

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

PROPERTY: 1790 Alton Road.

FILE NO. PB22-0548

IN RE: An application has been filed requesting conditional use approval for a new 5-story mixed-use development, including the use of a mechanical parking, and a restaurant with more than 100 seats and a floor area in excess of 3,500 square feet, pursuant to Chapter 118, Article IV, and Chapter 130, Article II of the City Code.

LEGAL DESCRIPTION: Lot 1, Block 17-A of "ISLAND VIEW SUBDIVISION", according to the Plat thereof, as recorded in Plat Book 6, at Page 115, of the Public Records of Miami-Dade County, Florida, less beginning at the northwesterly corner of Lot 1; thence south along the westerly line of Lot 1 for 169.41 feet to a point where the westerly line of Lot 1 intersects the northerly line of Dade Boulevard; thence northeasterly along the notherly line of Dade Boulevard for 65.7 feet to a point; thence northwesterly along a line deflecting 90 degrees to the left for 65.95 feet to a point; thence northerly along a line deflecting to the right 29 degrees 22'37" for 79.65 feet to a point being on the southerly line of 18th Street for 24.9 feet to the point of beginning, together with all the appurtenances therunto belonging in anywise appertaining. (Special Warranty Deed, dated October 15th 1993, recorded in Official Records Book 16367, Page 4229, Miami-Dade County Records).

MEETING DATE: September 20, 2022

CONDITIONAL USE PERMIT

The applicant, SOBE 18, LLC, requested a Conditional Use approval for the construction of a new 5-story mixed-use development, including the use of a mechanical parking, and a restaurant with more than 100 seats and a floor area in excess of 3,500 square feet, pursuant to Chapter 118, Article IV, and Chapter 130, Article II 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:

The property in question is located in the CD-2 Commercial, High Intensity District;

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

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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;

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

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

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

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

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Conditional Use Permit is issued to SOBE 18, LLC (the applicant) and owner of the property. Any changes in ownership or 50% (fifty percent) or more stock ownership, or the equivalent, of non-residential portions of the building 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 Certificate of Use/Business Tax Receipt.
3. This Conditional Use Permit shall include two (2) restaurants, located on the first and second levels. The outdoor seating area at the second level must cease all operations no later than 8:00 pm. The maximum occupational content and seating shall be as follows:
 - a. The ground floor restaurant shall not exceed 81 total seats, including a maximum of 57 outdoor seats, and a maximum occupancy load of 122 persons.
 - b. The second floor restaurant shall not exceed 179 total seats, including a maximum of 38 outdoor seats, and a maximum occupancy load of 194 persons.
4. The following shall apply to the operation of the entire project:
 - a. All trash containers shall utilize rubber wheels, as well as a path consisting of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
 - b. All trash rooms shall be air conditioned and sound-proofed in a manner to be approved by staff. The doors to the trash rooms shall remain closed and secured when not in use and all trash dumpsters shall be closed at all times except when in use.

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- c. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff.
 - d. The property and adjacent rights-of-way shall be maintained clean and free from debris
 - e. Except as may be required for Fire, Building, or Life Safety Code purposes, no speakers or televisions of any kind shall be affixed to, installed, or otherwise located on the exterior of the premises within the boundaries of the property, including, but not limited to, exterior portions of any restaurant, anywhere on the rooftop, and any outdoor terraces.
 - f. No patrons shall be allowed to queue on public rights-of-way.
 - g. Establishments with outdoor cafes or sidewalk café permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served in the restaurant and shall not be permitted to have outdoor speakers.
 - h. Commercial uses on the rooftop are prohibited.
 - i. Entertainment is prohibited throughout the property and within the building.
 - j. Use of the rooftop shall be limited to residents of the building and their invited guests only, and the rooftop shall not be utilized for any commercial purposes, including restaurant seating.
 - k. The building shall maintain a manager on-site 24 hours a day. The manager shall not be part of the valet parking staff.
5. A progress report shall be scheduled before the Planning Board 90 days after obtaining a business tax receipt (BTR).
 6. The Planning Board shall retain the right to call the owner or operator back before the Board and make modifications to this Conditional Use Permit should there be valid complaints, as determined by Code Compliance, 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.
 7. 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.
 8. 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.
 9. The applicant shall address the following Transportation, Mobility, Concurrency, Delivery, and Parking requirements:

