

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: October 27, 2015

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **File No. 2286. 4525 Collins Avenue – Nobu**

The applicants, Nobu Associates (South Beach), LP., and Eden Rock, LLLP., are requesting Conditional Use approval for a Neighborhood Impact Establishment consisting of a restaurant with an occupant content of more than 300 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the Land Development Regulations of the City Code.

### RECOMMENDATION

Continue application to December 15, 2015 meeting.

### BACKGROUND

On March 27, 2014, a building permit was applied for to expand the existing kitchen and restaurant and relocate the exterior dining for "Nobu Restaurant" at 4525 Collins Ave. These proposed modifications to the floor plan increased the existing occupant content from the prior restaurant to over 300 people which requires Condition Use approval.

### ZONING / SITE DATA

<b>Legal Description:</b>	See Exhibit "A" in the application
<b>Zoning:</b>	RM-3 (Residential Multi-Family, High Intensity)
<b>Future Land Use Designation:</b>	RM-3 (Residential Multi-Family, High Intensity)
<b>Surrounding Uses:</b>	North and West: Municipal parking lot and residential uses South and East: Hotels, and the Atlantic Ocean

(See Zoning/Site map at the end of the report)

### THE PROJECT

The subject property currently contains 631 hotel rooms and 440 restaurant seats divided into three venues. The applicant submitted plans entitled "Nobu Restaurant at Eden Roc", as prepared by UCI Design, dated June 21, 2014. As proposed by the applicant, the venue would increase from 168 seats to 272 seats and the occupant content would increase from 275 persons to approximately 437 persons. Of the 272 seats proposed, approximately 88 seats are shown on the plans as located in outdoor areas at the center of the hotel complex connected to the pool deck area. The Letter of Intent (LOI) indicates that the applicant does not propose entertainment.

**COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:**

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

- 1. The Use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

**Consistent**—The request is consistent with the Comprehensive Plan.

- 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**—Traf Tech Engineering, Inc. was retained by the applicant to prepare a Traffic Statement. The Traffic Statement concluded that “the proposed hotel expansion project is projected to generate minimal traffic volumes and the valet station is projected to function adequately with up to eight (8) valet attendants.” See attached Traffic Statement for details, the peer reviewer’s response, and staff response from Public Works which is in the Board packages.

- 3. Structures and uses associated with the request are consistent with this Ordinance.**

**Consistent**—Neighborhood Impact Establishments are permitted as conditional uses in this zoning district. This comment shall not be considered final zoning review or approval. This and all zoning matters shall require final review and verification prior to the issuance of a Building Permit.

- 4. Public health, safety, morals and general welfare would not be adversely affected.**

**Partially Consistent**—The proposed establishment may adversely affect the general welfare of nearby residents if traffic, noise and other issues are not controlled. Staff is recommending measures so that any resulting adverse impact is mitigated.

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

**Consistent**—The project has an off-street parking requirement for the seating created in the new floor area (FAR). The city code allows for a payment in lieu of providing parking. Operationally, the applicant proposes to valet cars in the on-site parking garage. See the staff analysis, valet operation routes, and plans in the Traffic Study prepared by Traf Tech Engineering, Inc.

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

**Consistent**—Staff is recommending conditions to mitigate any adverse impacts from traffic, noise and other issues on the surrounding neighbors.

- 7. The concentration of similar types of uses would not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.**

**Partially Consistent**—There are a few large entertainment venues and NIE’s in the area. There is a list of entertainment venues and NIE’s approved in this area provided in the

analysis.

### **NEIGHBORHOOD IMPACT ESTABLISHMENT REVIEW GUIDELINES**

In accordance with Sec. 142-1362 of the Miami Beach City 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 118, article IV:

- (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.**

The LOI submitted with the application details the proposed operation of the venue. Also, see analysis in this report.

- (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.**

The project will offer valet parking that proposes to store the vehicles in an on-site garage. See the LOI and the Traffic Statement prepared by Traf Tech Engineering for the full description of the valet plan and routes.

- (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.**

The applicant maintains that due to the physical layout of the building, all queuing can be contained within the building. See the submitted "Nobu Restaurant Operations Plans" contained in the Board packages for more details.

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

The applicant proposes to use the existing hotel security staff for its security needs. Nobu staff will specifically enforce the patron age restrictions. See the submitted "Nobu Restaurant Operations Plans" contained in the Board packages for more details.

- (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**

See the attached Traffic Statement prepared by Traf Tech Engineering for the full details. A peer reviewer and Public Works staff have provided responses to the Traffic Report provided in the Board packages.

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

The applicant proposes to use the hotel's current sanitation area on the north side of the building. See the architectural drawings and the photographs submitted with the application for details. Additionally, the applicant proposes to utilize a composting system that is projected to reduce food waste by 50%. Information about the composting system is contained in the Board packages.

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

The applicant does not propose entertainment, but proposes ambient level music that does not interfere with a normal conversation. The applicant maintains that due to the physical layout of the building, noise should not escape the envelope of the building.

