

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: November 24, 2015

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: File No. 1609 – 2000 Collins Avenue: including 205-237 20<sup>th</sup> Street;  
221 20<sup>th</sup> Street; 220 21<sup>st</sup> Street; 2008-2038 Collins Avenue.

The applicant, Park Place Development, LLC and Just Around the Corner, LLC are requesting modifications to a previously issued Conditional Use Permit. Specifically the applicants are requesting to modify a condition of the Modified Conditional Use Permit (MCUP) in order to allow entertainment establishments on Liberty Avenue and on 21<sup>st</sup> Street, pursuant to Section 118, Article IV and Section 142, Article V.

#### **RECOMMENDATION**

Approval with conditions

#### **BACKGROUND**

*February 27, 2001*

Just Around the Corner, LLC was granted a Conditional Use Permit (CUP), File No. 1493, for a multi-level parking garage with retail on the ground floor. This approval included a condition that states: "Nightclubs, dance halls, bars or any kind of neighborhood impact establishment shall not be permitted."

*April 30, 2003*

Just Around the Corner, LLC and POP Development, LLC requested a substantial amendment to the existing CUP (File no. 1493) with a new File No. 1609 which was approved by the Board (File No. 1609 superseded the previous order). The substantial amendment consisted of an extension of the valet parking garage to the east along 20<sup>th</sup> Street and introducing a residential component above ground level commercial spaces facing Collins Avenue and 21<sup>st</sup> Streets.

*June 22, 2004*

Just Around the Corner, LLC and POP Development, LLC applied for a Modified CUP (MCUP) File No. 1609 and were approved. The modification included the following language: Condition # 3 "Dance halls, bars or any kind of neighborhood impact establishment shall only be permitted along Collins Avenue. Any entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for conditional use approval as agreed by the applicant."

- July 24, 2007* A new applicant, Park Place Development, LLC requested a modification to the MCUP to among other things create two new restaurant spaces, which was approved by the Board.
- February 28, 2012* Park Place Development, LLC requested a modification to the MCUP to add a lounge use on 20<sup>th</sup> Street. There was a long discussion that included the intensity of the restaurants (number of seats), traffic, parking and the location of the various venues. The MCUP retained the previous condition, but reworded and moved to condition #11 *“Any additional dance hall, bar, or entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for conditional use approval as agreed by the applicant, and shall only be permitted, if permitted, along Collins Avenue or 20<sup>th</sup> Street.”*
- August 28, 2012* Park Place Development, LLC was granted a modification to the MCUP to add a restaurant and reconfigure the previously approved restaurant spaces. In order to streamline the process, and allow for future reconfigurations without returning to the Planning Board every time there is a change of floor plan, the Board approved the following condition # 12. *“Notwithstanding Condition No. 11 above, Parc Place Development, LLC, as owner of the property, shall be enabled to allocate, divide or sub-divide the commercial spaces within the property for different uses to either retail, eating and drinking establishments, or other commercial spaces such as a spa, gym, or similar, and re-allocate parking spaces according to need without having to amend the Permit every time one of these re-allocations, divisions or sub-divisions of spaces takes place, as long as it is not one of the uses specified in the Permit that require Planning Board approval. Any re-allocation, division or subdivision of the commercial spaces shall be limited to the number of parking spaces provided within the garage and shall be submitted to Planning Department staff for review and re-certification that enough parking spaces remain available for all uses within the building.”*

## **ZONING / SITE DATA**

- Legal Description:** Lots 1, 2, 3, 4, 6 and 8 of Block C of Amended map of Ocean Front property of Miami Beach Improvement Company Subdivision as recorded in PB 5, Page 7 of the Public Records of Miami-Dade County, Florida.
- Zoning:** CD-3, Commercial High Intensity zoning district
- Future Land Use Designation:** CD-3, Commercial High Intensity zoning district
- Surrounding Uses:**
- |       |                          |
|-------|--------------------------|
| North | Collins Park (City Park) |
| East: | Hotel                    |

South: Hotel and multifamily  
West: Hotel and multifamily

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

### **THE PROJECT**

The applicant, Park Place Development, LLC and Just Around the Corner, LLC as owners of the property described in the legal description, have submitted plans entitled "Boulan Condominiums", as prepared by M3 Concepts, dated August 06, 2015. The plans illustrate the current locations of four (4) restaurant spaces and a lounge. The applicant also prepared a chart demonstrating that the project still has enough parking for all of the uses in the building, and has not exceeded the intensity (number of seats) previously approved.

