

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

DATE: March 10, 2026

TO: Chairperson and Members
Planning Board

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: PB25-0789, **323 23rd Street – Rain Nightclub**.

An application has been filed requesting a Conditional Use Permit for a Neighborhood Impact Establishment, including indoor entertainment with an occupant content exceeding 199 persons, pursuant to Chapter 1, Article II, Section 1.2.2.4; Chapter 2, Article V, Section 2.5.2; and Chapter 7, Article V, Section 7.5.5.4 of the Miami Beach Resiliency Code.

RECOMMENDATION

Approval of the conditional use permit with conditions.

BACKGROUND

On October 21, 2025, the Historic Preservation Board approved a Certificate of Appropriateness for modifications to the south façade, the introduction of canopy structures, and the construction of an outdoor pizza oven (HPB25-0658).

ZONING / SITE DATA

Folio:	02-3226-001-0540
Legal Description:	The west 6 feet of Lot 9 & Lot 10, Block 3, of the Miami Beach Improvement Company Subdivision, according to the Plat thereof, as recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.
Zoning:	CD-3, Commercial, high intensity
Future Land Use Designation:	CD-3, Commercial, high intensity
Surrounding Uses:	North: Collins Canal & Tradewinds Apartment Hotel East: Palm Court office building & FPL Substation South: Municipal parking garage West: Gas station

THE PROJECT

The applicant, 323 Sobe LLC, submitted plans entitled "Rain Night Club Miami", as prepared by WHAA, dated November 25, 2025.

The applicant is requesting a conditional use permit for the operation of a neighborhood impact establishment including indoor entertainment with an occupant content (as determined by the Fire Marshal) in excess of 199 persons.

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-3, 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 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 indoor entertainment component, as proposed, may adversely affect the general welfare of nearby residents, particularly if noise and hours of operation are not controlled. Staff has included recommended conditions in the draft CUP to ensure that general welfare is maintained.
5. Adequate off-street parking facilities would be provided.
Not Applicable
No parking is required for buildings that existed prior to October 1, 1993 and located within the Miami Beach Architectural District. Further, there is a public parking garage directly across 23rd Street, which can provide sufficient parking spaces for customers. The applicant also anticipates that many patrons will use ride share services and/or walk to the establishment.
6. Necessary safeguards would be provided for the protection of surrounding property, persons, and neighborhood values.
Consistent
Staff has included recommended conditions in the draft CUP 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.
Consistent

There are several NIEs with entertainment in the area and the subject establishment was previously used as a nightclub. Staff does not anticipate an adverse impact on the surrounding area but has included recommended conditions in the draft CUP to mitigate any potential impacts.

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

Consistent

See Compliance with Sea Level Rise and Resiliency Review Criteria section of this report.

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 operational plan provided includes all necessary information of hours of operation, number of employees, menu items, and goals of business.

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.

Not Applicable

The project does not require off-street parking.

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

A detailed operations plan has been provided.

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

Consistent

The applicant has submitted an access and security plan as part of the operational plan.

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 Transportation and Mobility Department has determined that a traffic circulation analysis is not required for the subject application.

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

Consistent

Sanitation operation will occur from the designated trash and recycling area located interior to the site. Trash collection will take place during regularly scheduled times using the City-approved commercial waste haulers.

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

Not Consistent

The applicant is proposing indoor entertainment. In order to better contain sound within the building, staff recommends that applicant introduce double-door entry vestibules at all publicly accessible exterior doors. No entertainment is proposed for the exterior portion of the project.

8. Proximity of proposed establishment to residential uses.

Consistent

The subject property is generally surrounded by commercial uses. Staff has included recommended conditions in the draft CUP to mitigate any adverse impacts from noise and other issues on the surrounding neighborhood.

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

Consistent

There are several NIEs with entertainment in the area and the subject establishment was previously used as a nightclub. Staff does not anticipate an adverse impact on the surrounding area but has included recommended conditions in the draft CUP to mitigate any potential impacts.

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.

Not Applicable

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

Not Applicable

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.

Not Applicable

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.

Not Applicable

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

The applicant is proposing the partial renovation of an existing nightclub and a small increase in overall occupancy. An alcoholic beverage establishment with entertainment and an occupant content in excess of 199 persons requires a Conditional Use Permit (CUP). The existing legally non-conforming nightclub has an occupancy content of 550 persons, which was established prior the implementation of the Neighborhood Impact Establishment (NIE) regulations. The current proposal includes a total occupant content of 586 persons (399 indoor and 187 outdoor).

Operations

The interior portion of the nightclub includes a total of 70 seats, a bar counter, dance floor and stage. The outdoor area of the establishment is located at the rear of the property and includes lounge style seating, outdoor bar counter and pizza oven. Based upon the submitted floor plans, the number of proposed seats in the outdoor portion of the venue appears to be .

The following operating hours (including indoor entertainment) are proposed:

Thursday – Sunday: 10:00 p.m. – 5:00 a.m. (indoor and outdoor)

Existing NIEs within the neighborhood were approved with a 2:00 a.m. closing time for the outdoor portions of the venues. Consequently, staff recommends the following hours of operation:

Indoor (including entertainment): no later than 5:00 a.m.
Outdoor: no later than 2:00 a.m.

Security and Crowd Control

The entrance to the nightclub is via 23rd Street via a covered walkway along the west side of the property. A secondary VIP entrance is located at the southeast corner of the building. Staff would note that there are several outdoor areas on private property to accommodate patron queuing. This includes the area within the front of the building and the west side outdoor walkway. A dedicated security team is proposed to oversee the safety and security of the premises and the property will be monitored by a full complement of security cameras.

