

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: July 30, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

 for TRM

SUBJECT: **PB21-0442. 743 Washington Avenue. Progress Report.**

RECOMMENDATION

Set a revocation/modification hearing for September 24, 2024.

HISTORY

December 16, 2008: Approval of a Conditional Use Permit (CUP) for Buddha Lounge d/b/a The Gates for a neighborhood impact establishment consisting of a restaurant and a bar/lounge with a double door vestibule and a retail component at the front entrance.

May 26, 2009: Approval of a Modification to the previously approved CUP eliminating Buddha Lounge d/b/a The Gates, and replacing Scott Robins as President of 8th Street Washington Holdings, Inc. as the operator of the neighborhood impact establishment as previously approved.

August 23, 2011: Approval of a Modification to the previously approved CUP to operate only as an entertainment establishment without food service, rather than as a restaurant and bar/lounge; and to change the name of the operator from Washington Holdings Inc. to Washington Entertainment, LLC.

February 28, 2012: Approval of a Modification to the previously approved CUP to change the name of the operator from "Washington Entertainment, LLC 743" to "Washington Entertainment, LLC."

July 27, 2021: Approval of a Modification to the previously approved CUP to change the name of the operator from "Washington Entertainment, LLC" to "Mansourandco, LLC."

May 29, 2024: A cure letter was sent to "Mansourandco, LLC", the applicant for the CUP that was last modified by the Planning Board on July 27, 2021. The cure letter requested that the applicant appear before the Planning Board on June 25, 2024, for a progress report.

June 25, 2024: The Planning Board discussed the progress report and continued the item to the July 30, 2024 meeting. The Board also requested that a representative of the Police Department attend the July 30th meeting and provide any information on the number of calls for service at the property. Additionally, the Board requested that the applicant present operational

plans to ensure that no queuing on the public sidewalk would take place and provide the Board with the number of promoted events on a monthly basis.

PROGRESS REPORT

On May 29, 2024, the attached cure letter was sent to “Mansourandco, LLC”, the applicant for the CUP that was last modified by the Planning Board on July 27, 2021. The cure letter requested that the applicant appear before the Planning Board on June 25, 2024, for a progress report.

There have been violations and warnings regarding work done without obtaining a Certificate of Appropriateness, for the operation of the establishment contrary to the requirements of the Conditional Use Permit (CUP), for failure to comply with the requirements of a promoted event, and for sanitation issues. These violations include the following, as of July 23, 2024:

1. Case No. CUP2024-00074 5/18/2024.

CUP Condition Violation.

Ref: Black film (tinting) has been applied to the windows in contravention of condition 13 of the City of Miami Beach Conditional Use Permit.

Sections 142-153, 118-194, 114-8:

Failure to operate your business in accordance with your conditional use permit.

B.McLean 728 BWC

2. Case No. ZV2024-05289 5/18/2024.

Ref: The installation of a large, gold sculpture at the center of the entrance and installation of window tints.

Sections 114-8, 118-503, 118-533, 118-561.

Altering a property without obtaining a Certificate of Appropriateness.

B.McLean 728 BWC

3. Case No. CC2024-17985 5/19/2024.

Violation of Section 82-151.

A person or entity obstructing or causing to obstruct any street or sidewalk in the city or impeding the general movement of vehicular or pedestrian traffic without first obtaining a right-of-way permit.

Ref; Line queuing outside of Vendome on the sidewalk.

1st offense 500.00

CCO R Santana 705

CCA Jefferson 747

CCAD Curitore 700

BW Used

Update: Fine paid. Case closed on 6/11/2024

4. Case No. CUP2024-00075 5/19/2024

Violation of: Sections: 142-153, 118-194, 114-8.

Failure to operate your business in accordance with your conditional use permit

Ref; Line queuing outside of Vendome on the sidewalk.

CCO R Santana 705

BWC used

5. Case No. CC2024-18066 6/5/2024

Section 6-3 (9). Any qualifying alcoholic beverage establishment in the City must provide the Police Chief or designee with written notification with the disclosure requirements for alcoholic beverage establishments of this section.

