

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: October 09, 2015

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **File No. 1901 – 1200 Ocean Drive–Palace Bar–Progress Report**

BACKGROUND

November 25, 2008 The applicant, Sobe Miami, LLC, was granted a Conditional Use permit to allow the operation of an outdoor entertainment and open air entertainment establishment for female impersonator performances to continue on the front porch of the building.

February 23, 2010 The Board authorized the modification of the performance hours authorized on the original CUP.

April 27, 2010 The applicant came before the Board for the required 90 day Progress Report.

June 4, 2015 The Planning Department sent a Cure Letter to the applicant in response to six (6) outstanding code violations. The Cure Letter advised the applicant that a Progress Report was scheduled for the July 28, 2015 meeting.

July 28, 2015 The applicant requested a continuance and the Board granted the continuance to the September meeting which was re-scheduled for October 9, 2015.

PROGRESS REPORT

Since the June 4, 2015 Cure Letter, staff search of City records found that the following warnings, violations and open offenses are showing in the City's records as of this writing (the current status is in parenthesis):

1. **CE15001987** *11/16/2014* Sections 142-153, 118-194, and 114-8 "performing outside of the permitted area of the conditional use- performing on the east side of the property on the public sidewalk" (Closed).
2. **CE15007756** *4/12/2015* Sections 82-385 and 82-371 "Obstruction of sidewalk café walkway, approximately 3.6'" (Open). **JA15000204** Special Master case set for *9/24/15*.
3. **CE15007757** *4/12/2015* Section 82-1 "Selling alcoholic beverages from a bar that was setup on the sidewalk café" (BillPend).
4. **CE15007759** *4/12/2015* Sections 82-91, 82-92, 82-93, and 82-94 "a bar set up on their sidewalk café" (Closed).

5. **CE15008392 4/30/2015** Sections 142-153, 118-194, and 114-8 “Performances shall only occur in those areas approved by the City and shall not spill out into unapproved areas such as the street, the park, or adjacent properties” (Open). **JA15000205** Special Master case set for 9/24/15.
6. **CE15008801 5/11/2015** Section 46-92(g)(3) “Palace employee where handing out flyers within the side walk cafe to patron traveling on the right of way” (BillPend)

STAFF ANALYSIS

The subject establishment, known as Palace Food Bar, has been operating at the same location for approximately 20 years. While authorized by CUP to have live performances on their porch and areas of the venue on private property, the CUP has specific regulations as to the performance locations in regards to the Public Right of Way, which are copied below.

The following are the conditions of the final order that are related to the warnings, violations and open offenses:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board. 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 (c).
2. 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. The Palace Food Bar personnel shall take positive action to ensure there is a clear pedestrian path on the sidewalk in front of the establishment, which shall be no less than what is required by the City's Sidewalk Cafe Ordinance. In this regard, restaurant personnel shall be posted during performances at the north and south property demarcation to ensure the free flow of pedestrian traffic. Performances shall only occur in those areas approved by the City and shall not spill out into unapproved areas, such as the street, the park, or adjacent properties.
13. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.

STAFF RECOMMENDATION

In view of the violations and photographs attached provided by Public Works staff, Planning staff recommends that the Board consider the issue of noncompliance and set a modification/revocation hearing for a date certain of October 27, 2015.

TRM/MAB/TUI

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

PLANNING DEPARTMENT
Tel: 305-673-7550 Fax: 305-673-7559

June 8, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sobe Miami LLC
1200 Ocean Drive
Miami Beach, FL 33139

1200 Ocean Associates Ltd.
804 Ocean Drive
Miami Beach, FL 33139

Re: Planning Board File No. 1901 – 1200 Ocean Drive

Dear Sir/Madam:

A Modified Conditional Use Permit to modify the hours of an outdoor entertainment establishment/ open air entertainment establishment was issued to Sobe Miami LLC on February 23, 2010. It has come to the Planning Department's attention that violations have been issued by the Code Compliance Department regarding the operation of the venue.

