

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



For TRM

SUBJECT: **PB25-0757. 1426A Alton Road**

An application has been filed requesting the re-approval of a Conditional Use Permit for a Neighborhood Impact Establishment, consisting of an alcoholic beverage establishment with entertainment, and an occupant content above 199 persons, pursuant to Chapter 2, Article V, Section 2.5.2.4 of the Miami Beach Resiliency Code.

RECOMMENDATION

Approval with conditions.

HISTORY:

On March 27th, 2012, the applicant, Foxhole Bar, LLC, was granted a Conditional Use approval, for a Neighborhood Impact Establishment consisting of an alcoholic beverage establishment, also operating as an entertainment establishment, with an occupant content above 199 persons. Prior to 2012, the establishment was operating as a stand-alone bar without entertainment.

Legal Description: Lots 6 And 7, Block 78-A, Commercial Subdivision, According To The Plat Thereof As Recorded In Plat Book 6, Page(S) S, Public Records Of Miami-Dade County, Florida.

Zoning/Site Data

Zoning District: CD-2, Commercial, Medium Intensity
Future Land Use Designation: CD-2, Commercial, Medium Intensity
Local Historic District: N/A
National Register District: N/A

Surrounding Uses:
North: Commercial building
South: Commercial building
West: Commercial building
East: Commercial building

THE PROJECT

The applicant, Foxhole Bar, LLC, has submitted plans entitled "Foxhole Renovation to Existing Bar" Prepared by Studio Lamas Architects, dated 2-1-2023.

The applicant is requesting the re-approval of a Conditional Use Permit for a Neighborhood Impact Establishment, consisting of an alcoholic beverage establishment with entertainment, and an occupant content above 199 persons. According to the latest Fire Occupancy Load approved in 2024, the maximum occupancy is 254 persons (FP1024-5774), with 60 seats.

The applicant is requesting the re-approval of the Conditional Use Permit, originally granted by the Planning Board in 2012. Since the establishment was closed for more than 6 months, including for renovations, an application for reapproval by the Board is required, as per Section 2.5.2.4(b)(3) of the City's Resiliency Code. See the applicant's letter of intent further detailing the closure and

the most recent building renovations.

The following hours of operation remain the same:
Monday-Sunday: 12:00 PM - 5:00 AM

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 – A Neighborhood Impact Establishment (NIE) is a Conditional Use in the CD-2, Commercial, High Intensity 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.**

Consistent – NIEs are a conditional use 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.**

Consistent – The establishment has been in operation for many years, and its continued operation should not negatively impact the public health, safety and general welfare.

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

Consistent – The property is located in parking district Tier 2b. It is now before the Board for a reapproval of the Conditional Use Permit. There was a fee in lieu of providing parking file associated with the establishment.

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

Consistent – Sound is contained within the building and the business has been operating in the neighborhood for many years without any major incidents. The only recent noise complaints; one in 2017 and one in 2020, were found to be invalid.

- 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.**

Consistent – There is not a high concentration of NIEs in the immediate vicinity.

- 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 an existing building which has been renovated.

- 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

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.**

Consistent – The subject application is for the re-approval of a bar with entertainment. The establishment is self-described as a neighborhood bar. Entertainment consists of a DJ playing music above a background ambient level. Hours of operation would not exceed 12:00 PM through 5:00 AM, as previously approved.

- 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– There is no parking associated with the existing building, apart from a few spaces at the front of the building facing Alton Road.

- 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 primary means of entrance for the Bar is located along Alton Court. The bar is not designed to attract large groups of people waiting to gain entrance.

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

Consistent – The applicant contracts an outside security company for security at this time consisting of one security person 7 nights a week and 2 persons Fridays and Saturdays. In addition, security cameras are installed throughout the inside and outside areas.

- 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 – The establishment has been in operation for a number of years, thus a traffic study was not required.

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

Consistent – There is an existing air-conditioned garbage room located within the building.

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

Consistent – The original application included a noise study. The study conclude that based on the analysis of acoustical conditions observed within and around the Foxhole Bar, the establishment would not have an adverse impact on the surrounding properties.

8. Proximity of proposed establishment to residential uses.

Partially Consistent – While there are residential uses along the southwest side and north of the property, majority of the uses are commercial buildings that are compatible with the CD-2 District.

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

Consistent – No adverse impact is anticipated as a result of this request for re-approval of the existing bar with entertainment.

STAFF ANALYSIS

The applicant is requesting reapproval for the operation of the existing Foxhole Bar, which was initially approved by the Planning Board on March 27, 2012. Prior to that date, the bar was operating for many years, but without an entertainment component. Foxhole Bar temporarily ceased operations in 2021 to undergo extensive renovations, which stretched over several years. Section 2.5.2.4(b)(3) of the Land Development Regulations (LDRs), specifies that “An approved and operational conditional use which remains 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, shall be required to seek re-approval of the conditional use from the board.