REF: Failing to provide written notification (at least 96 hours prior to the start of a promoted event within the city) to the Miami Beach Police Department Chief or designee for 50 Cent performance on June 7, 2024. Notice of Violation Issued: First Offense \$1000.00 Fine
CCO G Frank 760

BWC used

Update: Case appealed to Special Master (SMA2024-04575). The Special Master denied the appeal on 7/15/2024 with an adjudication of guilty. The \$1000 fine for a first offense was waived. Admin fees paid.

6. Case No. SV2024-24040 6/20/2024

Section 90-102: Depositing any garbage, trash or any kind of waste upon any vacant, occupied or unoccupied premises within the City or upon any street, alley, parkway or park or in any canal, waterway, bay, ocean, pool or lake within the City.

REF: Illegally dumped cardboard boxes dumped at the rear of 729 Washington Avenue with an address of 743 Washington Avenue.

1st Offense: \$50.00 Fine.

K.Doughty/750.

BWC used.

Update: Boxes removed by 6/22/2024. Case closed on 7/5/2024

7. Case No. SV2024-24282 7/20/2024

Section .90-100. Illegally disposing of industrial or bulky waste.

You can comply by properly disposing of the industrial or bulky waste within 24 hours of receipt of this notice. Failure to comply within 24 hours of receipt of this notice will result in the imposition of a fine. In addition, failure to comply will result in the City causing the waste to be removed from the premises involved. All costs incurred by the City for the removal and disposal of the waste shall be charged to the violator. First offense=\$500.00 fine Second and subsequent offense=\$1000.00 fine.

Update: Case closed on 7/20/2024

STAFF ANALYSIS

As identified above, the property has received several violations, including for the installation of a sculpture on the property without obtaining a Certificate of Appropriateness, as well as violations related to the CUP for the application of window tinting and for the obstruction of the public sidewalk due to patrons queuing in front of the establishment.

Further, violation **CC2024-18066** was issued on 6/5/2024 for failing to provide written notification (at least 96 hours prior to the start of a promoted event within the city) to the Miami Beach Police Department Chief or designee for a performance on June 7, 2024. This violation was appealed to the Special Master (SMA2024-04575), and on July 15, 2024, the Special Master denied the appeal with an adjudication of guilty (See SM Order, attached).

The following conditions of approval contained in the CUP are applicable regarding the above noted violations:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board in 90 days after the Business Tax Receipt has been issued. 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).
13. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.
15. Queuing of persons on the sidewalk shall be prohibited. Queuing shall take place within the premises, as shown in the plans submitted, and controlled by The Gates security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment.
22. 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 the 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 permit.

The violations noted herein pertaining to sidewalk queuing will require additional monitoring by Code Compliance. Additionally, action will need to be taken the applicant to address the exterior improvement issues noted.

At the June 25, 2024 meeting the Board requested that the applicant present operational plans to ensure that no queuing on the public sidewalk would take place. The Board also requested information on the number monthly promoted events. As of the writing of this report, no such operational plan or information on promoted events has been presented to staff.

Staff believes that additional requirements in the CUP Order pertaining to promoted events and the operational plan are needed. To ensure that an updated operational plan, and revised requirements for promoted events are part of the approved CUP, it is recommended that a modification hearing be set for September 24, 2024.

STAFF RECOMMENDATION

Staff recommends that the Board hear testimony from the applicant and the public, and set a revocation/modification hearing for September 24, 2024.

**IN AND BEFORE THE SPECIAL MAGISTRATE
OF THE CITY OF MIAMI BEACH, FL
Miami Beach, Miami-Dade County, FL**

Special Magistrate Case #: SMA2024-04575

Violation #: CC2024-18066

MANSOURANDCO LLC DBA VENDOME C/O GIANESE-PITTMAN, P.A.

Petitioner,

v.

CITY OF MIAMI BEACH,

Respondent.

/

AN ADMINISTRATIVE HEARING was held before the Special Magistrate of the City of Miami Beach, Florida, on July 15, 2024, at the request of the Petitioner, for the purpose of appealing

Section 6-3 (9). Any qualifying alcoholic beverage establishment in the City must provide the Police Chief or designee with written notification with the disclosure requirements for alcoholic beverage establishments of this section.

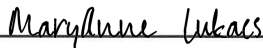
Failing to provide 96 hour written notification to the City of Miami Beach Police Department or designee with specific information for 50 Cent performance for June 7, 2024.

