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October 10, 2025 (Revised)

TO: Deborah Tackett and James Seiberling
City of Miami Beach Building Department
Planning Board Hearings
1700 Convention Center Drive
Miami Beach, Florida 33139

RE: **Planning Board Application PB25-0789**
323 23rd Street

REMARKS: ☐ Urgent ☐ For your review ☐ Reply ASAP ☐ Please Comment

LETTER OF INTENT – PLANNING BOARD

Mrs. Tackett, Mr. Seiberling and Esteemed Members of the Planning Board:

Please find enclosed our application for the first submittal to the Planning Board for exterior improvements at 323 23 Street.

Subject property is an existing one-level, 4,164 square ft., legally non-conforming night club called “Rain” undergoing improvements under **BC2321216**.

Subject application includes street-facing improvements and rear patio improvements invisible from the public right-of-way. The front façade improvements include a significant re-branding effort consisting of changes to the two existing entrances, installation of vertical shading devices and a new metal awning. At the rear patio, we propose removing outdoor seating to make room for a more ambient atmosphere; a pizza oven and server’s station. The existing exterior bar will be improved to bring it into compliance with the Americans with Disabilities Act (“ADA/ADAAG”). Significant drainage structures are being installed to improve resiliency. Both efforts require significant investment by replacing all exterior hardscape. At the side of the building, the applicant seeks approval for an aluminum shading device.

These proposed improvements aim to change the existing “night-club-style” exterior dance floor into a quieter, more sophisticated atmosphere. Party music will be replaced with ambient music. Standing areas and tabletops replaced with covered lounge areas. The improvements will also bring the flooring of the patio into compliance with ADA/ADAAG. The pergolas and subterranean drainage improvements have already installed under a parallel building permit application; a response to the City of Miami Beach Resiliency Code.

No variances are requested as part of this application. The proposed efforts will enhance the experience of patrons, neighbors, passers-by and before you because the existing facility is legally non-conforming and cannot be approved at staff level.

Please refer to the following response to general standards for approval to be met by all conditional uses per Section 2.5.2.2(a)(i)-(ix):

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.**
 - a. The existing use is consistent with the comprehensive plan.
2. **The intended use or construction shall not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.**
 - a. The proposal is modifications to an existing use and will therefore not change the level of service required.
3. **Structures and uses associated with the request shall be consistent with these land development regulations.**
 - a. Structures and uses are consistent with the land development regulations.
4. **The public health, safety, morals, and general welfare shall not be adversely affected.**
 - a. Public health, safety, morals and general welfare will not be affected.
5. **Adequate off-street parking facilities will be provided.**
 - a. The parking needs will not be increased as part of this application.
6. **Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.**
 - a. These protections will not be altered as part of the application.
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.**
 - a. These improvements will not have a negative impact.
8. **The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.**
 - a. The improvements comply with the Sea level rise and resiliency criteria, see below for further information.
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.**
 - a. As part of this application, additional shading devices are proposed along the path of pedestrian traffic, providing appropriate consideration to the safety and friendliness for pedestrians.

Please refer to the following response to standards for assembly uses to be met by all conditional uses per Section 2.5.2.2(c)(i)-(xi):

1. **Whether a proposed operations plan has been provided, including hours of operation, number of employees, and other operational characteristics**

pertinent to the application, and that such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhoods.

An operations plan has not been submitted by the applicant, however, the existing hours of operation are 8pm to 5am; The application seeks no increase to those hours.

There are a maximum of 20 employees at any given time.

