

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 9, 2025

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB24-0719. 1350 Collins Avenue**

An application has been filed requesting a Conditional Use Permit for an outdoor entertainment establishment in association with a restaurant, pursuant to Chapter 2, Article V, and Chapter 7, Article II, Section 7.2.13 of the Miami Beach Resiliency Code.

RECOMMENDATION

Approval with conditions.

HISTORY:

The application first came before the Board on January 7, 2025, and was continued to a date certain of February 4, 2025, at the request of the applicant. On February 4, 2025, the application was continued to a date certain of March 4, 2025, as requested by the applicant, in order to perform additional sound tests.

On March 4, 2025, the application was continued to a date certain of June 10, 2025. On June 10, 2025, the application was continued to a date certain of September 9, 2025.

Legal Description: Lot 2, Block 27, Of Ocean Beach Addition No.2, According To The Plat Thereof, As Recorded In Plat Book 2, Page 56, of The Public Records Miami-Dade County, Florida.

Zoning/Site Data

Zoning District: MXE (Mixed Use Entertainment)
Future Land Use Designation: MXE (Mixed Use Entertainment)
Local Historic District: Ocean Drive /Collins Avenue Historic District
National Register District: Miami Beach National Register Historic District

Surrounding Uses: **North:** Apartment building with HPB approval to convert back to original 'Commodore Hotel' w/accessory restaurant and active roof deck.

South: The Shepley South Beach Hotel

West: Bar/ Retail / Restaurant

East: Apartment building w/ accessory restaurant

THE PROJECT

The applicant, 1350 Collins Owner LLC, has submitted plans entitled "Conditional Use Application of Existing Building" Prepared by Ari L. Sklar, dated November 3, 2024.

As indicated by the applicant, the property contains a 2-story, 6-unit building (Orchidea Hotel), with an existing 82 seat restaurant ('Donatella') at the ground floor. The applicant is proposing to add outdoor entertainment as part of a new restaurant operation, which would consist of either a DJ or a solo violinist. Outdoor entertainment is proposed during the following days/times:

Fridays: 07:00 PM to 11:00 PM
Saturdays: 12:00 PM to 04:00 PM
 07:00 PM to 11:00 PM
Sundays: 11:30 AM to 06:00 PM

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the Miami Beach Resiliency Code Chapter 2, Article V, 2.5.2.2:

- 1. The use shall be consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

Consistent – Outdoor entertainment is a Conditional Use in the MXE, Mixed Use Entertainment zoning district.

- 2. The intended use or construction would not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan**

Consistent – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.

- 3. Structures and uses associated with the request shall be consistent with these Land Development Regulations.**

Partially Consistent –Outdoor entertainment establishments are a conditional uses in this zoning district, and subject to Planning Board approval, based upon compliance with the conditional use criteria set forth in the City Code.

- 4. The public health, safety, morals and general welfare shall not be adversely affected.**

Partially Consistent – The proposed outdoor entertainment component, as proposed, would adversely affect the general welfare of nearby residents, particularly if noise and hours of operation are not controlled. Staff has recommended conditions to ensure that the general welfare is maintained. Additionally, the use would have to comply with all applicable laws and regulations for licensure.

- 5. Adequate off-street parking facilities would be provided.**

Consistent – No parking is required for the proposed use within the existing contributing building. Valet parking will be provided from the front of the property along Collins Avenue.

- 6. Necessary safeguards would be provided for the protection of surrounding property, persons, and neighborhood values.**

Consistent – Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighborhood.

- 7. The concentration of similar types of uses shall not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.**

Partially Consistent - Staff has proposed conditions to minimize the potential for negative impacts.

- 8. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.**

Not Applicable – The site consists of existing contributing structures within the local historic districts. While the buildings will be renovated, no new construction is proposed.

- 9. Appropriate consideration is given to the safety of and friendliness to pedestrian traffic, passageways through alleys is encouraged where feasible and driveways shall be minimized to the extent possible.**

Not Applicable – The site consists of an existing contributing structure within the local historic districts. While the buildings will be renovated, no new construction is proposed, and no on-site parking is provided.

NEIGHBORHOOD IMPACT ESTABLISHMENT REVIEW GUIDELINES

In accordance with Chapter 7, Article 5 Sec. 7.5.5.4 of the Miami Beach Resiliency Code, in reviewing an application for an outdoor entertainment establishment, open air entertainment establishment or a neighborhood impact establishment, the Planning Board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to Chapter 2, Article V:

- 1. An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.**

Partially Consistent –The operational plan provided includes all necessary information; however the extent of entertainment and hours proposed is excessive, in relation to the context of the surrounding area.

