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January 27, 2012

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Via Hand Delivery

Chairman and Honorable Members of the Planning Board
c/o Richard Lorber, Acting Planning Director
City of Miami Beach
1700 Convention Center Drive, Second Floor
Miami Beach, Florida 33139

Re: Letter of Intent for Application for Conditional Use Permit for 1426A Alton Road
(a/k/a 1426A 14th Court), Miami Beach, Florida 33139

Dear Richard:

Our Law Firm represents Foxhole Bar, LLC (the "Applicant"), the tenant of the space located at 1426A Alton Road (a/k/a 1426A 14th Court), Miami Beach, Florida 33139 (the "Bar"). Please allow this correspondence to serve as the Applicant's Letter of Intent in connection with its application for a Conditional Use Permit for a Neighborhood Impact Establishment, consisting of an alcoholic beverage establishment also operating as an entertainment establishment with an occupant content of more than 199 persons, defined as a Neighborhood Impact Establishment under §142-1361 of the City Code, as more fully described herein.

Description of the Property. The building in which the Bar is located is situated on the southwest corner of Alton Road and 14th Court and contains multiple commercial uses, including a Subway sandwich shop, Dominos pizza place, small grocery market, martial arts school and gold store, all facing Alton Road. The Bar occupies the northwestern portion of the structure with the entrance facing west along Alton Court. The Bar is located within the CD-2 (Commercial, Medium Intensity) zoning district, which is designed to provide for commercial activities, services, offices and related activities which serve the entire City.

Description of Approval Requested. The Applicant is seeking a Conditional Use Permit for a Neighborhood Impact Establishment, consisting of an alcoholic beverage establishment also operating as an entertainment establishment (a bar with entertainment) with an occupant content of more than 199 persons, defined as a Neighborhood Impact Establishment under §142-1361 of the City Code, as more fully described herein.

Property Development History. The Applicant recently completed the renovation of the Bar space, which was previously used as a bar as well. The property was originally developed as a warehouse and garage, but has contained multiple commercial tenants for at least the past several years. This Bar space is currently fully licensed for use and the Applicant is not increasing the patron occupancy or square footage of the venue with this application, but merely adding an “entertainment” component.

Description of the Bar. The Applicant’s venue described herein will operate as a “Bar” with entertainment. Unlike many “nightclubs” or “lounges,” the Applicant’s Bar is designed to provide a venue for the viewing of sports games and events on large screen televisions and projectors, while also providing an entertainment venue. As indicated on the architectural plans submitted with this application, the floor plan for the venue accommodates seated and standing patrons, including around a pool table and at banquets along the wall, but does not contain a “dance floor” or similar area typical of “nightclubs” or “lounges.” However, since the definition of entertainment under the City Code includes music above a volume that would interfere with normal conversation (ie. any music above a background ambient level), the Applicant requires conditional use approval in order to operate this Bar venue as intended.

Experienced Managing Partners. The managing partners of this project have many years of experience in the Miami Beach hospitality and nightlife industry.

Satisfaction of Conditional Use Review Criteria. The Applicant’s operational business plan and recent renovation of the Bar space within the overall structure meet the Conditional Use criteria contained in the City Code as more fully set forth herein and as detailed on the architectural plans submitted with this application.

In addition to the other materials submitted with this application, the following supplemental information relating to this request is provided pursuant to §142-1362(a) of the City Code’s Land Development Regulations:

(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:

Consistent. The Applicant’s operational/business plan is designed to accommodate a local high end bar clientele, providing for the viewing of sports games and events on large screen televisions and projectors, while also providing an entertainment venue. The Applicant’s venue described herein will operate as a “Bar” with entertainment. However, unlike many “nightclubs” or “lounges,” the Applicant’s Bar does not contain a “dance floor” or similar area typical of “nightclubs” or “lounges.” As indicated on the architectural plans submitted with this

application, the floor plan for the venue accommodates seated and standing patrons, including around a pool table and at banquets along the wall. The hours of operation for the Bar will be (no later than) 12:00PM through 5:00AM. The Applicant employs approximately 10 employees when operating at its maximum capacity. Inasmuch the Bar does not contain a restaurant component, there will be no food items on the menu, and therefore the menu is limited to alcoholic and non-alcoholic beverages.