Therefore, in light of the inconsistencies with the following conditions of approval contained in the Conditional Use Permit and the pending code violations **you are requested to appear at the July 28, 2015 Planning Board hearing** for a verbal progress report:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board. 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 (c).
2. 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. The Palace Food Bar personnel shall take positive action to ensure there is a clear pedestrian path on the sidewalk in front of the establishment, which shall be no less than what is required by the City's Sidewalk Cafe Ordinance. In this regard, restaurant personnel shall be posted during performances at the north and south property demarcation to ensure the free flow of pedestrian traffic. Performances shall only occur in those areas approved by the City and shall not spill out into unapproved areas, such as the street, the park, or adjacent properties.
13. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.

The following warnings, violations and open offenses are still showing in the City's records as of this writing:

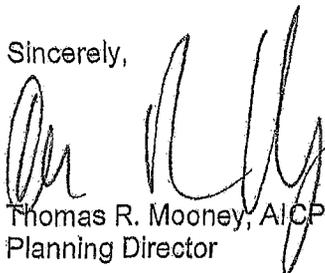
1. **CE15001987 11/16/2014** Sections 142-153, 118-194, and 114-8 "performing outside of the permitted area of the conditional use- performing on the east side of the property on the public sidewalk."
2. **CE15007756 4/12/2015** Sections 82-385 and 82-371 "Obstruction of sidewalk café walkway, approximately 3.6"
3. **CE15007757 4/12/2015** Section 82-1 "Selling alcoholic beverages from a bar that was setup on the sidewalk café."
4. **CE15007759 4/12/2015** Sections 82-91, 82-92, 82-93, and 82-94 "a bar set up on their sidewalk café."
5. **CE15008392 4/30/2015** Sections 142-153, 118-194, and 114-8 "Performances shall only occur in those areas approved by the City and shall not spill out into unapproved areas such as the street, the park, or adjacent properties"
6. **CE15008801 5/11/2015** Section 46-92(g)(3) "Palace employee where handing out flyers within the side walk cafe to patron traveling on the right of way."

Please be advised that at the time of the progress report, in accordance with the provisions of the City Code, Section 118-194(3), the Planning Board may consider setting a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings. Should the Planning Board consider setting a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings, this issue may be placed at the next available meeting of the Board.

If a modification/revocation hearing is set, at that public hearing, the board may consider the issue of noncompliance and the possible modification or revocation of the approval. Based on substantial competent evidence, the board may revoke the approval, modify the conditions thereof, or impose additional or supplemental conditions.

If you have any questions, please do not hesitate to contact Ms. Tui Munday at (305) 673-7000 ext. 6320.

Sincerely,



Thomas R. Mooney, AICP
Planning Director

TRM/TUI

F:\PLAN\PLB\GEN-CORR\CURE LETTERS\1901 - 1200 Ocean Dr- CURE-LTR June 2015.docx

CASE HISTORY

Case Number: CE15001987

Status: OPEN

Address: 1200 OCEAN DR

Violation Type: CZVIO

Inspection Date: 11/16/2014 Received Date: 11/20/2014 Comply-By:

Closed Date:

Inspector # 9942

Inspector Name: Michelle Green

Owner Name: 1200 OCEAN ASSOCIATES LTD

Business Owner:

Business Name

Unit Number: GENRL

Violation #: C7-009 Violation: Failure to operate your business in accordance with your conditional use permit. Sections: 142-153, 118-194, 114-8.

You can comply by immediately ceasing this activity and return to the use approved under the conditional use permit.

Comments: RE: PERFORMING ON THE EAST SIDE OF THE PROPERTY ON THE PUBLIC SIDEWALK

Violation #: C7-990 Violation: Failure to comply will result in your prosecution before the City of Miami Beach Special Master. The Special Master may impose fines of up to \$1,000.00 per day for noncompliance and up to \$5,000.00 per day for recurring violations. Failure to pay imposed fines will lead to placement of liens upon the real and personal property of violators, which will be foreclosed upon or otherwise collected as provided by this code.