### **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.**

**Partially Consistent** - The proposed use would not require an amendment to the Future Land Use Map of the Comprehensive Plan and it is consistent with the objectives of the Comprehensive Plan to provide additional parking in the City.

- 2. 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**

**Partially Consistent** - The proposed use is not anticipated to degrade the LOS for the surrounding area below the thresholds which have been established. However, a traffic study as well as a mitigation plan may be required as determined by the Transportation and Concurrency Management Division.

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

**Partially Consistent** - The Board of Adjustment granted a variance on January 5, 2001 for valet and tandem parking in the garage. The project required several variances, inclusive of height and setbacks, as well as other minor variances. On April 4, 2003, the Board of Adjustment granted the request subject to a number of conditions.

- 4. The public health, safety, morals and general welfare will not be adversely affected.**

**Consistent** - The proposed garage is a permitted use in the CD-3 zoning district; Conditional Use is required because of the request to operate after midnight. Although there are some residential and hotel uses in the vicinity, staff will recommend conditions that may help alleviate or avoid adverse impacts on the neighborhood.

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

**Consistent** - In addition to all the parking that the proposed mixed use project may require, there may be excess parking that would alleviate the need in the immediate area.

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

**Consistent** - Staff will recommend conditions to mitigate the impact on the surrounding neighborhood and provide safeguards for the protection of the residential uses in the neighborhood.

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

**Consistent** - Other garage structures have not been approved in the immediate neighborhood.

**STAFF ANALYSIS**

After reviewing the request, staff is in agreement with the applicant's request, which in summary, is to eliminate the condition that restricts dance halls, bars, and entertainment establishments to Collins Avenue or 20<sup>th</sup> Street:

Condition #11 "Any additional dance hall, stand-alone bar, or entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for conditional use approval as agreed by the applicant, ~~and shall only be permitted, if permitted, along Collins Avenue or 20<sup>th</sup> Street.~~"

Originally, when the restriction was imposed in 2001, there were apartment buildings bordering the property west side of the property on 21<sup>st</sup> Street and along Liberty Avenue, but through the years, those buildings have converted to hotel uses.

Staff recommends that the condition that specifies that any dance hall, stand-alone bar or entertainment establishment, regardless of the occupant load, shall be reviewed by the Planning Board for Conditional Use approval should remain, as it guides both the applicant and staff as to what needs Planning Board review. This condition provides a built in protection through the CUP process for those uses on the property as a whole (the Board will be looking at a new entertainment project at the corner of 20<sup>th</sup> Street and Liberty on this agenda, see File No. 2278 and the addition of entertainment to a restaurant facing 21<sup>st</sup> Street, see File No. 2277).

Additionally, as you may see in the approved MCUP attached, the conditions of approval specify the occupancy, the number of restaurant seats, the locations of various venues, the hours of operation for the establishments, and the hours when music may be played in the different areas of the property. Since the MCUP has been modified five (5) times and it also allows the administrative approval of re-configurations, as long as the overall numbers are respected, staff recommends that the CUP language be amended to remove the conditions that have already been covered by separate CUP's and dated references to areas that are not in existence today.

Also, the current map attached to the CUP has been updated so that it reflects all the areas used for restaurants, dance halls and entertainment establishment (alcoholic beverage establishments) in their current configuration.