(2) A parking plan which fully describes where and how the parking is to be provided and utilized:

Consistent. This Bar space is currently fully licensed for use and the Applicant is not increasing the patron occupancy or square footage of the venue with this application, but merely adding an “entertainment” component. Although the Applicant’s business plan is designed to attract primarily local patrons who typically walk or take a driven car to the venue, the Applicant does provide for valet service for those patrons who wish to drive to the Bar. For those patrons who chose to drive, there are a host of parking spaces available, including parking along 14th Court and Alton Road. In addition, the structure in which the Bar is located contains several parking spaces at the Alton Road frontage. However, given the nature of this venue design for “local” patrons, the vast majority of patrons will arrive by walking or taxi instead of individual personally owned vehicles.

(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 will be controlled:

Consistent. The primary means of entrance for the Bar is located along Alton Court. As a venue designed to attract a “local” clientele *without* a dance floor or other area designed for higher patron concentration, this Bar venue is *not* designed to attract large groups of people waiting to gain entry. However, the entrance area does contain ample space to accommodate the queuing of patrons off of 14th Court along the structure, where the venue’s security personnel would utilize stanchions to control any “groups” waiting to gain entry into the establishment, thereby maintaining a clear path along the public right of way for pedestrians along 14th Court.

(4) A security plan for the establishment and any parking facility, including enforcement of patron age restrictions:

Consistent. The Applicant will maintain its own security personnel to control the security at the Bar, consisting of approximately 2 security personnel when used at maximum capacity. The Applicant’s security personnel will enforce any patron age restrictions.

(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:

Consistent. This Bar space is currently fully licensed for use and the Applicant is not increasing the patron occupancy or square footage of the venue with this application, but merely adding an “entertainment” component. Therefore, the Applicant does not anticipate any impact

from projected traffic on the neighborhood. In addition, the Planning Director has determined a traffic impact study is not a necessary component of this application.

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

Consistent. The Applicant will utilize the existing sanitation facilities located within the building, which are located along Alton Court.

(7) A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance:

Consistent. The entire “Bar” operation, and any and all amplified sound, is completely contained within the *interior* of the venue. In addition, the primary means of entrance and exit is located along Alton Court and contains a “vestibule” area designed to seal off the Bar’s interior sound from the outside during patron entrance and exit. As such, the Applicant will carefully control the sound created by the Bar operation through the controlled use of the vestibule area and will meet the requirements of the noise ordinance. The Applicant has also elected to allow the City to conduct a sound study at the Applicant’s expense by a City chosen sound consultant.

(8) Proximity of proposed establishment to residential uses:

Consistent. The Lounge is *not* directly adjacent to *any* residential uses. The nearest residential uses are down Alton Court to the southwest of the Bar and down 14th Court to the northwest of the Bar, but both are across a public right of way. Within the structure in which the Bar is located are a Dominos and Subway directly to the east demising wall of the venue, which face Alton Road. To the south of the Bar across Alton Court is Barton G restaurant, which contains a restaurant including outdoor dining. To the north of the Bar is the restaurant Panera Bread and its surface parking lot. And to the south of the structure is Bank of America and its surface parking lot. Therefore, the Bar is not only contained entirely in an interior structure, but also physically separated from any nearby residential uses.

(9) Cumulative effect of proposed establishment and adjacent pre-existing uses:

Consistent. This Bar space is currently fully licensed for use and the Applicant is not increasing the patron occupancy or square footage of the venue with this application, but merely adding an “entertainment” component. The only directly adjacent pre-existing uses are those commercial uses within the structure in which the Bar is located and include a Subway sandwich shop, Dominos pizza place, small grocery market, martial arts school and gold store, all facing Alton Road. Although not directly adjacent: Barton G restaurant, which contains a restaurant including outdoor dining, is to the south of the Bar across Alton Court; the restaurant Panera Bread and its surface parking lot are to the north of the Bar across 14th Court; and Bank of America and its surface parking lot are to the south of the structure. Therefore, the Bar is not anticipated to have any adverse affect on the surrounding neighborhood in conjunction with adjacent pre-existing uses.

In addition to the other materials submitted with this application, the following information is submitted in accordance with the conditional use review guidelines under §118-192 of the City's Code's Land Development Regulations.

(1) The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.