**(8) Proximity of proposed establishment to residential uses.**

The proposed venue is mainly surrounded by a parking lot to the north, and another large hotel complex to the south. There is one residential tower to north of the municipal parking lot on the north side of the property and some single family homes across Collins Avenue and the Indian Creek Waterway to the west of the subject property. Due to the proximity to a residential use, staff is recommending conditions to mitigate any potential negative impacts from the operations of this proposed project on surrounding properties.

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

There are a few NIE's on Collins Avenue within blocks of this property, including a NIE adjacent to the property to the south. There is a list of entertainment venues and NIE's approved in this area provided in the analysis. Staff is recommending conditions to mitigate any adverse impacts from traffic, noise, and other issues on the surrounding neighbors.

**STAFF ANALYSIS**

**Operation**

The hours of operation proposed in the LOI are from 11:00 AM to 5:00 AM, seven days per week.

It is important to note that the Eden Roc Hotel is an existing non-conforming NIE that currently operates with an occupant content of approximately 2,711 persons in its common areas, pool deck and ballrooms. There are also three restaurant or bar venues with Business Tax Receipts with a combined total of 440 seats and 540 additional occupants which are outlined in the site plan provided on page 11 and 12 of the plans provided in the Board packages. This application proposes to expand the Nobu restaurant space by 104 seats and 162 occupants. Proportionally, the increase is minimal (a little over 5%) of the overall capacity.

Although the increase of the one venue is minimal, staff has concerns about the outdoor seating and how it integrates with the greater pool deck. The applicant needs to provide additional information about how they propose to limit access from the outdoor seating area to the greater property, namely, the pool deck area.

**Sound**

The proposed operation does not include entertainment, but proposes ambient level music that does not interfere with a normal conversation. Due to the physical layout of the new outdoor area proposed which situated in the middle of the property, it is reasonable to believe sound will be blocked on both the north and the south by the Eden Roc hotel towers. The outdoor dining area is also around 300 feet from the beach walk and the Atlantic Ocean.

The following are the two NIE's and other related Conditional Uses on Collins Avenue near the subject site:

Address	Name	File #	Date
4385 Collins Ave	Soho Beach House	1959	22-Jun-10
4441 Collins Ave	Fountainbleau Hotel	1871	27-May-08

**Parking**

The project proposes to use the existing valet ramp at the front of the Eden Roc Hotel for its patrons. The vehicles will be stored in an on-site garage that contains 270 spaces. See the LOI and the Traffic Statement prepared by Traf Tech Engineering for the full description of the valet plan and routes. Traf Tech Engineering recommends a minimum of eight (8) valet attendants.

For a restaurant that is accessory to a hotel as defined by City Code, of the size proposed, there would normally be a parking requirement of 68 spaces, but because a portion of the seating is located in a building that existed prior to October 1, 1993, and located within the architectural district, there is not a parking requirement for the part of the seating located in the older portion of the building (see the code section below).

**Sec. 130-31. - Parking districts established.**

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b) There shall be no off-street parking requirement for main or accessory uses associated with buildings that existed prior to October 1, 1993, which are (i) located within the architectural district, (ii) a contributing building within a local historic district, or (iii) individually designated historic building. This provision shall not apply to renovations and new additions to existing buildings which create or add floor area to new construction which has a parking requirement.

Additionally, the applicant is allowed by City Code to pay a parking in lieu fee for the required parking associated with the new seating located in the new FAR. The required parking for the seating that is located in the new FAR will either need to be provided, or a parking in lieu fee will be required for the spaces that are not provided. There are 37 seats in the new FAR area which require 10 new parking spaces.

It should be noted that the submitted plans do not show any bicycle parking for employees and visitors. Staff is recommending a condition to that effect.

**Traffic**

Traffic and other related transportation issues will be provided for in a separate memorandum from the Transportation Division of the Public Works Department.

### **STAFF RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the application be continued, but if the Board considers approving the Conditional Use Permit for a Neighborhood Impact Establishment, staff recommends the following conditions:

1. 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 City Code Sec. 118-194 (c).
2. This Conditional Use Permit is issued to, Nobu Associates (South Beach), LP., and Eden Rock, LLLP., for a Neighborhood Impact Establishment consisting of a restaurant located on the lobby level at the center of the property with an outdoor dining area and bar. Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
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. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
4. The applicant shall obtain a building permit to limit ingress or egress to the outdoor dining area to the main entrance of the establishment through the lobby, subject to staff review and approval.
5. 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.
6. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, 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. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed 272 seat restaurant with an outdoor dining area and bar with the criteria listed below:
    - i. The restaurant with an outdoor dining area and bar shall have a maximum occupant content of approximately 437 persons or any lesser such occupant content as determined by the Fire Marshal.
    - ii. The restaurant with an outdoor dining area and bar may operate until 5:00 AM.