Comments:

Violation #: C7-990 Violation: If you are aggrieved by the decision of the Code Compliance Officer in issuing this notice of violation, you may appeal. To appeal the violation submit an application for appeal within twenty(20) days of receipt of this notice of violation to the appropriate board or the Office of the Special Master. A check for \$100 (administrative charges) must accompany the request. Applications and zoning variance information may be obtained in the Planning and Zoning Department in City Hall at 1700 Convention Center Drive, 2nd Floor, Miami Beach, FL 33139. Phone (305) 673-7550.

Comments:

CASE HISTORY

Case Number: CE15007756

Status: OPEN

Address: 1200 OCEAN DR

Violation Type: CCVIO

Inspection Date: 04/12/2015 Received Date: 04/29/2015 Comply By:

Closed Date:

Inspector # 9927

Inspector Name: Griselda Contrera

Owner Name: 1200 OCEAN ASSOCIATES LTD

Business Owner:

Business Name

Unit Number: GENRL

Violation #: C9-009 Violation: Failing to adhere to the standards, criteria and conditions required of sidewalk cafes. Section 82-385,82-371

You can comply by correcting the violation and paying a fine:

1st Violation 100.00

2nd Violation within the preceding 12 months 250.00

3rd Violation within the preceding 12 months 500.00

4th Violation within the preceding 12 months 750.00

5th Violation within the preceding 12 months, suspension of the sidewalk café permit for one weekend (Saturday and Sunday) and 1000.00

6th Violation with the preceding 12 months, revocation of the sidewalk café permit for the remaining portion of the permit year and 1000.00

Comments: Obstructing of 5' sidewalk path, bar set up on sidewalk.

Violation #: C9-980 Violation: Fine(s) must be paid within 72 hours of receipt of the violation. A copy of the violation must accompany the payment. Please make checks or money orders payable to: City of Miami Beach. Payment can be mailed or taken in person to: The Finance Department (Cashier), 1700 Convention Center Drive, 1st floor, Miami Beach, FL 33139.

Fine(s) and/or violations may be appealed within twenty (20) days of receipt of the notice of violation. To appeal a fine and/or violation, submit a written request for an appeal hearing to the Clerk of the Special Master- 1700 Convention Center Dr., Miami Beach, FL 33139. A copy of the notice of violation and a check for \$100 (administrative costs) must accompany the written request for an appeal hearing.

Failure to pay the fine or request an appeal hearing in the manner indicated above shall constitute a waiver of the violator's right to contest the citation and shall be treated as an admission of the violation.

The City may institute proceedings in a court of competent jurisdiction to compel payment of civil fine(s). The certified copy of the order imposing civil fine(s) may be recorded in the public records and thereafter shall constitute a lien upon any real or personal property owned by the violator.

Comments:

Violation #: C9-990 Violation: If you are aggrieved by the decision of the Code Officer in issuing this notice of violation, you may appeal the notice by submitting your request in writing within twenty (20) of receipt of the notice to the Office of the Special Master, 1700 Convention Center Drive, Miami Beach, FL 33139. A copy of the notice and a check for \$100.00 must accompany the request.

Comments:

CASE HISTORY

Case Number: CE15007757

Status: OPEN

Address: 1200 OCEAN DR

Violation Type: CCVIO

Inspection Date: 04/12/2015 Received Date: 04/12/2015 Comply By:

Closed Date:

Inspector # 9927

Inspector Name: Griselda Contrera

Owner Name: 1200 OCEAN ASSOCIATES LTD

Business Owner:

Business Name

Unit Number: GENRL

Violation #: C9-001 Violation: Operating a business on public property without approval of the City Manager. 82-1

You can comply by immediately ceasing your business activity on public property and paying a fine of;

1st Offense - \$50.00

2nd Offense - \$100.00

3rd Offense and subsequent- \$250.00

Comments: Selling alcoholic beverages from a bar that was set up on the sidewalk at 1200 Ocean Drive. First offense . \$50.00 fine.