- 2. A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, self-park, shared parking, after-hour metered spaces and the manner in which it is to be managed.**

Consistent – Valet parking will be provided from the front of the building along Collins Avenue.

- 3. An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises would be controlled.**

Consistent – The layout of the restaurant and operations plan provided, should ensure that there would be no need to control a large group.

- 4. A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.**

Consistent – The submitted LOI indicates that no crowding or large groups are anticipated.

5. A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.

Not Applicable – A traffic study was not required, as there is no increase in size to the permitted venue.

6. A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.

Consistent – Sanitation operations will be conducted from the rear service alley.

7. A noise attenuation plan which addresses how noise would be controlled to meet the requirements of the noise ordinance.

Partially Consistent – The applicant is proposing outdoor entertainment, which may negatively impact nearby properties. Staff has recommended conditions to minimize impact, including limiting entertainment to a DJ only during limited days / times.

8. Proximity of proposed establishment to residential uses.

Partially Consistent – The subject property is surrounded by a mix of residential and hotel uses and negative impacts to these uses may occur if the occupancies and sound levels are not carefully controlled. Staff is recommending conditions to ensure that nearby residents and hotel guests are not negatively affected.

9. Cumulative effect of proposed establishment and adjacent pre-existing uses.

Partially Consistent – If not carefully controlled, outdoor entertainment could have a negative impact on adjacent uses, including nearby residential buildings.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4 of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

1. A recycling or salvage plan for partial or total demolition shall be provided.

Not Applicable.

2. Windows that are proposed to be replaced shall be hurricane proof impact windows.

Satisfied

3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Satisfied

4. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 4 in Land Development Regulations.

Consistent. Resilient, Florida-friendly landscaping will be provided.

5. The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

Consistent. The existing structure took into consideration adopted sea level rise projections

6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to 3 additional feet in height.

Not Applicable.

7. As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood.

Not Applicable.

8. Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation.

Not Applicable.

9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 in General Ordinances.

Not Applicable.

10. As applicable to all new construction, stormwater retention systems shall be provided.

Not Applicable.

11. Cool pavement materials or porous pavement materials shall be utilized.

Not Applicable.

12. The design of each project shall minimize the potential for heat island effects on-site.

Not Applicable.

ANALYSIS

Project Description and Operations

The applicant is proposing outdoor entertainment as part of the new restaurant, which would consist of either a DJ or a solo violinist during the following days and times:

Fridays: 07:00 PM to 11:00 PM
Saturdays: 12:00 PM to 04:00 PM

07:00 PM to 11:00 PM
Sundays: 11:30 AM to 06:00 PM

Sound

The applicant submitted a sound study prepared by Brooks Acoustic Corporation (BAC), dated October 10, 2024. Arpeggio Acoustic Consulting, LLC, peer reviewed the applicants sound study, and provided a response, dated, November 18, 2024.

The response by Arpeggio indicates the following:

The summary (by Brooks Acoustic) claims that “music played over the loudspeakers in the proposed venue during both background ambient operation and also non-ambient entertainment are expected to be below normal conversation sound levels at the outside receiver locations of interest.” Given the assumptions pertaining to sound levels generated within the venue from the sound system (e.g., from DJs), we do not dispute the claim. It should be acknowledged, however, that sound produced by live instruments which may not be amplified (e.g., drums, trumpets, etc.), are not included in the claim in the summary.

In conclusion, we have concern over the audibility of entertainment-level music within guestrooms above at the Orchid Hotel as well as within south-facing guestrooms at the Commodore Hotel. Results given in the report indicate a great likelihood of audibility within the former set of guestrooms and we feel that there is a real possibility of audibility within the latter set of guestrooms, depending on the unknown construction or quality of guestroom windows. To that end, we recommend that sound system testing be conducted in a subset of guestrooms at both hotels to establish sound level limits and that those limits be established in terms of dBC.

In response to the peer review by Arpeggio, BAC provided a reply, dated December 13, 2024, which includes the following highlighted statements:

2. *Impact on Guestrooms in the Orchid Hotel and the Commodore Hotel*

Sound tests and calibration will be done post-installation of the audio equipment, as per typical conditions in the staff report. These sound tests and calibrations will be done to assist in and complete the commissioning of the audio system. Calibration, using measurements taken with both the dBA and dBC scales will be conducted so as to minimize the potential for audibility in the hotel guest rooms.

