b. The property owner made a reasonable effort to regularly inspect and maintain the structure free of structural deficiencies and in compliance with the minimum maintenance standards of this Code.

(3) *Replication of demolished contributing structures.* The historic preservation board shall determine, on a case-by-case basis, whether the replication of an original, contributing

structure is warranted. For purposes of this subsection, replication shall be defined as the physical reconstruction, including all original dimensions in the original location, of a structure in totality, inclusive of the reproduction of primary facade dimensions and public area dimensions with appropriate historic materials whenever possible, original walls, window and door openings, exterior features and finishes, floor slab, floor plates, roofs and public interior spaces. The historic preservation board shall have full discretion as to the exact level of demolition and reconstruction required. If a building to be reconstructed is nonconforming, any such reconstruction shall comply with all of the requirements of chapter 118, article IX, of these land development regulations.

From a legal standpoint, a presumption shifts the burden of proof from one party to the other. In the case of an after-the-fact Certificate of Appropriateness (C of A) for demolition, replacing the word 'policy' with 'presumption', more clearly places the legal burden on the property owner of a building that was demolished without a C of A to demonstrate evidence why the HPB should allow the building to be replaced by something other than a structure that does not exceed the height, massing, and square footage of the previous structure on site (which is the presumed default).

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

Demolition by Neglect – Presumption Clause

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE X, "HISTORIC PRESERVATION," DIVISION 1, "GENERALLY," BY AMENDING SECTION 118-503 THEREOF, ENTITLED "SCOPE, POLICIES AND EXEMPTIONS," TO AMEND THE REGULATIONS APPLICABLE TO CONTRIBUTING BUILDINGS THAT ARE DEMOLISHED WITHOUT A CERTIFICATE OF APPROPRIATENESS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the demolition of contributing structures without obtaining a Certificate of Appropriateness from the Historic Preservation Board threatens the urban fabric, character, and integrity of the City's historic districts; and

WHEREAS, City Code Section 118-503(b)(2) currently provides that "[t]he policy of the City of Miami Beach shall be that a contributing building demolished without obtaining a certificate of appropriateness from the historic preservation board, shall only be replaced with a new structure that incorporates the same height, massing and square footage of the previous structure on site, not to exceed the maximum FAR and height permitted under the City Code, with no additional square footage added"; and

WHEREAS, this Ordinance clarifies that the demolition of a contributing building without obtaining a Certificate of Appropriateness raises a *presumption* that any replacement structure shall be limited to the height, massing, square footage, and FAR of the demolished structure.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. Chapter 118, "Administration and Review Procedures", Article X, "Historic Preservation", Division 1, "Generally" is hereby amended as follows:

**CHAPTER 118
ADMINISTRATION AND REVIEW PROCEDURES**

* * *

ARTICLE X. – HISTORIC PRESERVATION

DIVISION 1. – GENERALLY

* * *

Sec. 118-503. - Scope, policies and exemptions.

* * *

(b) *Policies.*

(1) *After-the-fact certificates of appropriateness for demolition.* In the event any demolition as described above or in subsection (b) of this section should take place prior to historic preservation board review, the demolition order shall be conditioned to require the property owner to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board, within 15 days of the issuance of the demolition order. No "after-the-fact" fee shall be assessed for such application. The board shall review the demolition and determine whether and how the demolished building, structure, landscape feature or the partially or fully demolished feature of the exterior or public interior space of a structure, shall be replaced. The property owner shall also be required, to the greatest extent possible, to retain, preserve and restore any demolished feature of a structure until such time as the board reviews and acts on the "after-the-fact" application. In the event the property owner fails to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board within 15 days of the issuance of an emergency demolition order, the city may initiate enforcement proceedings including proceedings to revoke the certificate of use, occupational license, any active building permit(s) or certificate of occupancy of the subject site, whichever is appropriate. Additionally, this article may be enforced and violations may be punished as provided in section 114-8 of this Code; or by enforcement procedures as set forth in the Charter and penalties as provided in section 1-14 of this Code.