### **STAFF RECOMMENDATIONS**

In view of the foregoing analysis, staff recommends that this application for modification to a previously issued Conditional Use Permit be APPROVED subject to the following conditions: underlining denotes new language and ~~strikethrough~~ denotes stricken language from the previous order:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the Business Tax Receipts (BTR) for Restaurants No. 1 and 2 any new alcoholic beverage establishment. 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 Modified Conditional Use Permit authorizes the following three restaurant and lounge uses, as well as re-allocation, division or sub-division of commercial spaces within the property, as long as it is not for one of the uses specified in Condition No. 14 of the Permit which would require Planning Board approval:~~
  - ~~(A) a restaurant (presently identified as "Restaurant No. 1") located on the first and second floors at the southwest corner of Collins Avenue and 21<sup>st</sup> Street, with a maximum capacity of 372 seats or such lesser number as the Fire Marshal may approve, with (i) inside operating hours of 10 AM to 3 AM; (ii) outside operating hours in Area #1 of 10 AM to Midnight, with all activity to cease at midnight; and (iii) outside operating hours of 10 AM to 1 AM in Areas #2, #3, and #4; and~~
  
  - ~~(B) a restaurant (presently identified as "Restaurant No. 2") located on the first floor at the northwest corner of Collins Avenue and 20<sup>th</sup> Street, with a maximum capacity of 220 seats or such lesser number as the Fire Marshal may approve, with (i) inside operating hours of 10 AM to 5 AM; and (ii) and outside operating hours of 10 AM to 1 AM in Area #6; and~~
  
  - ~~(C) if authorized by separate Conditional Use Permit in Planning Board File 2042, a lounge (presently identified as "The Venue at Boulan") located on the first and second floor on the 20<sup>th</sup> Street side of the building (north side of 20<sup>th</sup> Street), to operate solely within the interior of the premises, with a maximum capacity of 707 persons or such lesser number as the Fire Marshal may approve, with a closing time of 5 AM.~~
  
3. This Conditional Use Permit is issued to Parc Place Development, LLC and Just Around the Corner, LLC as owners of the property described herein. Any change of ownership, including 50% or greater, shall require review by the Planning Board as a modification to this Conditional Use Permit.

4. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
5. 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, now and in the future, shall abide by all the documents and statements submitted with this application to modify the previously approved Conditional Use Permit which includes Neighborhood Impact Establishments.
7. An operation plan for each ~~neighborhood impact and entertainment establishment~~ alcoholic beverage establishment shall be submitted to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion or Business Tax Receipt, whichever occurs first.
8. Security personnel and other restaurant staff shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
9. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
10. Prior to the issuance of a building permit, 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 the applicant obtaining a building permit, and any other fair share cost before the Certificate of Occupancy for the proposed restaurants.
11. Any additional dance hall, stand-alone bar, or entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for a separate conditional use approval as agreed by the applicant, ~~and shall only be permitted, if permitted, along Collins Avenue or 20<sup>th</sup> Street.~~
12. Notwithstanding condition No. 11 above, Parc Place Development, LLC and Just Around the Corner, LLC shall be enabled to allocate, divide or sub-divide the commercial spaces within the property for different uses and re-allocate parking spaces according to need without having to amend the Permit every time one of these re-allocations, divisions or sub-divisions of spaces takes place, as long as it is not one of the uses specified in the Permit that require Planning Board approval. Any re-allocation, division or subdivision of the commercial spaces shall be limited to the number of parking spaces provided within the garage and shall be submitted to Planning Department staff for review and re-certification that enough parking spaces remain available for all uses within the building. The total number of restaurant seats for the entire property shall not exceed 592.
13. Live or recorded music, whether amplified or non-amplified, which is played at a volume that is defined as entertainment, i.e., louder than ambient background music (defined as a sound level that does not interfere with normal conversation) shall not be permitted in

Area #5 (the open courtyard), and shall not be audible in the adjacent properties or in the residential units of the project, and in no instance shall the low-volume background music be permitted past midnight. Area #5 shall in no circumstance operate as a bar, nightclub, discotheque, or dance hall.