- a. There is an increase to the number of occupants as a result of a Life Safety Analysis, however, a trip generation statement provided by Mr. John P. Kim, P.E. Vala Group, Inc provides there will be no increase in traffic. The statement is dated October 11, 2025 and elaborates as to the reason there will be no increase, also noting the subject site is within the *CMB Urban Infill Area*.
2. **Whether a plan for the delivery of supplies has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhoods.**
 - a. Trash is picked-up from the subject property every Tuesday and Friday.
 - b. There is a commercial loading site directly in front of the subject property providing deliveries and off-loading during business hours.
3. **Whether the design of the proposed structure is permitted by the regulations in the zoning district in which the property is located, and complies with the regulations of an overlay district, if applicable.**
 - a. The existing legally non-conforming use is not proposed to change as part of this application.
4. **Whether a proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking for the use in the zoning district in which the property is located.**
 - a. The site is located directly across the street from commercially-available property and the subject block is connected with a crosswalk.
 - b. There is also a commercial loading site directly in front of the subject property providing deliveries and off-loading during business hours.
5. **Whether an indoor and outdoor circulation plan for the occupants of the use has been provided that facilitates ingress and egress to the site and structure.**
 - a. Yes. A life safety plan was provided depicted ingress and egress to the site and structure, not subject to change as a result of this application.
6. **Whether a security plan for the establishment and supporting parking facility, if any, has been provided that addresses the safety of the institution and its users and minimizes impacts on the neighborhood.**

- a. The site is located directly across the street from commercially-available property and the subject block is connected with a crosswalk.
7. **Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.**
- a. Yes. A trip generation statement dated October 11, 2025 was provided by Mr. John P. Kim, P.E. Vala Group, Inc., and indicates no increase in projected traffic. The statement elaborates as to the reason of no increase, also noting the subject site is within the *CMB Urban Infill Area*.
8. **Whether a noise attenuation plan has been provided that addresses how noise will be controlled in and around the institution, parking structures or areas, and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.**
- a. The proposed application seeks improvements consistent with an aging and more sophisticated clientele. For example, the applicant proposes removal of dance floor and installation of louvered pergolas.
 - b. The Majority of work proposed will bring the site into compliance with the Americans with Disabilities Act (“ADA/ADAAG”) and respond to the City of Miami Beach Resiliency Code.
9. **Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.**
- a. Yes. The applicant has a parallel building permit application for significant plumbing improvements increasing the quality of greasy waste discharge, including the installation of a 99-percent efficient hydromechanical greasy waste interceptor system (“HGI”).
 - b. No other changes or increases are proposed off-premises.
10. **Whether the proximity of the proposed structure to adjacent and nearby residential uses creates adverse impacts and how such impacts are to be mitigated.**
- a. The subject is an existing night club seeking ADA/ADAAG and waste water improvements. A significant effort is made in response to the City of Miami Beach Resiliency Code and is included in this application. We believe these modifications are needed improvements to positively affect nearby residential uses. The exterior beautification effort seeks to remove exterior dance floor in exchange for an ambience and sophistication. Beyond enhance exterior aesthetics, the applicant

proposes modernization of the existing life safety features to improve public safety and match the quality of the surrounding context. The applicant seeks accessibility improvements to remove architectural barriers and ensure no one is excluded on the basis of disability. The applicant hopes the proposed improvements to the rear patio ambience will encourage a more relaxed, intimate patio environment with conversation and casual dining for his aging and more sophisticated clientele.

11. Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect will be addressed.

- a. Similar to response (10) above, the applicant is seeking ADA/ADAAG, waste water improvements, and respond to the City of Miami Beach Resiliency Code. Wastewater and resiliency are key components to the city's cumulative effort for positive effect on our communities and nearby structures. We believe the improvements will foster only positive effects on nearby structures.

Please refer to the following response to standards for approval to be met by all entertainment establishments per Section 7.5.5.4(a)(i)(1)-(9) for Section (4), incld. CD-2, **CD-3**, T-CC, TC-1, TC-2 and MXE Districts:

- A. **Outdoor and open-air entertainment, regardless of occupational content, shall require conditional use approval, and shall only be permitted as part of a restaurant supper club.**
 - a. Agreed.
- B. **Indoor entertainment shall be permitted as part of a restaurant supper club or as part of an indoor venue that does not serve alcohol past 2:00a.m.**
 - a. Agreed, however, the applicant is not seeking to diminish or reduce his current approved hours.
- C. **With the exception of the TC-C district, indoor entertainment may be permitted in establishments not operating as a restaurant supper club serving alcohol past 2:00a.m. if the establishment (1) is an accessory use to a hotel, if a hotel use permitted, (2) is fully enclosed and located entirely within a hotel that is within a local historic district or, if the hotel is located outside of a local historic district, the hotel must have 200 or more rooms, and (3) the establishment has no direct access to or from the street and is only accessed from within the confines of the hotel.**
 - a. Agreed, however, the applicant is not seeking to diminish or reduce his current approved hours.