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- 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. Property managers and business operators for all residential and commercial uses shall ensure that deliveries are made as approved in this Conditional Use Permit. At no time shall delivery trucks block traffic flow on the public right-of-way.
- c. The applicant shall submit an MOT (Maintenance of Traffic) plan to Public Works Department and Transportation 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.
- d. The developer shall coordinate with the Transportation Department to develop an acceptable Transportation Demand Management Plan, prior to the issuance of a building permit. At a minimum the plan shall provide for the following, as detailed in the operating plan submitted by the applicant:
 - i. The owner shall provide a bicycle parking area on the property to serve residents, patrons, and employees. Per the plans, a minimum of three (3) spaces shall be provided.
 - ii. The owner shall offer a program to restaurant employees to either obtain monthly passes from Miami-Dade Transit to allow employees to travel to and from the property without the need for automobiles, or provide an option for monthly City of Miami Beach parking garage passes (at each employee's option).
 - iii. The owner shall offer restaurant employees, who have been employed for at least ninety (90) days, financial assistance of up to \$100 to cover the cost of purchasing a bicycle to travel to and from work.
- e. That the garage shall be in operation 24 hours per day, seven days a week, as proposed by the applicant.
- f. Parking for spaces shall be shall only be operated through valet parking. Valet parking shall be provided 24 hours per day, seven days a week.
- g. A sufficient number of valet attendants shall be provided on site to ensure that queuing onto Washington Avenue, including public sidewalks, does not occur at any time.
- h. The facility shall maintain adequate backup generators sufficient to power the vehicle lifts. The generators shall be maintained in proper operating condition. The generators shall be installed in accordance with Code requirements regarding minimum flood plain criteria.
- i. Commercial deliveries and trash collection shall take place only at the designated area proposed by the applicant as shown in the plans or on designated loading spaces in the public right of way.

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- j. Scheduled trash pick-up and commercial deliveries shall only be permitted between 10:00 AM and 4:00 PM.
 - k. When loading is actively taking place within loading spaces that are shared with the outbound drive isle, a dock master shall ensure that there are no conflicts between loading operations and the parking area.
 - l. There shall be no queuing of delivery, garbage, or moving trucks in the public right of way.
 - m. Delivery trucks shall not be allowed to idle in loading areas or driveways.
 - n. Warning signs prohibiting horn honking, tire-screeching, or car alarm sounding shall be posted prominently by the applicant in the parking area.
 - o. Both car elevators shall be able to accommodate the standard AASTHO passenger vehicle size requirements.
 - p. The driveway into the site shall utilize a mountable curb to maximize pedestrian comfort, subject to the review and approval of staff.
 - q. Bicycle parking locations will be identified at the time of building permit issuance.
 - r. Parking for uses not located on-site shall not be permitted.
10. The development shall comply with the "Green Buildings" requirements in Chapter 133, Article I of the City Code.
 11. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a Building permit.
 12. The applicant, operator and/or owner, both now and in the future, shall abide by all the documents and statements submitted with this application, as well as all conditions of this Order.
 13. The applicant shall resolve all outstanding violations and fines on the property, if any, prior to the issuance of a building permit for the project.
 14. 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, of the City Code
 15. The applicant shall obtain a full building permit within 18 months from the date of approval of this Conditional Use Permit, 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.
 16. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be

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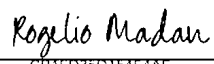
returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

- 17. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- 18. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.
- 19. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.
- 20. The applicant agrees and shall be required to provide access to areas subject to this Conditional Use Permit 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.

10/31/2022 | 1:04 PM EDT

Dated _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:

 BY: _____
 Rogelio A. Madan, AICP
 Chief of Planning and Sustainability
 for Chairman

STATE) OF FLORIDA

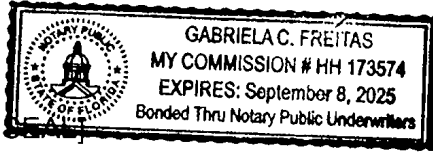
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 31st day of October, 2022, by Rogelio A. Madan, Chief of Community Planning and Sustainability for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

DS
RM

September 20, 2022

[Handwritten Signature]



[NOTARIAL

Notary:

Print Name: *Gabriela C. Freitas*

Notary Public, State of Florida

My Commission Expires: *Sept. 8, 2025*

Commission Number: *HH173574*

Approved As To Form:
Legal Department

DocuSigned by:
[Signature]

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Filed with the Clerk of the Planning Board on

DocuSigned by:
Jessica Gonzalez

(10/31/2022 | 1:35 PM EDT

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