14. Sound shall be contained within the courtyard and shall not create a disturbance to the adjacent property.
15. Live or recorded music, whether amplified or non-amplified, which is played at a volume that is defined as entertainment, i.e., louder than ambient background music (defined as a sound level that does not interfere with normal conversation) shall not be permitted in any of Area #2, #3, #4, #5, or #6. The additional requirements in Condition No. 42 13 shall also apply to Area #5. ~~No music of any kind shall be permitted in Area #1.~~
16. Should any of the remaining commercial/retail spaces be aggregated to create a larger venue ~~for an eating and/or drinking~~ alcoholic beverage establishment, such establishment shall be limited to the number of parking spaces provided within the garage. In this case, the applicant shall return to the Planning Board to evaluate impact of the larger venue and address issues such as, but not limited to the number of seats, the kind of operation, potential noise, etc. This review shall be a modification to the Conditional Use Permit and shall be properly advertised for a public hearing.
17. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the parking facility.
18. The applicant shall continue to offer a \$5.00 discounted rate for two hours, for parking tickets validated by any of the cultural venues in the immediate area (Bass Museum, Miami City Ballet, and Public Library) for as long as the existing surplus number of parking spaces do not become required parking for the accessory commercial uses within the building.
19. The required parking spaces for the residential and commercial uses on site shall be reserved in the garage to service such uses and shall not be used by valet operators to service off-site uses.
20. The parking garage approved included in this Conditional Use Permit shall be valet only; self-parking is prohibited. The excess parking spaces generated by this project shall remain available by valet service to the general public on a first-come, first-serve basis for as long as the existing surplus number of parking spaces do not become required parking for the accessory commercial uses within the building.
21. The operator of the parking garage shall be responsible for operating this facility in an orderly, clean and quiet manner so that neighboring residents are not disturbed. The sounding of car alarms, playing of radios or any kind of audio system (including by the valet attendants), automobile horns, and screeching of tires shall be prohibited. Two signs, one addressing City Code provisions regarding car alarms, and one prohibiting the screeching of tires and sounding of horns (see attached examples), shall be posted on the site so they are plainly visible by users of the facility.

22. Without in any manner limiting the general rights of the Planning Director or the Planning Board to recall the owner or operator or to modify this Conditional Use Permit, 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 (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise.
23. 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.
24. 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.
25. This modified Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County within a reasonable time after receipt at the expense of the applicant. No building permit, certificate of use, certificate of occupancy, certificate of completion or business tax receipt shall be issued until this requirement has been satisfied.
26. 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.
27. 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.

### ZONING AND LOCATION MAP



City of Miami Beach Planning Board  
File No. 1609  
2000 Collins Ave. including 205-237 20th Street; 221 20th Street;  
220 21st Street; 2008-2038 Collins Avenue.

 The applicant, Park Place Development, LLC, is requesting modifications to a previously issued Conditional Use Permit. Specifically the applicant is requesting to modify a condition of the CUP in order to allow an entertainment establishment on the corner of Liberty Avenue and 21st street, pursuant to Section 118, Article IV and Section 142, Article V.

**MIAMI BEACH**  
PLANNING DEPARTMENT  
1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 P. 305.673.7550 www.miamibeachfl.gov





CFM 2012R0848249  
 DR Bk 28372 Pgs 3553 - 3562 (10pgs)  
 RECORDED 11/27/2012 14:27:56  
 HARVEY RUVIN, CLERK OF COURT  
 MIAMI-DADE COUNTY, FLORIDA

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

**PROPERTY:** 2000 Collins Avenue

**FILE NO.** 1609

**IN RE:** The Request by Parc Place Development, LLC, requesting a modification to an existing Conditional Use Permit to change and relocate commercial uses within the commercial component of the existing mixed use project while increasing the number of seats in the two restaurants and providing parking within the parking garage on the site, as well as other modifications.

**LEGAL DESCRIPTION:** See-Exhibit "A" attached

**MEETING DATE:** August 28, 2012

**MODIFIED CONDITIONAL USE PERMIT**

The applicant, Parc Place Development, LLC, filed an application with the Planning Director pursuant to City Code Section 118-195, "Amendment Of An Approved Conditional Use," for a Modification to an existing Conditional Use Permit. 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 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 modified by the Planning Board, that a Substantial Modification to a previously approved Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed: (~~Strikethrough~~ signifies deletions; Underlining signifies new language)