(2) *Replacement of existing structures.* The policy of the City of Miami Beach shall be a presumption that a contributing building demolished without obtaining a certificate of appropriateness from the historic preservation board, shall only be replaced with a new structure that incorporates the same height, massing and square footage of the previous structure on site, not to exceed the floor area ratio (FAR) of the demolished structure, and not to exceed the maximum FAR and height permitted under the City Code, with no additional square footage added. This ~~policy~~ presumption shall be applicable in the event a building permit for new construction or for repair or rehabilitation is issued, and demolition occurs for any reason, including, but not limited to, an order of the building official or the county unsafe structures board. This ~~policy~~ presumption shall also be applicable to any request for an "after-the-fact" certificate of appropriateness. This ~~policy~~ presumption may be rebutted, and the historic preservation board may allow for the addition of more square footage, where appropriate, not to exceed the maximum permitted under the City Code, if it is established to the satisfaction of the historic preservation board that the following criteria have been satisfied:

- a. The proposed new structure is consistent with the context and character of the immediate area; and

- b. The property owner made a reasonable effort to regularly inspect and maintain the structure free of structural deficiencies and in compliance with the minimum maintenance standards of this Code.

(3) *Replication of demolished contributing structures.* The historic preservation board shall determine, on a case-by-case basis, whether the replication of an original, contributing structure is warranted. For purposes of this subsection, replication shall be defined as the physical reconstruction, including all original dimensions in the original location, of a structure in totality, inclusive of the reproduction of primary facade dimensions and public area dimensions with appropriate historic materials whenever possible, original walls, window and door openings, exterior features and finishes, floor slab, floor plates, roofs and public interior spaces. The historic preservation board shall have full discretion as to the exact level of demolition and reconstruction required. If a building to be reconstructed is nonconforming, any such reconstruction shall comply with all of the requirements of chapter 118, article IX, of these land development regulations.

SECTION 2. Repealer.

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith are hereby repealed.

SECTION 3. Codification.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida, as amended. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. Severability.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. Effective Date.

This Ordinance shall take effect the ____ day of _____, 2020.

PASSED AND ADOPTED this ____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2020

Second Reading: _____, 2020

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

Demolition by Neglect – Presumption Clause

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 118, “ADMINISTRATION AND REVIEW PROCEDURES,” ARTICLE X, “HISTORIC PRESERVATION,” DIVISION 1, “GENERALLY,” BY AMENDING SECTION 118-503 THEREOF, ENTITLED “SCOPE, POLICIES AND EXEMPTIONS,” TO AMEND THE REGULATIONS APPLICABLE TO CONTRIBUTING BUILDINGS THAT ARE DEMOLISHED WITHOUT A CERTIFICATE OF APPROPRIATENESS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the demolition of contributing structures without obtaining a Certificate of Appropriateness from the Historic Preservation Board threatens the urban fabric, character, and integrity of the City’s historic districts; and

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DIVISION 1. – GENERALLY

* * *

Sec. 118-503. - Scope, policies and exemptions.

* * *

(b) *Policies.*

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- a. The proposed new structure is consistent with the context and character of the immediate area; and
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If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. Effective Date.

This Ordinance shall take effect the ____ day of _____, 2020.

PASSED AND ADOPTED this ____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2020

Second Reading: _____, 2020

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

MIAMI BEACH

LAND USE BOARDS

FILE NO.

PB 19-0337

APPLICANT:**MEETING DATE:**

1/28/2020

IN RE:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," (1) AT DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," SECTION 142-310, "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS"; AND (2) AT DIVISION 11, "I-1 LIGHT INDUSTRIAL DISTRICT," SECTION 142-488, "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO ELIMINATE EXISTING EXCEPTIONS TO THE 2:00 A.M. CLOSING TIME FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS IN THE SUNSET HARBOUR NEIGHBORHOOD, WHICH IS GENERALLY BOUNDED BY PURDY AVENUE, 20TH STREET, ALTON ROAD, AND DADE BOULEVARD; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

PRIOR ORDER NUMBER:**Is this a Resident Right to Know item?**

Yes

Does this item utilize G.O. Bond Funds?

