

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

PROPERTY: 1 Collins Avenue Units CU-1 and CU-2. Philippe Miami Beach - restaurant.

FILE NO. PB23-0598

IN RE: An application has been filed requesting a conditional use permit for a Neighborhood Impact Establishment for a restaurant, pursuant to Chapter 2, Article V, Section 2.5.2 and Chapter 7, Article V, Section 7.5.5 of the Miami Beach Resiliency Code.

LEGAL DESCRIPTION: See exhibit "A"

MEETING DATE: July 25, 2023.

CONDITIONAL USE PERMIT

The applicant, Philippe Miami, LLC, filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact Establishment pursuant to Chapter 2, Article V, Section 2.5.2 and Chapter 7, Article V, Section 7.5.5 of the Miami Beach Resiliency 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 C-PS-1 Commercial Performance Standard limited mixed use district.

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

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

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

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

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

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

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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, 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. 2.5.2.5.
2. This Conditional Use Permit is issued to Philippe Miami, LLC, as tenant and operator of the Neighborhood Impact Establishment consisting of a restaurant and bar. Any change of operator or fifty percent (50%) or more stock ownership shall require the new owner 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 Certificate of Use/Business Tax Receipt. A progress report shall be scheduled within 60 days following the applicant's submission and staff's approval of the affidavit.
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 all permitted and accessory uses and 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. The project authorized by this Conditional Use Permit includes the creation and operation of the proposed **337** seat Neighborhood Impact Establishment, subject to the criteria listed below:
 - i. The restaurant and bar subject to this CUP shall have a maximum occupant content of **471** persons or any lesser such occupant content as determined by the Fire Marshal.
 - ii. The indoor portions of the establishment may operate from 10:00 AM until 2:00 AM, 7 days per week. The outdoor portions of the establishment may operate as follows: 11:00 AM – 11:00 PM on Sunday through Wednesday; and 11:00 AM – 12:00 AM on Thursday through Saturday. Notwithstanding the foregoing, the 8 northernmost seats on the Ocean Drive frontage shall close at 10:00 PM, 7 days per week (the "Early Closing Area"). These hours shall not supersede any future amendments to the City Code, pertaining to hours of operation for alcoholic

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beverage establishments.

- iii. Entertainment, as defined in City Code 1.2.2.9 shall be strictly prohibited in all indoor and outdoor areas.
- iv. Recorded background music, played at a level that does not interfere with normal conversation, may be permitted, provided that a sound system with directional speakers and a digital tamper-resistant sound level limiter is used to minimize impacts to adjacent properties.
- v. Plans shall be modified to ensure that the entirety of the sidewalk is fully activated, and the floor plans must comply with the following conditions subject to the review and approval from the Planning Department.
 - a. No new window treatments of any kind, including decorative panels, opaque glass and lighting against the glass, retractable awnings, umbrellas and/or planters shall be permitted along Ocean Drive and South Pointe Drive unless approved by the Design Review Board, or staff in accordance with the Design Review Criteria, as applicable.
 - b. The proposed outdoor seats and planters facing South Pointe Drive in front of the on-street parking, shall be located as depicted on plans (page A3.00) at a minimum of five (5') feet from the property line, to ensure pedestrian clearance on the sidewalk.
 - c. The interior garden-facing windows shall be screened to preserve the privacy of One Ocean condominium residents in a manner to be reviewed and approved by staff. Prior to issuance of a building permit, the Applicant shall submit a letter on the One Ocean Condominium Association's letterhead approving of the proposed window screening.
 - d. Prior to issuance of a building permit for the proposed kitchen enclosure wall depicted on the plans, the Applicant shall submit a letter on the One Ocean Condominium Association's letterhead approving of the final engineering specifications and design details of the enclosure wall.
 - e. The Applicant shall install signage and hard wired alarms on any exit doors from the establishment into the garden area between the commercial units and the One Ocean residential tower indicating that the doors are for emergency egress only.
- vi. Sound generated from the venue, including, but not limited to, recorded music and patron conversations, shall not be plainly audible from residential buildings adjacent to the subject property.
- vii. No exterior speakers shall be permitted in the "Early Closing Area" except those necessary for fire and life safety purposes.
- viii. Televisions and projectors shall not be located anywhere in the exterior areas of the property.

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- ix. No dancehall shall be permitted on the site.
 - x. Special event permits shall be prohibited.
 - xi. 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 8:00 AM.
 - xii. No exterior seating or exterior speakers, except for those necessary for fire or life safety purposes, shall be located within 70 feet of the One Ocean residences fronting Ocean Drive.
 - xiii. The Applicant shall install two large planters, one on each side of the northernmost door of the establishment located along the Ocean Drive frontage to serve as an acoustic and visual buffer between the exterior seating area and the One Ocean residences fronting Ocean Drive.
 - xiv. The Applicant shall submit a Design Review Board Application for installation of an exterior canopy or trellis for the exterior seating areas along Ocean Drive and South Pointe Drive. Such a canopy or trellis shall be designed to mitigate noise impacts from the restaurant to adjacent residential units.
 - xv. The establishment shall not permit employees to enter the garden area between the establishment and the One Ocean residences for any reason at any time.
 - xvi. All exterior seating shall be located within the private property adjacent to the commercial units on South Pointe Drive and Ocean Drive.
 - xvii. The kitchen exhaust and filtration system for the establishment shall not vent into the garden area between the establishment and the One Ocean residential tower.
- B. Deliveries may only occur between 9:00 AM and 2:00 PM each day, or as specified by the City in approved loading zones in the vicinity. The garden area between the establishment and the One Ocean residential tower may not be used for deliveries. Deliveries may only occur through the front of the establishment or through a dedicated service entrance accessible from the Ocean Drive or South Pointe Drive frontages.
- C. Deliveries must be conducted via designated loading zones or loading areas on private property. No deliveries shall be made from undesignated loading areas on Collins Avenue, South Pointe Drive, or Ocean Drive. Additionally, at no time shall delivery or service vehicles block any portion of the public right-of-way, including, but not limited to the bicycle lanes on Ocean Drive, South Pointe Drive, and the bus stop on Washington Avenue.
- D. Delivery trucks shall not be allowed to idle in the loading zone.
- E. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.