AS A CONSEQUENCE THEREOF, the Conclusion of the Special Magistrate is as follows:

1. The Appeal is DENIED.
2. The Petitioner is hereby adjudicated guilty of the 1st offense which carries a fine of \$1,000.00 which is waived.
3. The administrative court cost fee shall not be refunded to the Petitioner.

Done and Ordered as of 07/15/2024

DocuSigned by:



MaryAnne Lukacs

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As Special Magistrate for the City of Miami Beach

cc: Department:

Finance Department

MIAMIBEACH

PLANNING DEPARTMENT

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139

Tel: (305) 673-7550

May 29, 2024

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mansourandco LLC. DBA Vendome
C/O Gianese-Pittman, P.A.
100 Biscayne Blvd.
Suite 3070
Miami, FL 33132

Re: **Planning Board File No. PB21-0442 – 743 Washington Avenue**

Dear Sir/Madam:

A Conditional Use Permit (CUP) to operate a Neighborhood Impact Establishment was initially issued by the Planning Board on December 16, 2008. The CUP was last modified on July 27, 2021, to change the name of the operator to Mansourandco, LLC.

It has come to the Planning Department's attention that violations have been issued by the Code Compliance Department, including regarding the operation of establishment. The following warnings, violations and open offenses are showing in the City's records as of this writing:

- 1. Case No. CUP2024-00074 5/18/2024.**
CUP Condition Violation.
Ref: Black film (tinting) has been applied to the windows in contravention of condition 13 of the City of Miami Beach Conditional Use Permit.
Sections 142-153, 118-194, 114-8:
Failure to operate your business in accordance with your conditional use permit.
B.McLean 728 BWC
- 2. Case No. ZV2024-05289 5/18/2024.**
Ref: The installation of a large, gold sculpture at the center of the entrance and installation of window tints.
Sections 114-8, 118-503, 118-533, 118-561.
Altering a property without obtaining a Certificate of Appropriateness.
B.McLean 728 BWC
- 3. Case No. CC2024-17985 5/19/2024.**
Violation of Section 82-151.
A person or entity obstructing or causing to obstruct any street or sidewalk in the city or impeding the general movement of vehicular or pedestrian traffic without first obtaining a right-of-way permit.
Ref; Line queuing outside of Vendome on the sidewalk.
1st offense 500.00
CCO R Santana 705
CCA Jefferson 747
CCAD Curitore 700
BW Used

4. Case No. CUP2024-00075 5/19/2024

Violation of: Sections: 142-153, 118-194, 114-8.

Failure to operate your business in accordance with your conditional use permit

Ref; Line queuing outside of Vendome on the sidewalk.

CCO R Santana 705

BWC used

The following conditions of approval contained in the Conditional Use Permit are applicable to the above noted violations:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board in 90 days after the Business Tax Receipt has been issued. 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).
13. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.
15. Queuing of persons on the sidewalk shall be prohibited. Queuing shall take place within the premises, as shown in the plans submitted, and controlled by The Gates security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment.
22. 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 the 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 permit.

In accordance with Condition No. 1 of the CUP, **you are requested to appear at the June 25, 2024 Planning Board hearing** for a verbal progress report.

Please be advised that at the time of the progress report, in accordance with the provisions of Section 2.5.2.5 of the Land Development Regulations of the City Code (LDR's), 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 noted herein, and initiate modification/revocation proceedings, this matter may be placed on the September 24, 2024 agenda of the Board as a modification/revocation hearing. 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 Michael Belush at (305) 673-7000 ext. 26258 or via email at MichaelBelush@MiamiBeachFL.gov.

Sincerely,



Thomas R. Mooney, AICP
Planning Director

TRMMB

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

PROPERTY: 743 Washington Avenue

FILE NO: PB21-0442 f.k.a File No. 2053 (f.k.a. File No. 1906)

IN RE: An application has been filed requesting modifications to a previously issued conditional use permit for a Neighborhood Impact Establishment with Entertainment. Specifically, the applicant is requesting modifications to the ownership/operator, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: Lot 14 Block 33 of OCEAN BEACH ADDITION #1, according to the plat thereof, recorded in Plat Book 3, Page 11 of the public records of Miami-Dade County, Florida.