No

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Staff Report 1-28-2020	Memo
<input type="checkbox"/> Ordinance	Memo

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: January 28, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 19-0337. Sunset Harbor alcoholic beverage establishment regulations.**

REQUEST

PB 19-0337. Sunset Harbor alcoholic beverage establishment regulations. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," (1) AT DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," SECTION 142-310, "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS"; AND (2) AT DIVISION 11, "I-1 LIGHT INDUSTRIAL DISTRICT," SECTION 142-488, "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO ELIMINATE EXISTING EXCEPTIONS TO THE 2:00 A.M. CLOSING TIME FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS IN THE SUNSET HARBOUR NEIGHBORHOOD, WHICH IS GENERALLY BOUNDED BY PURDY AVENUE, 20TH STREET, ALTON ROAD, AND DADE BOULEVARD; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

HISTORY

On December 11, 2019, at the request of Commissioner Mark Samuelian and Co-Sponsored by Commissioner Ricky Arriola, the City Commission referred the item to the Planning Board for review and recommendation (item C4 J).

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to**

adjacent or nearby districts.

Not applicable – The proposed amendment does not modify district boundaries.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Consistent - The proposed ordinance amendment is not out of scale with the surrounding neighborhood.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Not applicable. – The proposed amendment does not modify district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – The need to ensure that the quality of life of residents in the neighborhood is maintained makes passage of the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed ordinance amendment will improve living conditions in the neighborhood.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed change will not create or increase traffic congestion from what is currently permitted.

9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**

Consistent – The proposed change will not seriously reduce light and air to adjacent areas.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

Consistent – The proposed change should not adversely affect property values in the adjacent areas.

11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

Consistent – The proposed change should not be a deterrent to the improvement or development of properties in the City.

12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

Not applicable.

13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.

Not applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

(1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.

Partially Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

(2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.

Consistent – The proposal will not affect the resiliency of the City with respect to sea level rise.

(3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

Consistent – The proposal does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

Miami Beach's nightlife areas have historically been concentrated in the commercial and mixed-use entertainment districts along Washington Avenue, Collins Avenue, and Ocean Drive. In contrast, the Sunset Harbour neighborhood is composed of a mixture of residential, light industrial, and low intensity personal service, restaurant, and retail uses, which primarily serve neighborhood residents. Within this neighborhood, residential uses are divided only by the width of a street from commercial and industrial districts.

The City Code permits certain nightlife uses within the CD-2 and I-1 zoning districts, which, absent mitigation and appropriate regulation, could be incompatible with adjacent residential uses in the Sunset Harbour neighborhood. Specifically, this includes large restaurants, stand-alone bars, outdoor food and beverage service, entertainment establishments, and dance halls.

In order to limit the potential impacts on residential uses, on October 19, 2016, the City adopted Ordinance No. 2016-4046, which limited the hours of operation of alcoholic beverage establishments in Sunset Harbour, with certain exceptions, to 2:00 a.m. Previously, establishments were permitted to remain open until 5:00 a.m. The exceptions included establishments that had existed or obtained land use board approval prior to August 23, 2016.

Due to negative impacts that have continued to occur from pre-existing alcoholic beverage establishments, it is now recommended that the exemption be removed so that all alcoholic beverage establishments would be required to close by 2:00 a.m. Florida law grants municipalities broad authority to regulate the sale of alcoholic beverages. In the exercise of that authority, municipalities may prohibit the sale of alcohol within certain hours and/or within certain zoning districts. Specifically, Section 562.14, Florida Statutes, authorizes municipalities, by ordinance, to establish hours of sale for alcoholic beverages.

Florida courts have consistently held that alcoholic beverage establishments are not entitled to "grandfather" status as to hours of sale for alcoholic beverages.¹ Accordingly, the City has the authority to adopt the proposed legislation.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

¹ See *Village of North Palm Beach v. S & H Foster's, Inc.* (Fla. 4th DCA 2012); *Other Place of Miami, Inc. v. City of Hialeah Gardens* (Fla. 3d DCA 1978).

