CFN: 20180590344 BOOK 31158 PAGE 586
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HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: September 17, 2018

FILE NO: HPB18-0225

PROPERTY: 455 Lincoln Road

APPLICANTS: Lincoln Drexel, LTD and Lincoln Drexel II, LTD

LEGAL: Lot 1, Block 3, of the Lincoln Road Subdivision A, According to the Plat Thereof, as Recorded in Plat Book 34, Page 66, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for the introduction of active roof deck including new rooftop elevator and stair enclosures.

ORDER

The City of Miami Beach Historic Preservation Board 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:

I. Certificate of Appropriateness

A. The subject site is located within the Flamingo Park Local Historic District.

B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:

1. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.

2. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.

3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(3) of the Miami Beach Code.

4. Is not consistent with Sea Level Rise and Resiliency Review Criteria (1) in Section 133-50(a) of the Miami Beach Code.

5. Is consistent with Certificate of Appropriateness Criteria for Demolition in Section 118-564(f)(4) of the Miami Beach Code.

C. The project would be consistent with the criteria and requirements of section 118-564 if the following conditions are met:

1. A business tax receipt shall be issued for an outdoor café with a minimum of 30 seats for the rooftop portion of the property prior to the approval of any accessory outdoor bar counter pursuant to Section 142-1109 of the City Code.

2. The commercial space at the ground level along Drexel Avenue and Lincoln Lane North shall contain an active use.

3. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:

    a. Final details the proposed roof deck and elevator and stairway structure, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

    b. The ground level keystone shall be restored/replaced with new keystone that matches the original material, to the greatest extent possible, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

    c. Any lighting, fans, televisions, heaters or similar fixtures proposed to be located on the roof level shall be located so that they are not be visible from the public right of way, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

    d. Exterior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding historic district. Intensive 'white', color changing, flashing, blinking or similar lighting shall not be permitted on the roof level or ground level, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

4. The Applicant agrees to the following operational conditions for any and all permitted primary 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.

    a. <u>OUTDOOR CONDITIONS</u>

        i. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced. Owner agrees to include the rules and regulations set forth in these conditions in any lease, contract or assignment.

        ii. Exterior speakers, except those required to address Building and Life Safety Codes, shall not be permitted at the ground level of the property.

iii. Unless inconsistent with Section 142-336 of the City Code, exterior speakers, except those required to address Building and Life Safety Codes and those associated with a distributed sound system for ambient, background music only, which does not interfere with normal conversation, shall not be permitted at the roof deck, unless a Conditional Use Permit is approved by the Planning Board for outdoor entertainment. An acoustic plan certified by an acoustic engineer for the proposed distributed sound system shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

b. NOISE CONDITIONS

i. 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 approval and subject the approval to modification in accordance with the procedures for modification of prior approvals as provided for in the Code, and subject the applicant to the review provided for in the first sentence of this subparagraph.

c. OPERATIONAL CONDITIONS

i. 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. Doors shall remain closed and secured when not in active use.

In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.

II. Variance(s)

A. No request for variances has been filed as a part of the application.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. *Certificate of Appropriateness'* and 'II. *Variances'* noted above.

A. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.

B. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.

C. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street. The proposed backflow preventer facing Michigan Avenue shall be relocated.

D. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.

E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

F. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.

G. The Final 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.

H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

I. 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.

J. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

IT IS HEREBY 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 are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II,III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans "Lincoln Drexel Building" as prepared by Charles H. Benson & Associates Architects, dated July 6, 2018, as

approved by the Historic Preservation Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this 20 day of September, 2018.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
CHIEF OF HISTORIC PRESERVATION
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 20th day of

September 2018 by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

GABRIELA C. FREITAS
MY COMMISSION #GG131281
EXPIRES: AUG 03, 2021
Bonded through 1st State Insurance

NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 8-3-21

Approved As To Form:
City Attorney's Office: (9/18/18)

Filed with the Clerk of the Historic Preservation Board on (9/20/18)

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HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: October 12, 2021

PROPERTY/FOLIO: 455 Lincoln Road / 02-3234-005-0100

FILE NO: HPB19-0367

IN RE: An application has been filed requesting a Certificate of Appropriateness for the installation of a retractable canopy structure at the roof deck and modification to the public interior space including a variance to exceed the hours of operations for an outdoor bar.

LEGAL: Lot 1, Block 3, of the Lincoln Road Subdivision A, according to the Plat Thereof, as Recorded in Plat Book 34, Page 66, of the Public Records of Miami-Dade County, Florida.

ORDER

The City of Miami Beach Historic Preservation Board 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:

I. Certificate of Appropriateness

A. The subject site is located within the Flamingo Park Local Historic District.

B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:

1. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.

2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.

3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.

4. Is not consistent with Certificate of Appropriateness Criteria 'b' & 'd' in Section 118-564(a)(3) of the Miami Beach Code.

C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:

a. The southwest corner of the roof deck and seating area shall be modified to follow the curve of the canopy structure, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

b. Final design and details of the proposed aluminum wired screen located within the waiting area shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

c. Final design and details of the proposed south facing wall located within the waiting area shall be submitted, including material samples of the proposed ceramic tiles, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

d. Final design and details of the proposed retractable canopy structure shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. Any lighting, fans, speakers, conduit etc. shall be integrated within the canopy frame and shall not protrude with the exception of fans.

In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.

II. Variance(s)

A. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to exceed the allowable hours of operation of an accessory outdoor bar counter until 3:00 am.

B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the

applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

C. The Board hereby **Approves** the variance request and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:

1. This variance is issued to Opereta Ciudad Del Sol, LLC, as owner/operator of Andres Carne De Res to exceed the hours of operation for an accessory outdoor bar counter. Any change of operator or fifty percent (50%) or more stock ownership shall require the new owners or operators to return to the Historic Preservation Board and acknowledging acceptance of all conditions established herein, prior to the issuance of a new Business Tax Receipt.

2. 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 of the modified plans, even if the modifications do not affect variances approved by the Board.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. *Certificate of Appropriateness'* and 'II. *Variances'* noted above.

A. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.:

Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.

B. The issuance of a building permit is contingent upon meeting Public School Concurrency requirements, if applicable. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.

C. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.

D. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code, as applicable.

E. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.

F. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.

G. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit and shall be located immediately after the front cover page of the permit plans.

H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

I. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.

J. The Final 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.

K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

L. 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.

M. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

IT IS HEREBY 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 are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II,III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled **"Andres", as prepared by Form Group, Inc., dated July 6, 2021**, as approved by the Historic Preservation Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this Order shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this 21 day of October, 2021.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
HISTORIC PRESERVATION & ARCHITECTURE OFFICER
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 21 day of October 2021 by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

GABRIELA C. FREITAS
MY COMMISSION # HH 173574
EXPIRES: September 8, 2025
Bonded Thru Notary Public Underwriters

_____
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: Sept. [redacted]

Approved As To Form:
City Attorney's Office: _____ (10/20/2021)

Filed with the Clerk of the Historic Preservation Board on _____ (10/21/21)

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HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

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, 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

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 12th day of FEBRUARY, 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 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
MY COMMISSION #GG129397
EXPIRES: JUL 30, 2021
Bonded through 1st State Insurance

Notary:
Print Name:
Notary Public, State of Florida
My Commission Expires: July 30, 2021
Commission Number: GG129397

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

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