MEETING DATE: ~~February 28, 2012~~ July 27, 2021

MODIFIED CONDITIONAL USE PERMIT

The applicant, 743 Washington Entertainment, LLC, filed an application with the Planning Director to modify the Conditional Use Permit pursuant to Section 118-193 of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the proposed modification 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 record for this matter:

That the property in question is located in the CD-2 Commercial, Medium Intensity Zoning District;

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

That the majority of surrounding uses are commercial and residential uses;

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 Ordinance;



That the public health, safety, morals, and general welfare will not be adversely affected when the conditions of approval are in compliance;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values if the following conditions are met.

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 modifications to the Conditional Use Permit be GRANTED, as provided below: Underlining = new language; Strikethrough = deleted language.

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board in 90 days after the Business Tax Receipt has been issued. 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 ~~743 Washington Entertainment, LLC~~ Mansourandco, LLC as operator of this entertainment establishment. ~~Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.~~ Any change of operator or 50% (fifty percent) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or owner 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 prior to the applicant's submission and staff's acceptance 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. Security personnel shall take measures to enforce the Patron Age Restriction of the City Code during all hours of operation.
5. The hours of operation for this entertainment establishment shall be as follows:
 - Monday - Wednesday: 10:30 AM to 5:00 AM
 - Thursday - Sunday: 5:00 PM to 5:00 AM
6. As shown on the plans, the existing double door vestibules shall be maintained at the main entrance of the establishment.
7. A revised floor plan that shows the seating arrangement shall be submitted to staff for review and approval prior to obtaining a building permit or Certificate of Completion, Certificate of Occupancy or Business Tax Receipt. In addition, as proffered by the applicant, security personnel shall be posted in close proximity to all doors, including the rear exit door.


8. The garbage holding room opening towards the alley shall be enclosed and air conditioned in order to contain malodorous garbage and to avoid any garbage escaping to the alley.
9. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division. A final concurrency determination shall be conducted prior to the issuance of a Certificate of Occupancy or Certificate of Completion. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving the Business Tax Receipt.
10. The applicant shall coordinate with the Parking Department and the Transportation Manager the location of valet drop-off/pick up and sufficient spaces for the queuing of vehicles waiting to be serviced by the valet operator.
11. Once the applicant enters into a contract with the valet operator, a valet staffing plan and a vehicle storage plan shall be submitted to staff for review and approval.
12. The applicant shall submit for staff review and approval specific noise attenuation measures inclusive of interior proofing prior to the issuance of a Business Tax Receipt.
13. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.
14. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
15. Queuing of persons on the sidewalk shall be prohibited. Queuing shall take place within the premises, as shown in the plans submitted, and controlled by The Gates security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment.
16. The applicant shall be responsible for maintaining the frontage and exterior of the building and the property in excellent condition, including keeping the sidewalk, curb and gutter in front and side of the building in a clean and sanitary condition, free of all refuse, at all times. When sweeping the sidewalk in front of the establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately. In addition, at the end of business each day sidewalks shall be swept and hosed down.
17. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation or the occupant load should there be issuance of written warnings and/or notices of violation about loud, excessive, unnecessary, or unusual late night noise.
18. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended, 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.
19. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit.

- 20. Within a reasonable time after applicant's receipt of this Modified Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No building permit or certificate of completion shall be issued until this requirement has been satisfied.
- 21. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- 22. 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 the 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 permit.
- 23. 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.
- 24. 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.

8/15/2021 | 6:59 PM EDT

Dated: _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:


BY: _____
CB*F0335D*54F4AC

Rogelio Madan, AICP
Chief of Chief of Community Planning & Sustainability
FOR THE CHAIRMAN

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 15th day of August, 2021, by Rogelio Madan, Chief of Community Planning &



Sustainability for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[Handwritten Signature]

Notary:
Print Name: *Lupita F. Escobar*
Notary Public, State of Florida
My Commission Expires: *February 16, 2024*
Commission Number: *60456968*

[NOTARIAL SEAL]

Approved As To Form: 8/15/2021 | 11:35 AM EDT
Legal Department _____ (

DocuSigned by:
[Signature]
8D5CB38CCAB846C

Filed with the Clerk of the Planning Board on 8/20/2021 | 1:26 PM EDT (

DocuSigned by:
Jessica Gonzalez
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