**SUNSET HARBOUR
ALCOHOLIC BEVERAGE ESTABLISHMENT REGULATIONS**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," (1) AT DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," SECTION 142-310, "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS"; AND (2) AT DIVISION 11, "I-1 LIGHT INDUSTRIAL DISTRICT," SECTION 142-488, "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO ELIMINATE EXISTING EXCEPTIONS TO THE 2:00 A.M. CLOSING TIME FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS IN THE SUNSET HARBOUR NEIGHBORHOOD, WHICH IS GENERALLY BOUNDED BY PURDY AVENUE, 20TH STREET, ALTON ROAD, AND DADE BOULEVARD; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Sunset Harbour neighborhood is composed of a mixture of residential, light industrial, and low intensity personal service, restaurant, and retail uses, which primarily serve neighborhood residents; and

WHEREAS, alcoholic beverage establishments in Miami Beach have historically been concentrated in the commercial and mixed-use entertainment districts along Washington Avenue, Collins Avenue, and Ocean Drive; and

WHEREAS, residential uses in the Sunset Harbour neighborhood are divided only by the width of a street from the CD-2 commercial, medium intensity and the I-1 light industrial zoning districts; and

WHEREAS, the City Code permits certain uses within the CD-2 and I-1 zoning districts, which, absent mitigation, could be incompatible with adjacent residential uses in the Sunset Harbour neighborhood; and

WHEREAS, large restaurants, stand-alone bars, outdoor food and beverage service, entertainment establishments, and dance halls can, if not regulated, be incompatible with the scale, character, and quality of life of adjacent residential neighborhoods; and

WHEREAS, the Mayor and City Commission desire to encourage uses that are compatible with the scale and character of the neighborhood; and

WHEREAS, pursuant to Section 562.14, Florida Statutes, a municipality may, by ordinance, establish hours of sale for alcoholic beverages; and

WHEREAS, on October 19, 2016, the City adopted Ordinance No. 2016-4046, which limited the hours of operation of alcoholic beverage establishments in Sunset Harbour, with certain exceptions, to 2:00 a.m.; and

WHEREAS, the Mayor and City Commission now desire to eliminate any exceptions to the 2:00 a.m. closing time set forth in the City Code; and

WHEREAS, in *State ex rel. Floyd v. Noel* (Fla. 1936), the Florida Supreme Court recognized that “[i]t is so well settled that no citation of authority is required to support the statement that a municipality exercising the powers inherent in municipal corporations may reasonably regulate the sale of intoxicating liquors and in providing such reasonable regulations may prohibit the sale of such liquors within certain hours, and also may prohibit the sale of liquors within certain zones”; and

WHEREAS, in *Makos v. Prince* (Fla. 1953), the Florida Supreme Court recognized that a county may establish separate zones for the hours of sale of alcoholic beverages, and that the regulation of hours need not be uniform throughout the county as a whole; and

WHEREAS, Florida courts have consistently held that alcoholic beverage establishments are not entitled to grandfather status as to hours of sale for alcoholic beverages (See *Village of North Palm Beach v. S & H Foster’s, Inc.* (Fla. 4th DCA 2012); *Other Place of Miami, Inc. v. City of Hialeah Gardens* (Fla. 3d DCA 1978)); and

WHEREAS, Chapter 1, of the Land Use Element, Objective 2, “Land Use Compatibility,” of the City’s 2025 Comprehensive Plan (hereinafter “Plan”), specifies that the City’s land development regulations will be used to address the location, type, size and intensity of land uses and to ensure adequate land use compatibility between residential and non-residential land uses; and

WHEREAS, Policy 2.1 of the Plan provides that the land development regulations shall continue to address the location and extent of nonresidential land uses in accordance with the Future Land Use map and the policies and descriptions of types, sizes and intensities of land uses contained in the Future Land Use Element; and

WHEREAS, Policy 2.2 of the Plan provides that development in land use categories which permit both residential and non-residential uses shall be regulated by formalized land development regulations which are designed to ensure adequate land use compatibility; and

WHEREAS, in determining incompatibility, consideration shall be given to noise, lighting, shadows, access, traffic, parking, height, bulk, landscaping, hours of operation, buffering and any other criteria that may be important to ensure that necessary safeguards are provided for the protection of surrounding property, persons, and neighborhood values; and

WHEREAS, based upon neighborhood compatibility concerns and the negative impacts associated with existing alcoholic beverage establishments, the Mayor and City Commission now desire to eliminate any exceptions to the 2:00 a.m. closing time set forth in the City Code; and

WHEREAS, in accordance with Chapter 1, Objective 2, Policies 2.1 and 2.2 of the Plan, is it is desirable to encourage uses in commercial districts that are properly balanced and compatible with the scale, character and context of adjacent residential neighborhoods; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 5, "CD-2 Commercial, Medium Intensity District," at Section 142-310, "Special regulations for alcohol beverage establishments," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

* * *

Sec. 142-310. Special regulations for alcohol beverage establishments.

