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MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: March 4, 2025

FROM: Thomas R. Mooney, AICP
Planning Director

DS For TRM

SUBJECT: **PB24-0707, a.k.a PB23-0577. 230 1st Street & 81 Washington Avenue – Le Jardin Boucherie & Genzo-Omakase Room.** Progress report due to code violations.

RECOMMENDATION

Review the issues of non-compliance and set a revocation/modification hearing for May 6, 2025.

BACKGROUND

November 14, 2017: The Historic Preservation Board approved a Certificate of Appropriateness for the partial demolition and renovation of the existing 3-story building and site design modifications, including the removal of the existing parking lot to be replaced with outdoor restaurant seating (HPB17-0143).

May 23, 2023: The Planning Board issued a conditional use permit for the operation of a neighborhood impact establishment consisting of a restaurant on the first and second floors of the existing 3-story building.

January 7, 2025: The Planning Board approved a modified conditional use permit for the expansion of the NIE to include the third floor of the existing building for a new restaurant.

January 28, 2025: BTR issued for the first and second floors of the restaurant.

February 13, 2025: The Planning Department sent a cure letter to the applicant, 81 Washington, LLC, the property owner, and La Grande Boucherie Miami Beach, LLC, as operator of the neighborhood impact establishment, in response to a code citation that was issued for having outdoor entertainment in the form of a live band in the exterior courtyard. The cure letter advised the applicant that a progress report was scheduled for March 4, 2024.

STAFF ANALYSIS

On February 13, 2024, the attached cure letter was sent to 81 Washington, LLC, the property owner, and La Grande Boucherie Miami Beach, LLC, as operator of the neighborhood impact establishment, which was last modified by the Planning Board on January 7, 2025.

There has been a flagrant violation issued regarding the operation of the establishment contrary

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to the requirements of the Conditional Use Permit (CUP). The following violation was noted in the Cure Letter that was sent to the applicant:

Case No. CC2025-19402, NC2025-29514 1/31/2025

Reference: Restaurant conducting a special event without a permit restaurant having a live band in the court yard.

Section 12-5. Conducting a Special Event without a permit.
1st Offense
$1000.00 Fine

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

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. ~~118-194 (c).~~ 1.3.7 of the Land Development Regulations (LDRs), entitled "ENFORCEMENT", and such enforcement procedures as are otherwise available.

1. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.

7.A.v. Entertainment, as defined in City Code Section ~~114-1~~ 1.2.2.4, shall be strictly prohibited in all indoor and outdoor areas.

7.A.xi. Special event permits shall be prohibited.

14. 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.~~ 2.5.2.5 of the Land Development Regulations (LDRs).

17. 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 ~~114-7~~ 1.3.7 of the ~~Code~~ Land Development Regulations (LDR's), entitled "ENFORCEMENT", and such enforcement procedures as are otherwise available. Any failure by the owner, applicant or operators 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.

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Additionally, the following is a list of noise complaints received since the restaurant commenced operations:

NC2025-29534 2/2/2025 11:39 PM

Arrival time: 11:39 PM Departure time: 12:00 AM I received a complaint from dispatch in reference to loud music coming from the restaurant at 81 Washington Ave. Upon my arrival I was advised that the complainant did not want to meet. I proceeded to survey the area for loud music. I was only able to hear music from standing directly outside the property. I then spoke with the manager Sergi at the restaurant. I advised Sergi on the complaint we received. Sergi understood and stated as a courtesy he will lower the volume. No violation observed, music was not excessively loud. Complainant did not want to meet.
No violation observed. Music not excessively loud. BWC A. Munio 763

NC2025-29596 2/12/2025 6:23 AM

Arrival: 6:16 am Departure: 6:35 am
Received a complaint of loud noise at 81 Washington Ave. I arrived at the property in question ad saw two men setting up for welding purposes. I spoke to Mr. Giancarlo and educated him on the noise ordinance for Miami Beach and he understood. There was no noise upon arrival
No violation observed
Not occurring upon arrival
BWC: used
L. Negron #740