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTRs for Restaurants No. 1 and 2. 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 Modified Conditional Use Permit authorizes the following three restaurant and lounge uses, as well as re-allocation, division or sub-division of commercial spaces within the property, as long as it is not for one of the uses specified in Condition No. 11 of the Permit which would require Planning Board approval.
  - (A) a restaurant (presently identified as "Restaurant No. 1") located on the first and second floors at the southwest corner of Collins Avenue and 21<sup>st</sup> Street, with a maximum capacity of 372 seats or such lesser number as the Fire Marshal may approve, with (i) inside operating hours of 10 AM to 3 AM; (ii) outside operating hours in Area #1 of 10 AM to Midnight, with all activity to cease at midnight; and (iii) outside operating hours of 10 AM to 1 AM in Areas #2, #3, and #4;
  - (B) a restaurant (presently identified as "Restaurant No. 2") located on the first floor at the northwest corner of Collins Avenue and 20<sup>th</sup> Street, with a maximum capacity of 220 seats or such lesser number as the Fire Marshal may approve, with (i) inside operating hours of 10 AM to 5 AM; and (ii) and outside operating hours of 10 AM to 1 AM in Area #6; and
  - (C) If authorized by separate Conditional Use Permit in Planning Board File 2042, a lounge (presently identified as "The Venue at Boulan"), located on the first and second floor on the 20<sup>th</sup> Street side of the building (north side of 20<sup>th</sup> Street), to operate solely within the interior of the premises, with a maximum capacity of 707 persons or such lesser number as the Fire Marshal may approve, with a closing time of 5 AM.
3. This Conditional Use Permit is issued to Parc Place Development, LLC as owner of the property described herein. Any change of operator or ownership, including 50% or greater, shall require review by the Planning Board as a modification to this Conditional Use Permit.
4. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
5. 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, now and in the future, shall abide by all the documents and statements submitted with this application to modify the previously approved Conditional Use Permit which includes Neighborhood Impact Establishments.
7. An operation plan for each neighborhood impact and entertainment establishment shall be submitted to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion or Business Tax Receipt, whichever occurs first.

8. Security personnel and other restaurant staff shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
9. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
10. Prior to the issuance of a building permit, 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 the applicant obtaining a building permit, and any other fair share cost before the Certificate of Occupancy for the proposed restaurants.
11. Any additional dance hall, bar, or entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for conditional use approval as agreed by the applicant, and shall only be permitted, if permitted, along Collins Avenue or 20<sup>th</sup> Street.
12. Notwithstanding condition No. 11 above, Parc Place Development, LLC shall be enabled to allocate, divide or sub-divide the commercial spaces within the property for different uses and re-allocate parking spaces according to need without having to amend the Permit every time one of these re-allocations, divisions or sub-divisions of spaces takes place, as long as it is not one of the uses specified in the Permit that require Planning Board approval. Any re-allocation, division or subdivision of the commercial spaces shall be limited to the number of parking spaces provided within the garage and shall be submitted to Planning Department staff for review and re-certification that enough parking spaces remain available for all uses within the building. The total number of restaurant seats for the entire property shall not exceed 592.
13. Live or recorded music, whether amplified or non-amplified, which is played at a volume that is defined as entertainment, i.e., louder than ambient background music (defined as a sound level that does not interfere with normal conversation) shall not be permitted in Area #5 (the open courtyard), and shall not be audible in the adjacent properties or in the residential units of the project, and in no instance shall the low-volume background music be permitted past midnight. Area #5 shall in no circumstance operate as a bar, nightclub, discotheque, or dance hall.
14. Sound shall be contained within the courtyard and shall not create a disturbance to the adjacent property.
15. Live or recorded music, whether amplified or non-amplified, which is played at a volume that is defined as entertainment, i.e., louder than ambient background music (defined as a sound level that does not interfere with normal conversation) shall not be permitted in any of Area #2, #3, #4, #5, or #6. The additional requirements in Condition No. 12 shall also apply to Area #5. No music of any kind shall be permitted in Area #1
16. Should any of the remaining commercial/retail spaces be aggregated to create a larger venue for an eating and/or drinking establishment, such establishment shall be limited to the number of parking spaces provided within the garage. In this case, the applicant shall return to the Planning Board to evaluate impact of the larger venue and address issues such as, but not limited to the number of seats, the kind of operation, potential noise, etc. This review

shall be a modification to the Conditional Use Permit and shall be properly advertised for a public hearing.

17. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the parking facility.
18. The applicant shall continue to offer a \$5.00 discounted rate for two hours, for parking tickets validated by any of the cultural venues in the immediate area (Bass Museum, Miami City Ballet, and Public Library) for as long as the existing surplus number of parking spaces do not become required parking for the accessory commercial uses within the building.
19. The required parking spaces for the residential and commercial uses on site shall be reserved in the garage to service such uses and shall not be used by valet operators to service off-site uses.
20. The parking garage approved included in this Conditional Use Permit shall be valet only; self-parking is prohibited. The excess parking spaces generated by this project shall remain available by valet service to the general public on a first-come, first-serve basis for as long as the existing surplus number of parking spaces do not become required parking for the accessory commercial uses within the building.
21. The operator of the parking garage shall be responsible for operating this facility in an orderly, clean and quiet manner so that neighboring residents are not disturbed. The sounding of car alarms, playing of radios or any kind of audio system (including by the valet attendants), automobile horns, and screeching of tires shall be prohibited. Two signs, one addressing City Code provisions regarding car alarms, and one prohibiting the screeching of tires and sounding of horns (see attached examples), shall be posted on the site so they are plainly visible by users of the facility.
22. Without in any manner limiting the general rights of the Planning Director or the Planning Board to recall the owner or operator or to modify this Conditional Use Permit, 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 (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise.
23. 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.
24. 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.
25. This modified Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County within a reasonable time after receipt at the expense of the applicant. No building permit, certificate of use, certificate of occupancy, certificate of completion or business tax receipt shall be issued until this requirement has been satisfied.

26. 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.
27. 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 1st day of October, 2012

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

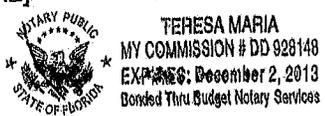
BY: *Richard G. Lorber*  
Richard G. Lorber, AICP, LEED AP  
Acting Planning Director  
For Chairman

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 1st day of October, 2012, 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*  
Notary: Teresa Maria  
Print Name: Teresa Maria  
Notary Public, State of Florida  
My Commission Expires: 12-2-13  
Commission Number: DD 928148

[NOTARIAL SEAL]



Approved As To Form:  
Legal Department (gld 10-1-12)