* * *

(b) *Sunset Harbour neighborhood.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

- (1) Operations shall cease no later than 2:00 a.m., except that outdoor operations (including sidewalk cafe operations) shall cease no later than 12:00 a.m.
- (2) Alcoholic beverage establishments may not operate any outside dining areas or accessory bar counters above the ground floor of the building in which they are located; however, outdoor restaurant seating, associated with indoor venues, not exceeding 40 seats, may be permitted above the ground floor until 8:00 p.m.
- (3) Except as may be required by any applicable fire prevention code or building code, outdoor speakers shall not be permitted.
- (4) Special events shall not be permitted in any alcoholic beverage establishment.

~~(5) This section (b) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.~~

* * *

SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 11, "I-1 Light Industrial District," at Section 142-488, "Special regulations for alcohol beverage establishments." is hereby amended as follows:

* * *

Sec. 142-488. Special regulations for alcohol beverage establishments.

- (a) *Sunset Harbour neighborhood.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.
- (1) Operations shall cease no later than 2:00 a.m., except that outdoor operations (including sidewalk cafe operations) shall cease no later than 12:00 a.m.
 - (2) Alcoholic beverage establishments may not operate any outside dining areas or accessory bar counters above the ground floor of the building in which they are located; however, outdoor restaurant seating, associated with indoor venues, not exceeding 40 seats, may be permitted above the ground floor until 8:00 p.m.
 - (3) Except as may be required by any applicable fire prevention code or building code, outdoor speakers shall not be permitted.
 - (4) Special events shall not be permitted in any alcoholic beverage establishment.
 - ~~(5) This section shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.~~

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 4. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, as amended; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 2020.

Attest:

Dan Gelber
Mayor

Rafael E. Granado
City Clerk

(Sponsored by Commissioner Mark Samuelian and Co-sponsored by Commissioner Ricky Arriola)

Underline denotes additions
~~Strike through~~ denotes deletions

First Reading:
Second Reading:

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

**SUNSET HARBOUR
ALCOHOLIC BEVERAGE ESTABLISHMENT REGULATIONS**

ORDINANCE NO. _____

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WHEREAS, the Sunset Harbour neighborhood is composed of a mixture of residential, light industrial, and low intensity personal service, restaurant, and retail uses, which primarily serve neighborhood residents; and

WHEREAS, alcoholic beverage establishments in Miami Beach have historically been concentrated in the commercial and mixed-use entertainment districts along Washington Avenue, Collins Avenue, and Ocean Drive; and

WHEREAS, residential uses in the Sunset Harbour neighborhood are divided only by the width of a street from the CD-2 commercial, medium intensity and the I-1 light industrial zoning districts; and

WHEREAS, the City Code permits certain uses within the CD-2 and I-1 zoning districts, which, absent mitigation, could be incompatible with adjacent residential uses in the Sunset Harbour neighborhood; and

WHEREAS, large restaurants, stand-alone bars, outdoor food and beverage service, entertainment establishments, and dance halls can, if not regulated, be incompatible with the scale, character, and quality of life of adjacent residential neighborhoods; and

WHEREAS, the Mayor and City Commission desire to encourage uses that are compatible with the scale and character of the neighborhood; and

WHEREAS, pursuant to Section 562.14, Florida Statutes, a municipality may, by ordinance, establish hours of sale for alcoholic beverages; and

WHEREAS, on October 19, 2016, the City adopted Ordinance No. 2016-4046, which limited the hours of operation of alcoholic beverage establishments in Sunset Harbour, with certain exceptions, to 2:00 a.m.; and