NC2025-29608 2/14/2025 6:09 PM

loud music Arrival time: 6:08 PM Departure time: 6:32 PM REF: Loud music heard coming 81 Washington Ave from the surrounding area. Disposition: Music was not loud nor excessive. Description: I received a complaint from dispatch in reference to loud music heard coming 81 Washington Ave from the surrounding area. Upon my arrival, I raised CCA Jefferson to see if the complainant would like to meet. CCA Jefferson informed me that the complainant did not answer the telephone. Shortly after, I exited my city vehicle to survey for loud music. While surveying for loud music form the complainant's point of view, no music could be heard. While surveying from directly in front of 81 Washington Avenue, music could be heard that was not loud nor excessive. The music was at an ambient level. In addition to surveying, I asked to speak with a manager. While speaking with a manager at the restaurant, I advised about the complaint for loud music. I also informed the manager that the music level at the restaurant was reasonable. As a courtesy, I also advised the manager to lower the music to prevent future complaints. I also educated the manager about the noise ordinance for the City of Miami Beach. The manager acknowledged the information that I provided. I returned to my city vehicle.
No violation observed. CCO K.Doughty/750.

NC2025-29646 2/20/2025 5:00 PM

Date/Time: 2/20/2025 Arrival Time: 4:40 PM Departure Time: 5:15 PM Location: 81 WASHINGTON AVE On the above date and time, I, CCO R. Santana (#705), was dispatched to a noise complaint regarding loud music. Upon arrival, I attempted to contact the complainant; however, they declined to meet with me. I then made contact with the

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restaurant manager during the inspection. During the inspection the music was not loud or excessive I explained the reason for my inspection to the restaurant manager and the city ordinances.
No violation was issued. CCO R Santana 705 BWC utilized.

NC2025-29658 2/22/2025 3:46PM
Arrival: 3:30 PM Departure: 3:40 PM I responded to a noise complaint regarding loud music at 81 Washington Ave. Upon my arrival, complainant was contacted but no response was received. I then proceeded to 81 Washington Ave and met with the manager of the property, David. I advised him of the complaint received. Music was not excessively loud.
At this time, no violations were observed. BWC used T. Mitchell/765

Staff would note that entertainment, which includes, but is not limited to, a DJ, live band, or music played at a volume that interferes with normal conversation, is strictly prohibited south of 5th Street. Condition 7.A.v. of the CUP clearly notes this prohibition. As indicated in the code citation issued on 1/31/2025, a live band was performing in the outdoor courtyard of the establishment. As there is no ambiguity that a live band constitutes entertainment, which is flagrant violation of the CUP, staff recommends that the Board set a revocation/modification hearing for May 6, 2025.

In accordance with the provisions of Section 2.5.2.5 of the Land Development Regulations of the City Code (LDRs), the Planning Board may set a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings. Should the Planning Board set a public hearing for the purpose of examining the noncompliance issues noted herein, and initiate modification/revocation proceedings, this matter would be placed on the May 6, 2025, agenda of the Board as a modification/revocation hearing. Based on substantial competent evidence, the board may consider revoking the approval, modifying the conditions thereof, or imposing additional or supplemental conditions.

STAFF RECOMMENDATION

Staff recommends that the Board hear testimony from the applicant and the public and set a revocation/modification hearing for May 6, 2025.

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MIAMIBEACH
PLANNING DEPARTMENT
City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139
Tel: (305) 673-7550

February 11, 2025

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mitchell Seth Polansky, P.A.
999 Brickell Avenue, STE 600
Miami, FL 33131

Re: **Planning Board File PB23-0577 & PB24-0707**
230 1st Street & 81 Washington Avenue

Dear Mitchell Polansky,

A Conditional Use Permit (CUP) to operate a Neighborhood Impact Establishment (NIE) consisting of an alcoholic beverage establishment with an occupant content above 199 persons, was initially issued by the Planning Board on May 23, 2023. A modified CUP was issued by the Planning Board on January 7, 2025.

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:

Case No. CC2025-19402, NC2025-29514 1/31/2025

Reference: Restaurant conducting a special event without a permit restaurant having a live band in the court yard.

Section 12-5. Conducting a Special Event without a permit.
1st Offense
$1000.00 Fine

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 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).~~ 1.3.7 of the Land Development Regulations (LDRs), entitled "ENFORCEMENT", and such enforcement procedures as are otherwise available.

6. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.

Docusign Envelope ID: 473E0F98-4764-4971-95B0-3B30730F8A9F

7.A.v. Entertainment, as defined in City Code Section ~~114-1~~ 1.2.2.4, shall be strictly prohibited in all indoor and outdoor areas.
7.A.xi. Special event permits shall be prohibited.

14. 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.~~ 2.5.2.5 of the Land Development Regulations (LDRs).

17. 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 ~~114-7~~ 1.3.7 of the ~~Code~~ Land Development Regulations (LDR's), entitled "ENFORCEMENT", and such enforcement procedures as are otherwise available. Any failure by the owner, applicant or operators 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 Nos. 1 & 17 of the CUP, **you are requested to appear at the March 4, 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 (LDRs), 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 May 6, 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,

DocuSigned by: for TRM
DEC3ECF2EB68404...
Thomas R. Mooney, AICP
Planning Director

TRM\MB

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PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 230 1st Street - 81 Washington Ave – Le Jardin Boucherie & Genzo-Omakase Room

FILE NO. PB24-0707, f.k.a. PB23-0577

IN RE: An application has been filed modifications to a previously issued conditional use permit for a Neighborhood Impact Establishment (NIE), pursuant to Chapter 2, Article V, and Chapter 7, Article II, of the Miami Beach Resiliency Code. Specifically, the application includes expansion of the NIE to include the third floor of the existing building for a new restaurant.

LEGAL DESCRIPTION: Lots 20 & 21, Block 10, Ocean Beach Florida Subdivision, according to the Plat Thereof, as Recorded in Plat Book 2, Page 38, of the Public Records of Miami-Dade County, Florida.

MEETING DATE: May 23, 2023; January 7, 2025

MODIFIED CONDITIONAL USE PERMIT

The applicant, 81 Washington, LLC, filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact Establishment pursuant to Chapter 118, Article IV, and Chapter 142, Article V of the City Code. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the C-PS-1 Commercial Performance Standard limited mixed use.

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 modified Conditional Use Permit be GRANTED, as provided below:

Underlining denotes new language and ~~strikethrough~~ denotes stricken language from the previous Order.

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. ~~118-194 (c).~~ 1.3.7 of the Land Development Regulations (LDRs), entitled "ENFORCEMENT", and such enforcement procedures as are otherwise available.

2. The applicant shall be required to provide a letter to the Planning Department subsequent to the initial progress report and on an annual basis thereafter attesting to the applicant's compliance with all conditions of the CUP. The Planning Director shall include a copy of all such letters on the next available meeting agenda of the Planning Board for informational purposes. Following receipt of an applicant' s annual letter, the Planning Board may elect to schedule a progress report before the Board at its next available meeting. Failure to provide such letter on an annual basis shall constitute a violation of the CUP and a progress report shall be scheduled. In addition to all enforcement provisions herein, the Board reserves the right to schedule a modification / revocation hearing if determined necessary when reviewing any annual progress report.

3. This Conditional Use Permit is issued to 81 Washington, LLC, ~~as tenants and operators of the~~ the property owner, and La Grande Boucherie Miami Beach, LLC, as operator of the Neighborhood Impact Establishment consisting of ~~a~~ restaurants and accessory indoor bars. 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 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.

4. 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.

5. 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.

6. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.

7. 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 ~~450~~ 517 seat Neighborhood Impact Establishment, subject to the criteria listed below:

   i. The restaurants and accessory indoor bars subject to this CUP shall have a maximum occupant content of ~~623~~ 768 persons or any lesser such occupant content as determined by the Fire Marshal.

   ii. The indoor portions of the establishment may operate from 11:00 AM until 12:00 AM.

   iii. The outdoor seating areas of the establishment may operate from 11:00 AM until 11:00 PM on Sunday through Thursday, and until 12:00 AM on Fridays and Saturdays.

   iv. These hours shall not supersede any future amendments to the City Code, pertaining to hours of operation for alcoholic beverage and/or entertainment establishments.

   v. Entertainment, as defined in City Code Section ~~114-1~~ 1.2.2.4, shall be strictly prohibited in all indoor and outdoor areas.

   vi. Recorded background music, played at a level that does not interfere with normal conversation is 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.

   vii. Outdoor music shall cease at 10:00 PM from Sunday to Thursday and 11:00 PM on Fridays and Saturdays.

   viii. Sound generated from the venue, including, but not limited to, recorded music and patron conversations, shall not be plainly audible from the adjacent residential building.

   ix. Televisions and projectors shall not be located anywhere in the exterior areas of the property.

   x. No dancehall shall be permitted on the site.

   xi. Special event permits shall be prohibited.