- iii. The outdoor areas associated with this venue shall not have music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation).
- iv. The 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. 60 day after opening, the sound systems in the facility shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department for review.
- b. Delivery trucks shall only be permitted to park in the driveway at the front of the building or designated load areas within the hotel complex. Delivery trucks shall not be allowed to idle in the driveway or designated load areas.
- c. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
- d. Trash collections may occur daily between 8:00 AM and 5:00 PM.
- e. 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.
- f. 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.
- g. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
- h. Garbage dumpster covers shall be closed at all times except when in active use.
- i. Restaurant personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
- j. Patrons shall not be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
- k. 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

- I. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
  - m. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.
7. 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.
8. The applicant shall either provide required parking or pay the fee in lieu of parking prior to the issuance of a Certificate of Completion (CC), Certificate of Occupancy (CO), or Business Tax Receipt (BTR) whichever is issued first.
9. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Certificate of Completion (CC) or Certificate of Occupancy (CO).
10. The applicant shall submit a Transportation Demand Management (TDM) Plan for employees of the restaurant. This plan shall encourage the utilization of alternative modes of transportation to commute to and from work. The restaurant shall designate a staff person to coordinate the development and implementation of the TDM Plan with the city. The TDM Plan should include a reporting system to be able to track the effectiveness of the Plan and make adjustments for improvements as necessary.
11. The applicant shall provide to the City an evaluation of the valet parking operation of the site after six (six) months of the opening date. The evaluation shall include a valet parking analysis. Depending on the outcome of the review, the City may impose some specific mitigation measures as necessary.
12. 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.
13. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.
14. 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. 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.
15. 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.

16. 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.
17. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
18. 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.
19. 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.

TRM/MB/TUI

### ZONING SITE MAP



City of Miami Beach Planning Board  
File No. 2286  
4525 Collins Ave

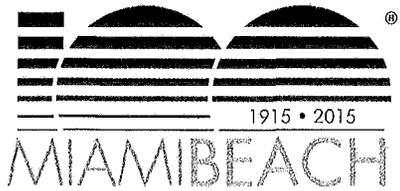


The applicants, Nobu Associates (South Beach), LP, and Eden Rock, LLLP, are requesting Conditional Use approval for a Neighborhood Impact Establishment consisting of a restaurant with an occupant count of more than 300 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the Land Development Regulations of the City Code.

**MIAMI BEACH**  
PLANNING DEPARTMENT

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

TRANSPORTATION DEPARTMENT

MEMORANDUM

TO: Michael Belush, AICP, Planning and Zoning Manager  
FROM: Jose R. Gonzalez, PE, Director  
DATE: September 18, 2015  
SUBJECT: 4525 Collins Avenue – Traffic Statement

The Transportation Department has coordinated the review of the subject traffic statement submitted by the applicant as part of the Planning Board application for the 4525 Collins Avenue project. This application is for the proposed renovation of an existing restaurant within the Eden Roc Hotel.

The project site currently consists of a Hotel with 631 rooms and a restaurant with 168 seats. The proposed expansion will increase the restaurant capacity to a total of 272 seats, with the number of rooms remaining the same at 631.

TrafTech Engineering, Inc. was retained by the applicant to conduct a traffic statement in connection with the proposed development. FTE Inc. was retained by the City to perform the peer review of this traffic analysis.

**TRAFFIC ANALYSIS**

A trip generation analysis was performed using the trip generation rates published in the Institute of Transportation Engineers (ITE) Trip Generation Manual (9<sup>th</sup> Edition). The daily and peak hour volumes of the generator were used for this analysis.

As indicated in Table 1 of the traffic analysis, the proposed restaurant expansion project is projected to generate approximately 209 new daily trips and approximately 23 new peak hour trips (13 inbound and 10 outbound). Therefore, the proposed restaurant expansion project is not anticipated to have a traffic impact to the surrounding street system. As indicated in Figure 2, the maximum traffic impact on any directional roadway segment is nine (9) new vehicle trips in a one-hour period, which is insignificant from a traffic engineering standpoint.

The hotel/restaurant is 100% valet service and a parking garage is located within the hotel property. Valet runners would take vehicles to the on-site parking garage. Consequently, the travel distance between the hotel drop-off/pick-up designated area is minimal since the parking garage is adjacent to the hotel facility. The valet drop-off/pick-up area has approximately 24 feet in width by approximately 200 feet in length. Hence, approximately 18 vehicles can be stored within the valet area (assuming two (2) lanes and 22 feet per parked vehicle).

According to information provided by the Eden Roc Hotel, during the peak parking periods, the Hotel has up to seven (7) valet runners. Based on the increase in trips associated with the proposed restaurant expansion project, it is recommended that the Eden Roc add one (1) more valet runner during the peak parking period (for a total of eight (8) valet runners).

### **RECOMMENDATIONS**

1. In addition to the Transportation Demand Management measures outlined in the traffic statement for this project, the Transportation Department recommends that the Hotel implement a Transportation Demand Management (TDM) Plan for employees of the site. This type of Plan would encourage the utilization of alternative modes of transportation to commute to/from work. The Hotel should designate a staff person to coordinate the development and implementation of the TDM Plan with the City. The TDM Plan should include a reporting system to be able to track the effectiveness of the Plan and make adjustments for improvements as necessary.
2. The applicant shall provide to the City an evaluation of the valet parking operation of the site after six (6) months of opening date. The evaluation should include a valet parking analysis. Depending on the outcome of the review, the City may impose some specific mitigation measures as necessary.

cc: Xavier R. Falconi, PE, Transportation Planner

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