- D. **Indoor entertainment may be permitted in establishments not operating as a restaurant supper club serving alcohol past 2:00am that are located on the east side of Washington Avenue between the north side of 8th Street and the south side of 14th Street.**
 - a. Agreed.
- E. **Indoor entertainment, located within an establishment having an occupational content exceeding 199 persons, shall require conditional use approval.**
 - a. Agreed.
- F. **For eligible properties located in the Collins Park Arts District Overlay, accessory outdoor entertainment establishments may only be permitted as a conditional use, in accordance with section 7.3.4.**
 - a. This project is located in the Collins Park Arts District Overlay and therefore this application seeks to include this request for an accessory outdoor entertainment establishment.
- G. **For eligible properties located in the Ocean Terrace Overlay, accessory outdoor entertainment establishments and open air entertainment establishments may only be permitted as a conditional use, in accordance with section 7.3.6.**
 - a. Not applicable, this project is not located within this area
- H. **For eligible properties that front Washington Avenue from 6th Street to 16th Street, or properties containing a contributing structure and located in the Espanola Way Local Historic District, a restaurant supper club may have entertainment without obtaining conditional use approval, in accordance with section 7.2.11.2.b.1.**
 - a. Not applicable, this project is not located within this area
- I. **In the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, outdoor entertainment establishments, open air entertainment establishments, dance halls and entertainment establishments shall be prohibited.**
 - a. Not applicable, this project is not located within this area.

As requested in the board application checklist, the following is the sea level rise and resiliency review criteria and response per section 7.1.2.4 of the City Resiliency Code:

- 1. **A recycling or salvage plan for partial or total demolition shall be provided.**
 - a. No demolition is being proposed.

2. **Windows that are proposed to be replaced shall be hurricane proof impact windows.**
 - a. No windows or replacements are proposed as part of this application.
3. **Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.**
 - a. Agreed. The applicant seeks approval for numerous shading devices on the exterior of the building and rear pergola.
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.**
 - a. Agreed. The applicant seeks to remove four (4) prohibited Seaside Maoes in favor of planting Simpson Stoppers and Silver Buttonwoods.
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.**
 - a. The applicant significantly improved the project's adaptability to sea level rise and resiliency through extensive civil engineering improvements under **BC2321216** and were made in response to the City of Miami Beach Resiliency Code.
6. **The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-way 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.**
 - a. At the time of application, there are no recent public-right of way adjustments to accommodate.
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 elevation.**
 - a. All critical mechanical systems as part of the master permit are proposed to be above base flood elevation. All mechanical systems have been relocated to the roof.

8. Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard.
 - a. Not economically feasible to change the building height, however, significant underground improvements were made in response to the City of Miami Beach Resiliency Code.
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 54 in General Ordinances.
 - a. Compliance with Chapter 54 in relation to the BFE was not required for non-substantial alterations.
10. As applicable to all new construction, stormwater retention systems shall be provided.
 - a. Same as response 5(a) above.
11. Cool pavement materials or porous pavement materials shall be utilized.
 - a. No pavement materials are being proposed, however, the removal of paved dance floor in favor of shading via louvered pergolas is expected to substantially cool the outdoor space. Additionally, the application seeks to shade the south and west-facing elevations of the building with shade devices.
12. The design of each project shall minimize the potential for heat island effects on-site.
 - a. Agreed. The removal of paved dance floor in favor of the louvered pergolas is expected to reduce the heat island effect.

Please find attached our Architectural set with proposed details and a survey of the subject property. This document serves as our letter of intent.

Thank you,



Wm. H. Arthur IV, AIA, NCARB