   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 8:00 AM.

B. Deliveries may only occur between 9:00 AM and 1:00 PM each day.

C. Deliveries ~~must~~ shall be conducted via designated loading zones or loading areas at the rear of the property on the Collins Court alleyway. No deliveries shall be made from undesignated loading areas on Washington Avenue or First Street. Additionally, at no time shall delivery or service vehicles block any portion of the public right-of-way, or alleyway.

D. Delivery trucks shall not be allowed to idle in ~~the~~ any loading zone, or alleyway.

E. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.

F. Deliveries and waste collections may occur daily between 9:00 AM and 5:00 PM, or as specified by the City in approved loading zones in the vicinity.

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.

8. Provide a revised floor plan identifying the location of the main patron entrance and the host station. The host station shall be located a minimum of ten (10) feet away from the

main patron entrance in order to ensure that there is no queuing on the public right of way, subject to the review and approval of the Planning Department.

9. 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, per the TDM strategies outlined in the most recent Traffic Impact Analysis, prior to the issuance of a building permit.

   C. The applicant shall coordinate with the Parking Department to provide valet parking at the proposed valet parking ramps. The applicant ~~will~~ shall provide text-to-order valet parking services to limit crowding on the exterior of the venue.

   D. 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 right of way on Washington Avenue. There shall be sufficient valet parking runners available to ensure that the right of way is not blocked.

   E. Valet parking vehicle storage location(s) shall be ~~located in its entirety at 119 Washington Avenue.~~ subject to the review and approval of the Transportation and Mobility Department. ~~A progress report before the Planning Board shall be required prior to any change in the valet parking vehicle storage location.~~

   F. The applicant shall assign an employee to monitor the valet areas during all operating hours.

   G. A minimum of 29 valet attendants shall be required during peak hours in order to ensure valet queues do not exceed the storage provided. This number may be adjusted at the time of a progress report, provided detailed analysis of the actual valet utilization rate are provided for review and confirmation.

10. 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 entertainment establishment.

11. Prior to the issuance of an amended Certificate of Use for the operation of the third floor, the existing curbcut previously used to access the onsite parking on Washington Avenue shall be removed and replaced with a sidewalk and curb, subject to the review and approval of staff.

12. 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.

13. The Planning Board shall retain the right to call the owner or operator before the Board and modify the hours of operation or the occupant load should there be valid complaints about loud, excessive, unnecessary, or unusual noise. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.

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.~~ 2.5.2.5 of the Land Development Regulations (LDRs).

15. 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.

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

17. 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 ~~114-7~~ 1.3.7 of the ~~Code~~ Land Development Regulations (LDR's), entitled "ENFORCEMENT", and such enforcement procedures as are otherwise available. Any failure by the owner, applicant or operators 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.

18. 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.

19. 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.

20. In accordance with Section 2.5.2.4.b.ii of the Land Development Regulations of the City Code, should the conditional use approved herein cease operation at any point and remain idle or unused in whole or in part for a continuous period of six months or for 18 months during any three-year period whether or not the equipment, fixtures, or structures remain, the applicant shall be required to seek re-approval of the conditional use from the board. Resumption of such use shall not be permitted unless and until the board approval has been granted.

Dated _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Michael Belush, AICP
Planning & Design Officer
For Chairman

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Michael Belush, Planning & Design Officer of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

_____
Notary:
Print Name
Notary Public, State of Florida
My Commission Expires:
Commission Number:

{NOTARIAL SEAL]

Approved As To Form:
Legal Department:_____ ( )

Filed with the Clerk of the
Planning Board: _____ ( )