Entertainment and Sound

The applicant is proposing indoor entertainment inclusive of a nightly DJ and costumed dancers. Additionally, live musicians will be featured on certain occasions. No entertainment is proposed within the outdoor portions of the property. Only ambient background level music that does not interfere with normal conversation may be played outdoors.

Since no outdoor entertainment is proposed and all entertainment will be limited to indoor areas, a sound study was not required. Staff would note, however, that the existing entrances do not currently incorporate double door vestibules. Although there are no immediately adjacent residential properties, in order to better contain sound to the interior, staff strongly recommends that the applicant introduce double door vestibules on all publicly accessible exterior doors. Further, staff has included a condition in the draft CUP which would prohibit any sound from inside the venue from being audible anywhere along the exterior perimeter of the premises.

Parking and Valet Operations

No parking is provided on-site, and the applicant is not proposing to provide valet operations. A municipal parking garage is located directly across 23rd Street, which can provide sufficient parking spaces for customers. The applicant also anticipates that many patrons will use ride share services and/or walk to the establishment. Additionally, staff would note that the Transportation and Mobility Department has reviewed the application and has no concerns or comments with regard to the project as the proposed hours of operation are not in conflict with peak traffic hours in the city.

Deliveries and Sanitation

The applicant has not specified hours for deliveries and garbage collection. Due to the proposed hours of operation, however, staff does not anticipate these services will have an adverse impact. Staff has included recommended conditions within the draft CUP to address any potential impacts to the surrounding businesses.

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**

MEETING DATE: March 10, 2026

PROPERTY/FOLIO: 323 23rd Street / 02-3226-001-0540

FILE NO: PB25-0789

APPLICANT: 323 Sobe LLC

IN RE: An application has been filed requesting a Conditional Use Permit for a Neighborhood Impact Establishment, including indoor entertainment with an occupant content exceeding 199 persons, pursuant to Chapter 1, Article II, Section 1.2.2.4; Chapter 2, Article V, Section 2.5.2; and Chapter 7, Article V, Section 7.5.5.4 of the Miami Beach Resiliency Code.

LEGAL: The west 6 feet of Lot 9 & Lot 10, Block 3, of the Miami Beach Improvement Company Subdivision, according to the Plat thereof, as recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

CONDITIONAL USE PERMIT

The applicant is requesting a Conditional Use Permit for the operation of a Neighborhood Impact Establishment, including indoor 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-3, 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.

1. This Conditional Use Permit is issued to 323 Sobe LLC, as the owner and operator of the alcoholic beverage establishment. 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.
2. 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 Section 2.5.2.5 of the Resiliency Code.
3. 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.
4. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, 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 an alcoholic beverage establishment with indoor entertainment, and with an occupant content exceeding 199 persons as determined by the Fire Marshal.
 - B. The alcoholic beverage establishment subject to this CUP shall have a maximum occupant content of **586 persons** for both the indoor and outdoor portions of the venue, or any lesser such occupant content as determined by the Fire Marshal.
 - C. The alcoholic beverage establishment subject to this CUP shall have a maximum number of **70 seats** within the interior portion of the venue and a maximum of 50 **seats** within the outdoor portion of the venue.
 - D. The hours of operations shall be limited as follows:

Indoor: No later than 5:00 a.m.

Outdoor: No later than 2:00 a.m.

- E. The operator shall designate a contact person to be available by telephone on a 24-hour basis. The telephone number of the contact shall be provided to neighboring residents and businesses.
- F. Entertainment, as defined in City Code Section 1.2.2.9, is prohibited in all outdoor areas.
- G. A 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. 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 a Certificate of Use (CU) and 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 equipment and installation plan for the sound system. This shall include the requirement that noise and vibrations from the interior sound system shall not be plainly audible or felt on the exterior of the property boundaries, and the sound system maximum levels shall be set during testing to comply with this requirement.
- H. Only ambient background music played at a volume that does not interfere with normal conversation may be permitted in the outdoor/open air areas and shall be subject to the following conditions:
 - a. 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.
 - b. All outdoor speakers shall be oriented in such a way as to minimize sound propagation towards abutting properties.
 - c. Only the outdoor speakers approved as part of the house sound system shall be used.
 - d. Televisions, projectors and other similar equipment shall not be located anywhere in the exterior areas of the property.
- I. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property. Security staff shall monitor the crowds to ensure that they do not obstruct the sidewalk.
- J. Deliveries and waste collection may only occur between 8:00 a.m. and 5:00 p.m. each day, or as specified by the City in approved loading zones in the vicinity.
- K. Equipment and supplies shall not be stored in areas visible from streets, or nearby buildings.
- L. Security staff and restaurant staff shall monitor patron circulation and occupancy levels.
- M. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.

- N. 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.
 - O. Restaurant and bar personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
 - P. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day.
 - Q. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - R. Sound generated from the venue, including, but not limited to, recorded music and patron conversations, shall not be plainly audible from adjacent residential buildings.
 - S. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may not include outdoor entertainment or exceed the hours of operation and occupancy loads specified herein.
 - T. After normal operating hours, the establishment shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein between the establishment's closing time and 8:00 AM.
5. The applicant shall introduce double door vestibules on all publicly accessible exterior doors.
 6. 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.
 7. 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.
 8. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
 9. 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.
 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 (LDRs), 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.

Dated this _____ day of _____, 20____.

PLANNING BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
HISTORIC PRESERVATION & ARCHITECTURE OFFICER
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: _____

Approved As To Form:
City Attorney's Office: _____ ())

Filed with the Clerk of the Planning Board on _____ ())