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- F. Waste collections may occur daily between 9:00 AM and 5:00 PM. Waste collection shall occur on Ocean Court. The garden area between the establishment and the One Ocean residential tower may not be used for transporting waste or trash bins to the waste collection area on Ocean Court. Waste may only be taken to the waste collection area through the front of the establishment or through a dedicated service entrance accessible from the Ocean Drive or South Pointe Drive frontages.
 - G. 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.
 - H. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
 - I. 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.
 - J. Garbage dumpster covers shall be closed at all times except when in active use.
 - K. Restaurant and bar personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
 - L. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
 - M. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day.
 - N. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
7. The applicant shall address the following Transportation, Mobility, Concurrency and Parking requirements, as applicable:
- A. The applicant shall pay all impact, mobility, and concurrency fees due prior to obtaining a Building Permit, Certificate of Occupancy, or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing.
 - B. The applicant shall coordinate with the Transportation Department to develop an acceptable Transportation Demand Management (TDM) Plan, prior to the issuance of a building permit. The TDM plan shall include providing transit passes and bike share passes to employees.

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- C. A TDM status report shall be presented to the Planning Board outlining the TDM strategies utilized and their effectiveness at the time of the 90-day progress report.
 - D. The applicant will provide text-to-order valet parking services to limit crowding on the exterior of the venue.
 - E. All valet parking operations shall be conducted within the rented on-street parking space(s) for the valet ramp and shall not block, at any time, the bicycle lanes on South Pointe Drive.
 - F. The restaurant shall maintain sufficient valet attendants to ensure that there are no queues extending onto the public right-of-way. The analysis determined that three (3) valet spaces with a maximum of 11 valet attendants during peak times are adequate to facilitate valet operations without valet queues extending onto public right-of-way. Additionally, signage shall be provided for ride share drop-off areas in a manner to be reviewed and approved by the Transportation Department. It should be noted that projected vehicular volumes and estimated valet processing times were conservatively assumed in the analysis. If it is determined that valet processing times can be performed more efficiently and/or actual traffic volumes are lower than projected, a reduced number of valet attendants may be adequate to serve the site, subject to the review and approval of the Transportation Department.
 - G. The applicant is required to submit a supplemental traffic memorandum including an evaluation of the proposed valet operations by no later than six (6) months from the date that the restaurant is fully operational to the Transportation Department. The valet analysis queuing study should include field data collection for one (1) weekend day including the peak valet operations period. A progress report may be requested by staff if it is found that there are issues with valet and traffic operations.
 - H. The applicant shall submit previously approved parking plans and calculations for the overall site as part of the building permit application. The valet operations shall utilize the spaces that were required for the original commercial areas and provided on-site prior to utilizing off-site parking spaces, to the extent the on-site spaces are available.
 - I. Off-site parking shall be located at 125 Collins Avenue. In case that the parking lot at 125 Collins Avenue is no longer available, the applicant shall submit an updated valet parking analysis and plan to the Transportation Department. The revised plan shall be subject to the review and approval of the Transportation Department.
- 8. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this establishment.
 - 9. 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.
 - 10. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load should there be valid complaints

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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.

11. 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 2.5.2.5, Code of the City of Miami Beach, Florida.
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 Final Order shall be recorded in the Public Records of Miami-Dade County. prior to the issuance of a Building Permit.
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 Chapter 1, Article III, 1.3.8 of said Miami Beach Resiliency 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.

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9/14/2023 | 10:26 AM EDT

Dated _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by
Rogelio Madan
BY: _____
Rogelio A. Madan, AICP
Development and Resiliency Officer
for Chairman

STATE _____ OF _____ FLORIDA
)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 14 day of September, 2023, by Rogelio A. Madan, Development and Resiliency Officer for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



Miriam Herrera
Notary:
Print Name: Miriam Herrera
Notary Public, State of Florida
My Commission Expires: 12-16-23
Commission Number: 66940469

Approved As To Form:
Legal Department _____

DocuSigned by

Nickalleg

(9/13/2023 | 7:30 PM EDT

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DocuSigned by

Jessica Gonzalez

(9/14/2023 | 2:52 PM EDT

Filed with the Clerk of the Planning Board on _____

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EXHIBIT "A" – Legal description

EXHIBIT "A"

Legal Description

Condominium Parcel Nos. CU-1 and CU-2, ONE OCEAN CONDOMINIUM, according to the Declaration thereof, recorded March 24, 2016 in Official Records Book 30011, page 1124, of the Public Records of Miami Dade County, Florida as amended and/or supplemented from time to time, together with an undivided interest in the common elements appurtenant thereto.