

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: December 15, 2015

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **File No. 2287. 1787 Purdy Avenue – Tackle Box**

The applicant, TB Purdy Restaurant, LLC., is requesting Conditional Use approval for a new restaurant with an occupant content exceeding 100 persons, pursuant to Chapter 118, Article IV, and Chapter 142, Article II of the City Code.

RECOMMENDATION

Approval with conditions

ZONING / SITE DATA

Legal Description:

Western ½ of Lot 9 of Block 16, of "Island View Subdivision", according to Plat thereof as recorded in Plat Book 6, Page 115, of the Public Records of Miami-Dade County.

Zoning:

CD-2, Commercial Medium Intensity Zoning District

Future Land Use Designation:

CD-2, Commercial Medium Intensity Zoning District

Surrounding Uses:

North	Surface parking lot
East:	Restaurant
South:	Retail
West:	Surface parking lot (City Park)

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

THE PROJECT

The applicant, TB Purdy Restaurant, LLC, submitted plans entitled "Tackle Box Restaurant Renovation and Deck Addition", as prepared by Sustainable Architecture Initiative LLC, dated September 14, 2015. The plans illustrate the proposed layout of a new restaurant in an existing space and a new restaurant seating area, with an accessory outdoor bar, on the roof. The layout reflects 84 seats on the first floor, 12 seats on the sidewalk, and 46 seats on the roof, for a total of 142 restaurant seats. The restaurant is not proposing entertainment, but proposes ambient music. A Sound Study was included in the package to help substantiate the method that the operators plan to implement the ambient music in the rooftop area.

Please note that an application to the Design Review Board for the rooftop area and the accompanying exterior staircase and elevator is scheduled to be heard January 15, 2016.

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 will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan**

Consistent – The proposed use is not anticipated to degrade the Levels of Service (LOS) for the surrounding area below the thresholds that have been established.

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

Consistent – Restaurants with accessory outdoor bars are permitted in the CD-2 zoning district.

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

Partially Consistent – The submitted sound study concluded that the proposed use would not have any negative acoustical impact on the neighbors. However, the proposed establishment may adversely affect the general welfare of nearby residents if 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 will be provided.**

Consistent – There is not any parking on site but public parking is available at the garage located a block to the north of the property. The applicant also proposes to provide valet parking to its patrons. Furthermore, many patrons may walk, arrive by taxi, or hired car service.

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

Consistent – Staff will recommend conditions to mitigate any adverse impacts from sound on the surrounding neighbors.

- 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.**

Partially Consistent – There are several restaurants with bars in the area. Adverse

impacts are not anticipated.

STAFF ANALYSIS

The City Code requires that restaurants in the Sunset Harbour Neighborhood with over 100 seats and an occupant content of more than 125 persons obtain a Conditional Use Permit (CUP). The subject property has had a 100 seat restaurant on the site since 1998, but the increase to 142 seats or 130 seats (the 12 sidewalk café seats shown on the site plan may not come to fruition due to the conditions of the streetscape in the future) requires CUP approval. Additionally, the projected occupant content for the project is 183 persons, as represented by the applicant. The section of the code that pertains to this requirement is below:

Sec. 142-303. - Conditional uses.

(b) *Sunset Harbour Neighborhood. In addition to the conditional uses specified in **Error!** **Hyperlink reference not valid.**, and subject to the conditional use criteria in **Error!** **Hyperlink reference not valid.** 118-192(a), conditional uses in the CD-2 commercial medium intensity district in the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard shall also include the following:*

- (1) *Main use parking garages;*
- (2) *Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons and a floor area in excess of 3,500 square feet.*

Parking

The proposed project requires one (1) parking space for every four (4) seats which equals 33 parking spaces required by City Code Sec. 130-32 (based on 130 seats, because the sidewalk café seats do not have a parking requirement per City Code). Because the structure existed before 1989, the project would receive a credit of 14 parking spaces from the prior use, leaving a parking requirement of 19 spaces that will require a Parking in Lieu fee to be paid to the city.

Operationally, the project plans to provide one (1) valet parking ramp located at the front of the property and storage at 1850 Alton Road. The valet routes are shown in the application materials. Also, the number of valet attendants recommended by Traf Tech Engineering, Inc in the submitted traffic statement is six (6) attendants during peak hours. Employees are anticipated to park at the public parking garage north of the property.

Compared to the prior use of a 100 seat restaurant, the proposed 142 seat restaurant will generate an additional 13 new peak hour trips, as indicated by the provided traffic study. Please refer to the attached memo from the Transportation Department for additional information and analysis. In order to verify the traffic study conclusion as it relates to the valet analysis, staff recommends that the applicant provide to the city an evaluation of the valet parking operation of the site after six (6) months of the opening date, as noted in the recommendation for approval.

Security and Queuing

The applicant did not mention security details in the Letter of Intent (LOI) or the supplemental

“Operational Details.” As far as queuing, the applicant maintains that they do not expect queuing and that patrons will be able to sit at the bar while they wait for a table.