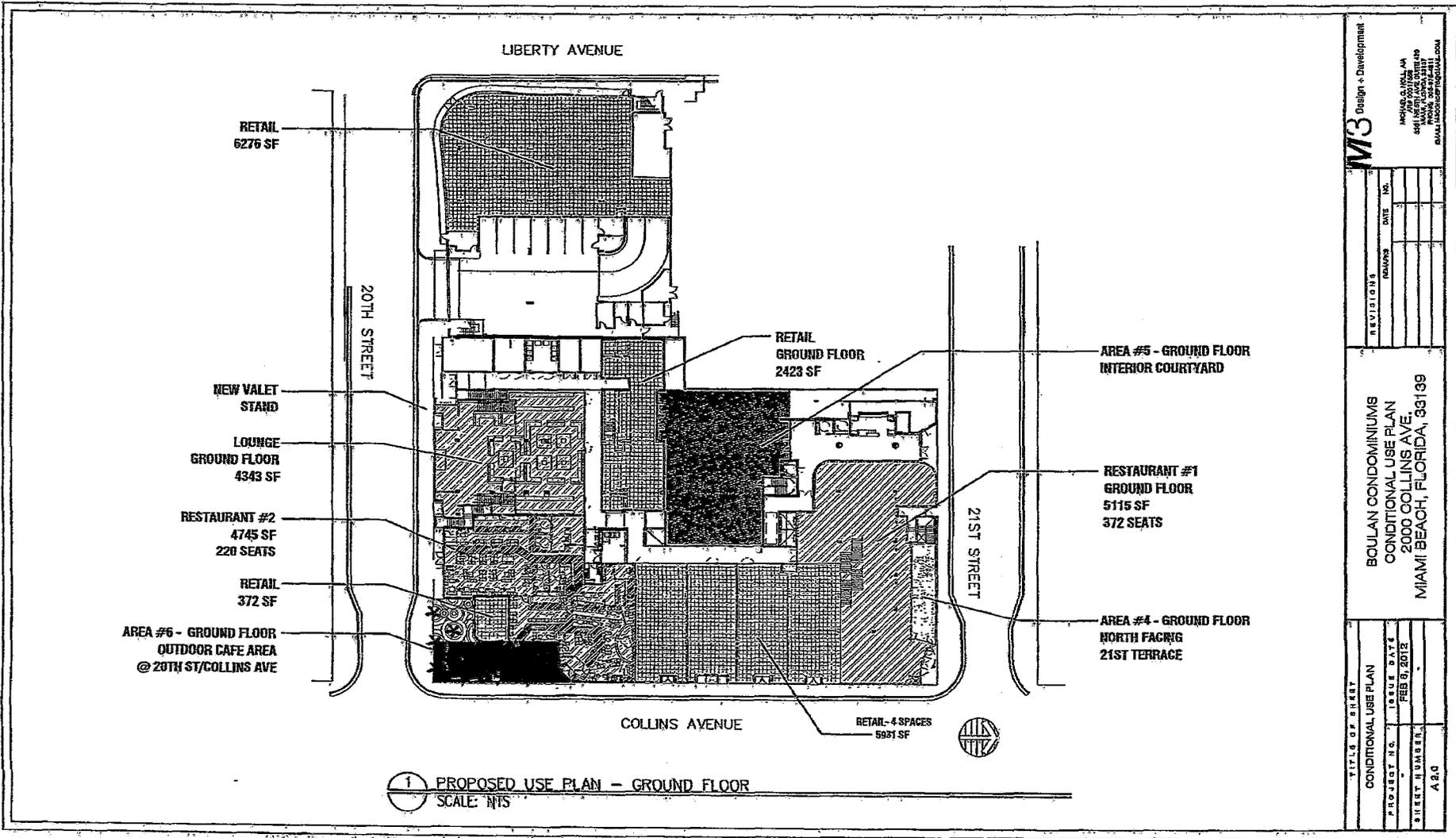
**EXHIBIT "A"**

**LEGAL DESCRIPTION**

LOTS 1 AND 3, BLOCK C OF "AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, AT PAGE 7, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, ALL LYING AND BEING IN SECTION 34, TOWNSHIP 53 SOUTH, RANGE 42 EAST, CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.