Violation #: C9-001 Violation: You can comply by ceasing your business activity on public property.

Comments:

Violation #: C9-990 Violation: Failure to comply will result in your prosecution before the City of Miami Beach Special Master. The Special Master may impose fines of up to \$1,000.00 per day for noncompliance and up to \$5,000.00 per day for reoccurring violations. Failure to pay imposed fines will lead to the placement of liens upon the real and personal property of violators, which will be foreclosed upon or otherwise collected as provided by this Code.

Comments:

Violation #: C9-990 Violation: If you are aggrieved by the decision of the Code Officer in issuing this notice of violation, you may appeal the notice by submitting your request in writing within twenty (20) of receipt of the notice to the Office of the Special Master, 1700 Convention Center Drive, Miami Beach, FL 33139. A copy of the notice and a check for \$100.00 must accompany the request.

Comments:

CASE HISTORY

Case Number: CE15007759

Status: OPEN

Address: 1200 OCEAN DR

Violation Type: CCVIO

Inspection Date: 04/12/2015 Received Date: 04/12/2015 Comply By:

Closed Date:

Inspector # 9927

Inspector Name: Griselda Contrera

Owner Name: 1200 OCEAN ASSOCIATES LTD

Business Owner:

Business Name

Unit Number: GENRL

Violation #: C9-007 Violation: Use of public property without first obtaining a revocable permit. Sec: 82-91; 82-92; 82-93; 82-94. You can comply by immediately ceasing said use until a permit is obtained.

Comments: A bar was set up on teh sidewalk at 1200 Ocean Dr.

Violation #: C9-990 Violation: Failure to comply will result in your prosecution before the City of Miami Beach Special Master. The Special Master may impose fines of up to \$1,000.00 per day for noncompliance and up to \$5,000.00 per day for reoccurring violations. Failure to pay imposed fines will lead to the placement of liens upon the real and personal property of violators, which will be foreclosed upon or otherwise collected as provided by this Code.

Comments:

Violation #: C9-990 Violation: If you are aggrieved by the decision of the Code Officer in issuing this notice of violation, you may appeal the notice by submitting your request in writing w/lin twenty (20) of receipt of the notice to the Office of the Special Master, 1700 Convention Center Drive, Miami Beach, FL 33139. A copy of the notice and a check for \$100.00 must accompany the request.

Comments:

CASE HISTORY

Case Number: CE15008392

Status: OPEN

Address: 1200 OCEAN DR

Violation Type: CZVIO

Inspection Date: 04/30/2015 Received Date: 04/30/2015 Comply By:

Closed Date:

Inspector # 9908

Inspector Name: Vijma Maharaj

Owner Name: 1200 OCEAN ASSOCIATES LTD

Business Owner:

Business Name

Unit Number: GENRL

Violation #: C7-009 Violation: Failure to operate your business in accordance with your conditional use permit.
Sections: 142-153, 118-194, 114-8.

You can comply by immediately ceasing this activity and return to the use approved under the conditional use permit.

Comments: RE: File no 1901 Line 7

"Performances shall only occur in those areas approved by the City and shall not spill out into unapproved areas such as the street, the park, or adjacent properties".

Violation #: C7-990 Violation: Failure to comply will result in your prosecution before the City of Miami Beach Special Master. The Special Master may impose fines of up to \$1,000.00 per day for noncompliance and up to \$5,000.00 per day for recurring violations. Failure to pay imposed fines will lead to placement of liens upon the real and personal property of violators, which will be foreclosed upon or otherwise collected as provided by this code.