WHEREAS, the Mayor and City Commission now desire to eliminate any exceptions to the 2:00 a.m. closing time set forth in the City Code; and

WHEREAS, in *State ex rel. Floyd v. Noel* (Fla. 1936), the Florida Supreme Court recognized that “[i]t is so well settled that no citation of authority is required to support the statement that a municipality exercising the powers inherent in municipal corporations may reasonably regulate the sale of intoxicating liquors and in providing such reasonable regulations may prohibit the sale of such liquors within certain hours, and also may prohibit the sale of liquors within certain zones”; and

WHEREAS, in *Makos v. Prince* (Fla. 1953), the Florida Supreme Court recognized that a county may establish separate zones for the hours of sale of alcoholic beverages, and that the regulation of hours need not be uniform throughout the county as a whole; and

WHEREAS, Florida courts have consistently held that alcoholic beverage establishments are not entitled to grandfather status as to hours of sale for alcoholic beverages (*See Village of North Palm Beach v. S & H Foster’s, Inc.* (Fla. 4th DCA 2012); *Other Place of Miami, Inc. v. City of Hialeah Gardens* (Fla. 3d DCA 1978)); and

WHEREAS, Chapter 1, of the Land Use Element, Objective 2, “Land Use Compatibility,” of the City’s 2025 Comprehensive Plan (hereinafter “Plan”), specifies that the City’s land development regulations will be used to address the location, type, size and intensity of land uses and to ensure adequate land use compatibility between residential and non-residential land uses; and

WHEREAS, Policy 2.1 of the Plan provides that the land development regulations shall continue to address the location and extent of nonresidential land uses in accordance with the Future Land Use map and the policies and descriptions of types, sizes and intensities of land uses contained in the Future Land Use Element; and

WHEREAS, Policy 2.2 of the Plan provides that development in land use categories which permit both residential and non-residential uses shall be regulated by formalized land development regulations which are designed to ensure adequate land use compatibility; and

WHEREAS, in determining incompatibility, consideration shall be given to noise, lighting, shadows, access, traffic, parking, height, bulk, landscaping, hours of operation, buffering and any other criteria that may be important to ensure that necessary safeguards are provided for the protection of surrounding property, persons, and neighborhood values; and

WHEREAS, based upon neighborhood compatibility concerns and the negative impacts associated with existing alcoholic beverage establishments, the Mayor and City Commission now desire to eliminate any exceptions to the 2:00 a.m. closing time set forth in the City Code; and

WHEREAS, in accordance with Chapter 1, Objective 2, Policies 2.1 and 2.2 of the Plan, is it is desirable to encourage uses in commercial districts that are properly balanced and compatible with the scale, character and context of adjacent residential neighborhoods; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

* * *

Sec. 142-310. Special regulations for alcohol beverage establishments.

* * *

- (b) *Sunset Harbour neighborhood.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.
- (1) Operations shall cease no later than 2:00 a.m., except that outdoor operations (including sidewalk cafe operations) shall cease no later than 12:00 a.m.
 - (2) Alcoholic beverage establishments may not operate any outside dining areas or accessory bar counters above the ground floor of the building in which they are located; however, outdoor restaurant seating, associated with indoor venues, not exceeding 40 seats, may be permitted above the ground floor until 8:00 p.m.
 - (3) Except as may be required by any applicable fire prevention code or building code, outdoor speakers shall not be permitted.
 - (4) Special events shall not be permitted in any alcoholic beverage establishment.
 - ~~(5) This section (b) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.~~

* * *

SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 11, "I-1 Light Industrial District," at Section 142-488, "Special regulations for alcohol beverage establishments." is hereby amended as follows:

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Sec. 142-488. Special regulations for alcohol beverage establishments.

- (a) *Sunset Harbour neighborhood.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.
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SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 4. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, as amended; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2020.

Attest:

Dan Gelber
Mayor

Rafael E. Granado
City Clerk

(Sponsored by Commissioner Mark Samuelian and Co-sponsored by Commissioner Ricky Arriola)

Underline denotes additions
~~Strike through~~ denotes deletions

First Reading:
Second Reading:

Verified By: _____
Thomas R. Mooney, AICP
Planning Director