The operation remains substantially the same as previously approved, with a patron occupancy load of 254 persons and 60 seats. Access to the establishment is on the west side of the building, facing Alton Court which opens into a vestibule. Upon entering from the vestibule, a centrally located bar, open to the second floor, occupies a large portion of the ground floor and a stairway leads directly up to the second level. A dedicated DJ booth was installed on the second floor overlooking the central bar as part of the most recent renovation plans. The building also houses a Domino’s Pizza, Subway, a bakery, and a Korean BBQ restaurant, which all face Alton Road.

The hours of operation would not exceed from noon to 5:00 a.m. with the number of employees consistent with the capacity of the place – approximately 20 when at full capacity.

There is no parking associated with the building, other than a few spaces at the front of the property facing Alton Road. Valet parking has been provided in the past with the drop-off/pick-up area located on Alton Court adjacent to the building.

With this re-approval of the CUP, it has been updated to reflect the typical requirements of a new

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CUP. This includes the new requirement for neighborhood impact establishments for an annual progress report, and updates to the referenced code sections.

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: 1426A Alton Road

FILE NO. PB25-0757, f.k.a. PB File No. 2058

IN RE: An application for the re-approval of a Conditional Use Permit for a Neighborhood Impact Establishment, consisting of an alcoholic beverage establishment with entertainment, and an occupant content above 199 persons, pursuant to Chapter 2, Article V, Section 2.5.2.4 of the Miami Beach Resiliency Code.

LEGAL DESCRIPTION: Lots 6 And 7, Block 78-A, Commercial Subdivision, According To The Plat Thereof As Recorded In Plat Book 6, Page(S) S, Public Records Of Miami-Dade County, Florida.

MEETING DATE: March 27, 2012; September 9, 2025

CONDITIONAL USE PERMIT

The applicant, Foxhole Bar, LLC, requested the re-approval a Conditional Use Permit for the operation of a Neighborhood Impact Establishment, including entertainment, with an occupational content exceeding 199 persons. Notice of the request was given, as required by law, and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

That the property in question is located in the CD-2, Commercial, High Intensity 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. 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 in 60 days from the date of this public hearing.~~ 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 (e).~~ Resiliency Code Sec. 2.5.2.5.
2. This Conditional Use Permit is issued to Foxhole Bar, LLC as operator of this Neighborhood Impact Establishment consisting of an alcoholic beverage establishment, with entertainment and an occupant content in excess of 200 persons. ~~Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.~~ 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.
3. Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
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. The hours of operation shall be as proposed by the applicant, 12:00 noon to 5:00 a.m. seven days a week.
6. As recommended by the sound consultant, The Audio Bug, Inc., the applicant shall install acoustical panels inside the vestibule to help deaden this area and further attenuate sound passing through this space, as described in the report, dated March 6, 2012.
7. The applicant shall post security personnel on Thursdays, Fridays and Saturdays, as well as on days when "entertainment," as defined, is advertised or a special event is planned, such as, but not limited to significant sports event or planned gatherings when music or noise may exceed the level of normal conversation or background music.
8. ~~The applicant shall investigate the possibility of having the main entrance door facing the alley, to open in the opposite direction of how it currently opens — open to exit towards the south direction.~~
9. Security staff shall take measures to strictly enforce patron age restrictions in the City Code around the clock.

10. All "wet T-shirt," "thong" or "bikini" events shall be prohibited.
11. Business identification signs shall be limited to sign copy indicating the name of the establishment only, subject to staff review and approval.
12. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
13. ~~The City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division shall make the determination of the project's fair share mitigation cost. A final concurrency determination shall be conducted and mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any modified Business Tax Receipt.~~ For any increase in intensity, 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.
14. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and the areas of the street adjacent to the property. When sweeping the area in front of the establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately.
15. In the event that there is queuing of people to gain entrance to the establishment, stanchions shall delineate the area to allow for the free-flow of pedestrians. Security staff shall monitor the crowds to ensure that they do not interfere with the free-flow of pedestrian on the public sidewalk.
16. Security staff shall monitor patron circulation and occupancy levels during the hours of operation.
17. 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.
18. 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 should there be valid complaints about loud, excessive, unnecessary, or unusual noise.
19. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
20. 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.

21. ~~Within a reasonable time after applicant's receipt of this Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department.~~ 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 use, certificate of occupancy, certificate of completion or business tax receipt shall be issued until this requirement has been satisfied.
22. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in ~~Section 114-8 of said Code~~ 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 applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.
23. 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.
24. 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.
25. 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.

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: _____ ()