Comments:

Violation #: C7-990 Violation: If you are aggrieved by the decision of the Code Compliance Officer in issuing this notice of violation, you may appeal. To appeal the violation submit an application for appeal within twenty(20) days of receipt of this notice of violation to the appropriate board or the Office of the Special Master. A check for \$100 (administrative charges) must accompany the request. Applications and zoning variance information may be obtained in the Planning and Zoning Department in City Hall at 1700 Convention Center Drive, 2nd Floor, Miami Beach, FL 33139. Phone-(305) 673-7550.

Comments:

CASE HISTORY

Case Number: CE15008801

Status: BILLPEND

Address: 1200 OCEAN DR

Violation Type: CCVIO

Inspection Date: 05/11/2015 Received Date: 05/11/2015 Comply By:

Closed Date:

Inspector # 9990

Inspector Name: Alexis Tejada

Owner Name: 1200 OCEAN ASSOCIATES LTD

Business Owner:

Business Name

Unit Number: GENRL

Violation #: C9-021 Violation: Commercial handbills shall not be distributed on the right-of-way; within 20 feet in any direction from the outside perimeter of any approved sidewalk café and/or within the approved sidewalk café. Sec. 46-92 (g)(3)

The following civil fine shall be imposed for violations of this section:

1st Offense - \$100.00 fine, plus \$50.00 per handbill

2nd Offense (within the preceding 12 months) - \$500.00 fine, plus \$50.00 per handbill

3rd Offense (within the preceding 12 months) - \$1,500.00 fine, plus \$50.00 per handbill

Comments:

Violation #: C9-980 Violation: Fine(s) must be paid within 72 hours of receipt of the violation. A copy of the violation must accompany the payment. Please make checks or money orders payable to: City of Miami Beach. Payment can be mailed or taken in person to: The Finance Department (Cashier), 1700 Convention Center Drive, 1st floor, Miami Beach, FL 33139.

Fine(s) and/or violations may be appealed within twenty (20) days of receipt of the notice of violation. To appeal a fine and/or violation, submit a written request for an appeal hearing to the Clerk of the Special Master- 1700 Convention Center Dr., Miami Beach, FL 33139. A copy of the notice of violation and a check for \$100 (administrative costs) must accompany the written request for an appeal hearing.

Failure to pay the fine or request an appeal hearing in the manner indicated above shall constitute a waiver of the violator's right to contest the citation and shall be treated as an admission of the violation.

The City may institute proceedings in a court of competent jurisdiction to complete payment of civil fine(s). The certified copy of the order imposing civil fine(s) may be recorded in the public records and thereafter shall constitute a lien upon any real or personal property owned by the violator.

Comments: Handbills, First offense . \$100.00

**PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA**

PROPERTY: 1200 Ocean Drive

FILE NO: 1901

IN RE: The Application by Sobe Miami, LLC requesting a modification to a Conditional Use permit to modify the hours for entertainment of the approved outdoor entertainment/open air establishment by adding Sunday brunch.

LEGAL DESCRIPTION: Lot 8, Block 17, Ocean Beach Addition No. 2, according to the plat thereof, recorded in Plat Book 2, Page 56 of the public records of Miami-Dade County, Florida together with all improvements located thereon.

MEETING DATE: February 23, 2010

MODIFIED CONDITIONAL USE PERMIT

The applicant, Sobe Miami, LLC, filed an application with the Director of Planning for a Modification of Conditional Use Permit pursuant to Section 118-195 of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the request for Conditional Use 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 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 Ordinance;

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 and the staff report and analysis, which are adopted herein, including staff recommendations that a modification to a previously approved Conditional Use Permit as requested and set forth above be granted, upon the following conditions that the applicant has agreed to:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board. 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 (c).
2. This Conditional Use Permit is issued to Sobe, Miami LLC, as operator of this Outdoor Entertainment Establishment. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
3. 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.
4. The applicant, Sobe Miami, LLC, the property owner and operator(s) now and in the future, shall abide by all the documents and statements submitted with this application for an Outdoor Entertainment Establishment.
5. The hours of operation shall be as submitted by the applicant, 10:00 AM through 2:00 AM, seven days a week.
6. The hours of outdoor entertainment performances shall not exceed the following as proffered by the applicant and amended by the Board:

