

**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

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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 that includes entertainment. 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:

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- 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. As proffered by the applicant, 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.

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- 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.

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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.

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Dated 10/16/2025 | 9:11 AM EDT

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:

Michael Belush

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BY: _____

Michael Belush, AICP
Planning & Design Officer
For Chairman

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 16 day of October, 2025, 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.

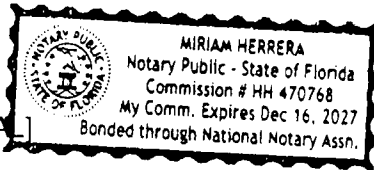
Notary: _____

Print Name Miriam Herrera

Notary Public, State of Florida

My Commission Expires: 12/16/27

Commission Number: HH 470768



{NOTARIAL SEAL}

Approved As To Form:
Legal Department: _____

DocuSigned by:

Nick Kalleg

(10/5/2025 | 1:18 PM EDT)

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Filed with the Clerk of the
Planning Board: _____

DocuSigned by:

Jessica Frinking

(10/16/2025 | 9:37 AM EDT)

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