3. *Sound Survey on Collins Avenue and environs*

The immediate purpose and goal of this sound survey was to conduct ambient baseline sound testing as requested by the City of Miami Beach for a Conditional Use Permit (CUP).

Summary

Sound survey testing was conducted to establish the ambient sound levels at and around the site of the proposed Casa Orchidea restaurant venue. Ambient sound levels were acquired by testing at seven (7) locations at and around the venue site. Five of locations were at adjacent properties to the site. Two locations were on the site, with one location in an outdoor courtyard and the other location in a hotel suite on the second floor above the proposed restaurant venue.

The ambient sound levels at the outdoor locations ranged from 56 to 80 dBA and from 69 to 85 dBC.

The ambient sound levels in the indoor location was 41 dBA and 51 dBC.

A supplementary report by BAC, dated January 28, 2025, was submitted, including a sound survey and preliminary commissioning of the sound system, in an attempt to address the concerns raised.

Staff would note that although a sound survey was conducted as recommended by Arpeggio, the issue of live music was not satisfactorily addressed. As indicted in the January 28, 2025 BAC report, the live music test consisted solely of a violinist, 'and the sound of the violin was mixed in and controlled on the sound system with a preset volume.' While it is possible to control the volume of certain instruments that require a connection to the sound system, other instruments such as brass or percussion instruments would be impossible to adequately control, and conditions attempting such regulation are impractical. Since the sound test was conducted, the applicant has clarified that the only type of entertainment being requested is either a DJ or a solo violinist.

It is also important to note that there are three (3) existing residential buildings within the 1300 block of Collins Avenue, all of which are much taller than 2-stories. Given the tendency of sound to travel upward, staff has additional concerns regarding the impact on the residential units in these buildings. Although not abutting the subject property, they are in close enough proximity that residents could be disturbed.

Staff was present onsite for testing of the sound system in February, including from within the guestrooms of the adjacent properties. The system was tested at ambient levels and above ambient levels as set by the applicant's sound consultant. While the music was not plainly audible from the guestrooms with the windows closed, once the music rose above ambient levels, the sound was plainly audible and could readily become a nuisance and negatively impact hotel guests.

In light of the concerns with the sound study, as well as the proximity of the establishment to existing residential buildings, staff recommends limitations on the type of entertainment as well substantial reduction in the proposed hours for entertainment, as follows:

- Entertainment shall only be permitted as part of a restaurant, always serving meals. Entertainment shall be prohibited at any time that food service is not available.
- Entertainment shall not exceed ambient volume levels at any time.
- Entertainment shall be limited to a DJ, or a solo violinist, as proffered by the applicant, located within the interior of the buildings provided all equipment can be controlled by limits on the sound system.
- Entertainment shall only be permitted on Saturdays and Sundays, between 12:00 p.m. and 4:00 p.m., and shall not be permitted before 12:00 p.m. or after 4:00 p.m. Entertainment shall not be permitted, at any time, Monday through Fridays.
- The testing of the sound system shall be performed from the hotel rooms of the Commodore Hotel and Shepley Hotel, in order to ensure that sound levels are not plainly audible from these guest rooms during hours of entertainment.

This approach addresses real noise impacts, allows the applicant's preferred entertainment style for a limited timeframe, and minimizes disruption to nearby residential and hotel uses.

Deliveries and Sanitation

Refuse and loading operations will be provided along the alley at the rear of the site, and loading may also take place from designated on-street loading zones, near the property. Trash pick-up

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would occur a minimum of 5-6 days a week, or daily when needed.

Valet Parking & Transportation

The applicant has indicated that valet service will be available at the front of the building on Collins Avenue.

Security and Crowd Control

The applicant has indicated that this is a restaurant and not a night club and will not attract a large crowd waiting to gain entry. Reservation times will be staggered to avoid long lines, and the applicant has indicated that the main walkway and entrance will always be kept clear. Based upon the floor plan provided, and the operations indicated, staff does not anticipate any problems with crowd control on the subject property.

Summary

In summary, and as noted previously, staff does not recommend outdoor entertainment that exceeds a level that would interfere with normal conversation at any time. Due to concerns about noise disruption, as well as the proximity of existing residential buildings, staff recommends a more measured approach to outdoor entertainment, as noted in the conditions included in the draft CUP.

STAFF RECOMMENDATION

In view of the foregoing, staff recommends the application be approved, subject to the conditions in the attached draft order.

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

PROPERTY: 1350 Collins Avenue

FILE NO. PB24--0719

IN RE: An application for a Conditional Use Permit for an outdoor entertainment establishment in association with a restaurant, pursuant to Chapter 2, Article V, and Chapter 7, Article II, Section 7.2.13 of the Miami Beach Resiliency Code.