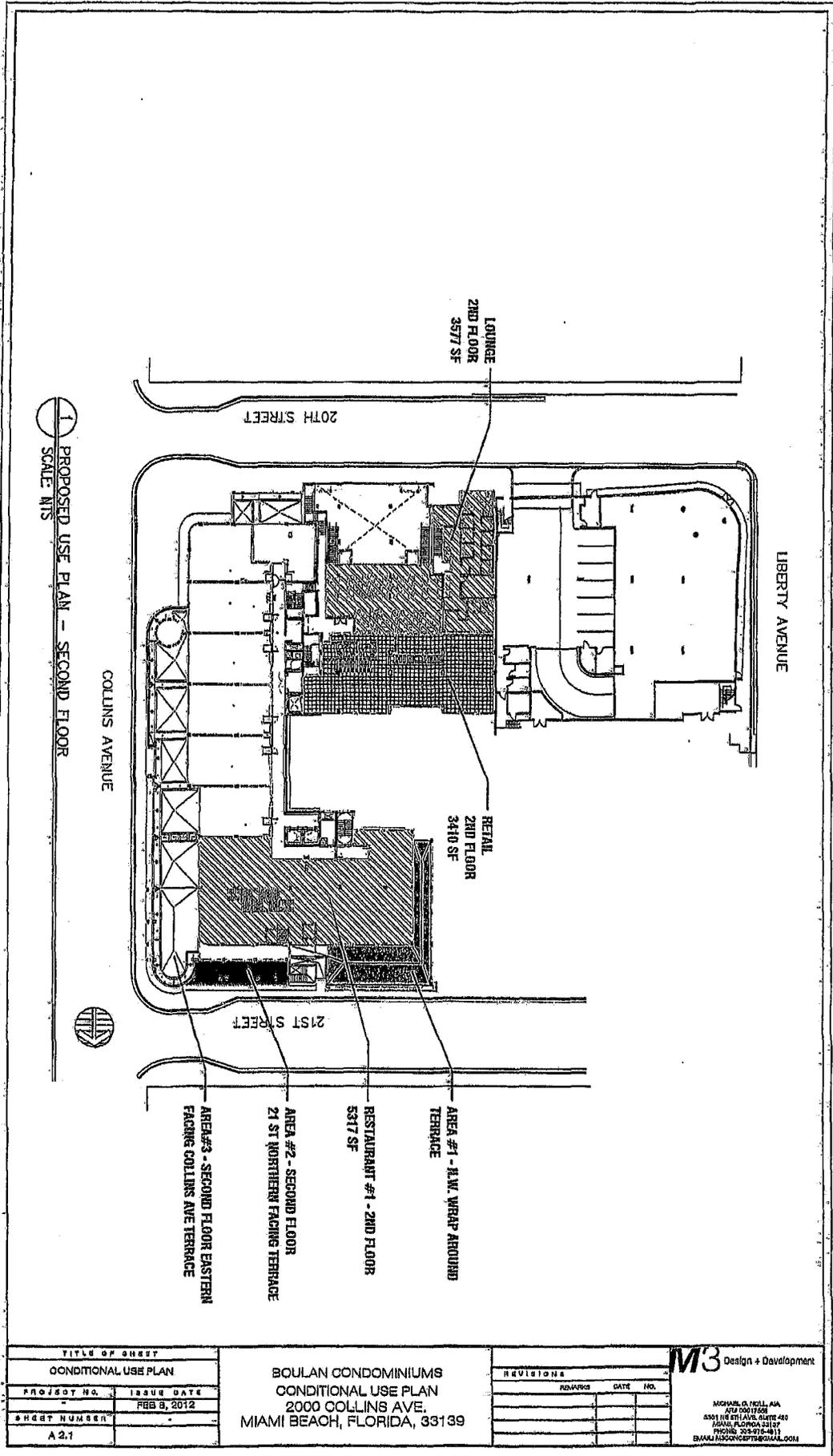
**TOGETHER WITH**

LOTS 2 AND 4 AND THE EAST 25.50 FEET OF LOT 6, BLOCK C OF "AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, AT PAGE 7, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, ALL LYING AND BEING IN SECTION 34, TOWNSHIP 53 SOUTH, RANGE 42 EAST, CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.



1 PROPOSED USE PLAN - GROUND FLOOR  
SCALE: NTS

<b>M3</b> Design + Development 1000 S.W. 11th Ave Suite 1000 Miami, FL 33135 Phone: 305.371.1111 Email: info@m3design.com	
REVISIONS	DATE
BOULAN CONDOMINIUMS CONDITIONAL USE PLAN 2000 COLLINS AVE. MIAMI BEACH, FLORIDA, 33139	
TITLE OF SHEET	ISSUE DATE
CONDITIONAL USE PLAN	FEB 9, 2012
PROJECT NO.	SHEET NUMBER
	A.2.0



1 PROPOSED USE PLAN - SECOND FLOOR  
 SCALE: NTS



TITLE OF SHEET	
CONDITIONAL USE PLAN	
PROJECT NO.	ISSUE DATE
	FEB 9, 2012
SHEET NUMBER	
A 2.1	

BOULAN CONDOMINIUMS  
 CONDITIONAL USE PLAN  
 2000 COLLINS AVE.  
 MIAMI BEACH, FLORIDA, 33139

REVISIONS		
REVISION	DATE	NO.

**M3** Design + Development

MICHAEL D. MCILL, AIA  
 AIA 10017628  
 3301 NE 81ST AVE., SUITE 400  
 MIAMI, FLORIDA 33137  
 PHONE: 305-471-4811  
 EMAIL: M3DESIGN@M3DESIGN.COM

**NOTICE**

**NO**

**HORN**

**HONKING**

**-or-**

**TIRE**

**SCREECHING**

# **NOTICE**

**Section 46-161  
of the Code of  
the City of  
Miami Beach  
permits your  
car to be towed  
or  
fines imposed  
if your car  
alarm system is  
activated  
improperly.**