Thursdays ~~8:00~~ 6:00 PM to ~~11:00~~ 10:00 PM
Fridays ~~9:00~~ 6:00 PM to ~~11:30~~ 10:00 PM
Saturdays ~~6:30~~ 6:00 PM to ~~9:30~~ 10:00 PM
Sundays ~~6:30~~ PM to ~~9:00~~ PM during holiday weekends, Gay Pride, Winter Party and White Party
11:30 AM to 4:00 PM and 6:30 PM to 9:30 PM
Food service, 10:00 AM to 11:00 PM on weekdays, and 10:00 AM to midnight weekends.
7. The Palace Food Bar personnel shall take positive action to ensure there is a clear pedestrian path on the sidewalk in front of the establishment, which shall be no less than what is required by the City's Sidewalk Cafe Ordinance. In this regard, restaurant personnel shall be posted during performances at the north and south property demarcation to ensure the free flow of pedestrian traffic. Performances shall only occur in those areas approved by the City and shall not spill out into unapproved areas, such as the street, the park, or adjacent properties.
8. The applicant shall submit to the Planning Department for its review and approval a crowd control plan for those times when performances are taking place.

9. Volume controls shall only be accessed by management; the DJ shall not be able to adjust any of the volume controls. The music played between shows after 11:00 PM shall be reduced in level in accordance with the Sound Impact Report by The Audio Bug Inc., and dated November 8, 2008. All music associated with the outdoor entertainment shall be directed to the east, toward Lummus Park.
10. All sound control systems shall be accessible only to management. The sound system shall be installed and operated as per the recommendations of The Audio Bug, Inc. Sound Impact Study Report dated November 8, 2008, as amended by its letter dated November 21, 2008. The sound system shall be tested under the supervision of Mr. Donald J. Washburn, president of The Audio Bug, Inc., before the modification to include outdoor entertainment to the Business Tax Receipt is issued. Operations shall not begin until staff has received and approved in writing a final written report by Mr. Washburn which states that as tested, the system complies with the aforementioned report and supporting materials.
11. A progress report shall be schedule within 30 days of receipt of the final written report from The Audio Bug, Inc.
12. 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 sidewalk 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. In addition, at the end of business each day sidewalks shall be swept and hosed down.
13. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
14. All unpaid fines shall be paid and all outstanding violations shall be brought into compliance before the modification to include outdoor entertainment to the Business Tax Receipt.
15. A final occupant load certificate for the space shall be obtained before an application is made for a Certificate of Use.
16. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation should there be complaints about loud, excessive, unnecessary, or unusual late night noise.
17. The receipt of a written warning pursuant to section 46-158, Code of the City of Miami Beach, Florida, or a notice of violation of section 46-152, Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended and as these sections may in the future be renumbered, 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.
18. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant.
19. 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.

20. 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 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.

Dated this 31st day of MARCH, 2010.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Richard G Lorber
Richard G Lorber, AICP, LEED AP
Acting Planning Director

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 31st day of MARCH, 2010, by, Richard G Lorber, AICP, LEED AP, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



TERESA MARIA
MY COMMISSION # DD 828148
EXPIRES: December 2, 2013
Banned Thru Budget Notary Services

[NOTARIAL SEAL]

Teresa Maria
Notary:
Print Name: TERESA MARIA
Notary Public, State of Florida
My Commission Expires: 12-2-13
Commission Number: DD 928148

Approved As To Form:
Legal Department (Heid 4-8-10)

F:\PLAN\SPLB\2010\2-23-2010\1901 - 1200 Ocean Dr Mod CU\1901 - 1200 Ocean Dr Mod CU.doc