LEGAL DESCRIPTION: Lot 2, Block 27, Of Ocean Beach Addition No.2, According To The Plat Thereof, As Recorded In Plat Book 2, Page 56, of The Public Records Miami-Dade County, Florida.

MEETING DATE: September 9, 2025

CONDITIONAL USE PERMIT

The Applicant, 1350 Collins Owner LLC, requested a Conditional Use Permit for an outdoor entertainment establishment in association with a restaurant, pursuant to Chapter 2, Article V, and Chapter 7, Article II, Section 7.2.13 of the Miami Beach Resiliency Code. Notice of the request was given, as required by law, and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

That the property in question is located in the MXE – Mixed Use Entertainment zoning district;

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

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

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

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

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

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record

for this matter, and the staff report and analysis, which is adopted herein, including staff recommendations, as may have been modified by the Planning Board, that a Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed.

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 Resiliency Code Sec. 2.5.2.5.
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 1350 Collins Owner LLC, as the owner and operator of restaurant venue. 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 within 60 days followed by the submission and acceptance 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 a restaurant with limited outdoor entertainment, with a maximum occupant content of 199 persons or any lesser such occupant content as determined by the Fire Marshal.
- B. The establishment shall operate as a restaurant, preparing and serving food at all times. At no time shall the establishment become or operate as a bar.
- C. The 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 in accordance with the design intent and recommendations of the sound system study submitted as part of this application. 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. Prior to the issuance of the Business Tax Receipt (BTR), the sound system shall be tested under the supervision of a qualified acoustical professional and Planning Department staff, to ensure that all aspects of the system's performance comply with the design intent and requirements of this CUP. This shall include the requirement that noise from the sound system shall not exceed a level that would interfere with normal conversation at anytime on the subject property.

Testing of the sound system shall also be performed from the hotel rooms of the Commodore Hotel and Shepley Hotel, in order to ensure that sound levels are not plainly audible from these guest rooms during hours of entertainment. .

- D. Except as provided below, only ambient background music played at a volume that does not interfere with normal conversation may be permitted in the outdoor/open air areas.
 - a. The only type of entertainment that shall be permitted is a DJ, playing pre-recorded music or a solo violinist.
 - b. Entertainment (in the form of a DJ or solo violinist) shall be limited to the following days/times:

Saturdays:	Noon to 4:00 p.m.
Sundays:	Noon to 4:00 p.m.
 - c. The location for any DJ or violinist shall be limited to within the interior of one of the buildings on the property.
 - d. Entertainment shall only be permitted as part of a restaurant, always serving meals. Entertainment shall be prohibited at any time that food service is not available.
 - e. The outdoor speaker system shall require the deployment of multiple small, closely spaced speakers driven at low individual volumes. The system design shall physically distribute sound uniformly within the listening area.

- f. All outdoor speakers shall be oriented in such a way as to minimize sound propagation towards abutting properties.
 - g. Only the outdoor speakers approved pursuant to this Conditional Use Permit shall be used. All DJs and violinists shall be required to connect to the applicant's house sound system. The applicant shall be required to inform all guest DJ's and violinists as to the requirements of this conditional use permit related to outdoor sound.
 - h. 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 in accordance with the design intent and recommendations of the sound system study submitted as part of this application and the conclusions of the City's peer review.
 - i. Televisions shall not be located anywhere in the exterior areas of the property.
- E. Delivery trucks shall not be allowed to idle in the loading zone area.
 - F. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - 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. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - K. Valet operator shall monitor pick-up and drop-off areas to ensure that queuing of vehicles will not interfere with traffic on Collins Avenue.
8. 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, prior to obtaining a Certificate of Occupancy or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing. Without exception, all concurrency fees, mitigation fees and concurrency administrative costs shall be paid prior to the issuance of a Certificate of Occupancy or Business Tax Receipt.

9. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Building Permit.
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. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load of the accessory uses proposed for the project 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.
12. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Section 2.5.2.5 of the Land Development Regulations (LDRs) of the City of Miami Beach, Florida, entitled "Compliance with conditions; revocation or modification".
13. 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.
14. 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.
15. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
16. 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 1.3.7 of the 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.
17. 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.
18. Prior to the addition of entertainment to the Business Tax Receipt (BTR), the sound system shall be tested under the supervision of a qualified acoustical professional and Planning Staff, to ensure that all aspects of the system's performance comply with the design intent and recommendations of the sound system study submitted as part of this application.

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: _____ ()