Consistent. Neighborhood Impact Establishments are permitted as conditional uses within the CD-2 (Commercial, Medium Intensity) zoning district, which is designed to provide for commercial activities, services, offices and related activities which serve the entire City. This Bar space is currently fully licensed for use and the Applicant is not increasing the patron occupancy or square footage of the venue with this application, but merely adding an "entertainment" component. The uses sought herein are consistent with the City's Comprehensive Plan for this area and the Future Land Use Map category of CD-2.

(2) 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.

Consistent. This Bar space is currently fully licensed for use and the Applicant is not increasing the patron occupancy or square footage of the venue with this application, but merely adding an "entertainment" component. Therefore, the addition of "entertainment" to the venue is not anticipated to result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.

(3) Structures and uses associated with the request are consistent with the land development regulations.

Consistent. Neighborhood Impact Establishments are permitted as conditional uses within the CD-2 (Commercial, Medium Intensity) zoning district, which is designed to provide for commercial activities, services, offices and related activities which serve the entire City. This Bar space is currently fully licensed for use and the Applicant is not increasing the patron occupancy or square footage of the venue with this application, but merely adding an "entertainment" component.

(4) The public health, safety, morals, and general welfare will not be adversely affected.

Consistent. The Applicant's request for the approval of a Neighborhood Impact Establishment is consistent with the City's Land Development Regulations and Comprehensive Plan. Neighborhood Impact Establishments are permitted as conditional uses within the CD-2 (Commercial, Medium Intensity) zoning district, which is designed to provide for commercial activities, services, offices and related activities which serve the entire City. This Bar space is currently fully licensed for use and the Applicant is not increasing the patron occupancy or square footage of the venue with this application, but merely adding an "entertainment" component. The entire "Bar" operation, and any and all amplified sound, is completely contained within the *interior* of the venue. In addition, the primary means of entrance and exit is located along Alton Court and contains a "vestibule" area designed to seal off the Bar's interior

square footage of the venue with this application, but merely adding an “entertainment” component. The entire “Bar” operation, and any and all amplified sound, is completely contained within the *interior* of the venue. In addition, the primary means of entrance and exit is located along Alton Court and contains a “vestibule” area designed to seal off the Bar’s interior sound from the outside during patron entrance and exit. As such, the Applicant will carefully control the sound created by the Bar operation through the controlled use of the vestibule area and will meet the requirements of the noise ordinance. As set forth in the cumulative application materials, the proposed uses and controlled operation of the venue will not adversely affect the public health, safety, morals, and general welfare.

(5) Adequate off-street parking facilities will be provided.

Consistent. This Bar space is currently fully licensed for use and the Applicant is not increasing the patron occupancy or square footage of the venue with this application, but merely adding an “entertainment” component. Although the Applicant’s business plan is designed to attract primarily local patrons who typically walk or take a driven car to the venue, the Applicant does provide for valet service for those patrons who wish to drive to the Bar. For those patrons who chose to drive, there are a host of parking spaces available, including parking along 14th Court and Alton Road. In addition, the structure in which the Bar is located contains several parking spaces at the Alton Road frontage. However, given the nature of this venue design for “local” patrons, the vast majority of patrons arrive by walking or taxi instead of individual personally owned vehicles.

(6) Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

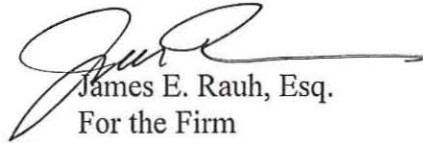
Consistent. This Bar space is currently fully licensed for use and the Applicant is not increasing the patron occupancy or square footage of the venue with this application, but merely adding an “entertainment” component. The entire “Bar” operation, and any and all amplified sound, is completely contained within the *interior* of the venue. In addition, the primary means of entrance and exit is located along Alton Court and contains a “vestibule” area designed to seal off the Bar’s interior sound from the outside during patron entrance and exit. As such, the Applicant will carefully control the sound created by the Bar operation through the controlled use of the vestibule area and will meet the requirements of the noise ordinance.

(7) The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

Consistent. There are no other similar types of uses contained within the building in which the Bar is located or the general vicinity of the property. Further, the Applicant’s project is unique and should serve to improve the surrounding neighborhood.

Conclusion. In light of the foregoing, we respectfully request your recommendation of approval of this request for a Conditional Use Permit. In the event you require any additional information in the preparation of your report and recommendation of this matter, please contact the undersigned at your convenience.

Very Respectfully Submitted,



James E. Rauh, Esq.
For the Firm

Enclosures