Sound

Even though the project does not propose entertainment, the applicant proffered Sound System Specifications prepared by The Audio Bug, Inc for its outdoor sound system. The Audio Bug Inc specifications were designed to comply with the noise ordinance and not to allow for music to rise to the level of entertainment and interfere with a normal conversation. As a point of reference, there are residential buildings approximately 300 feet to the south and 245 feet to the northwest of the subject property.

Loading and Garbage

The lot does not have any off-street loading areas or access to an alley. The applicant proposes to have small vehicles use the valet parking space since most deliveries will take place when the business is not open. Subject to the approval of the Parking Department, larger trucks are proposed to use the dedicated westbound turn lane. Additionally, although the application states that there is an enclosed air conditioned garbage room, it is unclear from the submitted plans and exhibits, if that is the case.

Conclusion

After reviewing the request, staff does not have an objection to the additional restaurant capacity proposed at this location, nor the applicant's proposed physical modifications to the property. However staff believes that the rooftop restaurant area and the interior portions of the restaurant need to operate as a single establishment. Additionally, the proposed valet drop-off and delivery plan shall require the review and approval of the Parking Department. Staff has proposed a number of conditions to address these issues and help ensure the successful operation of the restaurant.

STAFF RECOMMENDATIONS

In view of the foregoing analysis, staff recommends that the subject application to be **APPROVED**, subject to 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 Business Tax Receipt (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 TB Purdy Restaurant, LLC, as operator, for a restaurant with alcoholic beverages. The subject establishment shall always be licensed as a single restaurant serving full meals at all times. Any change of operator or 50% (fifty percent) or more stock 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.
4. Prior to the issuance of a Building Permit for the improvements proposed herein, the

applicant shall submit a revised site plan and floor plan. At a minimum, such plans shall include the following:

- a. An air conditioned trash room(s) / garbage room(s), which shall be large enough or sufficient in number so that more than one pick up of garbage per day will not be necessary. The location, dimensions and access points of such trash/garbage room(s) shall be subject to the review and approval of staff.
 - b. The route of all refuse containers from the trash / garbage room(s) to the sidewalk.
 - c. A high-level trash/garbage compacting device may be located in the air-conditioned trash/garbage holding room within the facility.
5. Prior to the issuance of a building permit for the improvements proposed herein, the applicant shall submit a detailed valet parking and delivery plan, which shall be subject to the review and approval of the Parking Department. At a minimum, such plan shall include the following:
- a. The valet drop off shall be located in a designated off-street parking space, subject to the approval of the Parking Department.
 - b. The locations for all delivery vehicles shall be clearly delineated on a revised loading plan, and shall be subject to the review and approval of the Parking Department. Delivery vehicles shall only be permitted to make deliveries from designated loading zones and spaces approved by the Parking Department.
 - c. Delivery vehicles shall only be permitted to make deliveries from 8:00 AM to 2:00 PM.
 - d. Delivery trucks shall not idle in the loading zone.
6. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
- a. The hours of operation shall be within the hours of 11:30 AM to 12:00 AM on Sundays through Thursday and from 11:30 AM to 2:00 AM on Fridays and Saturdays. The outdoor portion shall close by 12:00 AM (midnight) daily.
 - b. At all times the establishment is open, food service with a full menu and operating kitchen shall be required throughout the venue, including the roof-top area. At the discretion of the operator, the roof-top area may cease operations prior to the closing of the venue, and while the first level is operational.
 - c. The roof-top area shall be limited to restaurant service only, and shall only be open and operational when the first level of the establishment is open. The rooftop area

- shall not become a stand-alone drinking establishment or bar at any time.
- d. The patron occupant content shall be a maximum of 199 persons, or as determined by the Fire Marshall, whichever is lower.
 - e. The number of seats within the confines of the property shall not exceed 140 and the number of seats on the adjacent sidewalk, if approved, shall not exceed 15.
 - f. The sound system and sound attenuation measures shall be implemented as per recommendations of the sound system specifications submitted in the application. A final sound transmission report which includes the performance of sound systems and sound attenuation devices shall be submitted to staff for review and approval prior to a Certificate of Use or Business Tax Receipt for the entertainment portion is approved.
 - g. Entertainment shall be prohibited at all times. The sound system shall be turned off entirely by 10:00 PM Sunday thru Wednesday, 11:00 PM Thursdays and 12:00 AM (midnight) on Fridays and Saturdays.
 - h. Special events pursuant to the Miami Beach City Code, associated with the proposed establishment, may not be held on the premises and the applicant agrees that it will not seek or authorize applications for such permits.
 - i. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - j. Any queuing of patrons shall occur within the property or inside the restaurant only. Security staff shall monitor the crowds to ensure that they do not obstruct the sidewalk.
 - k. Security staff shall monitor patron circulation and occupancy levels and shall take measures to strictly enforce patron age restrictions in the City Code at all times.
 - l. 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.
7. 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.
 8. 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

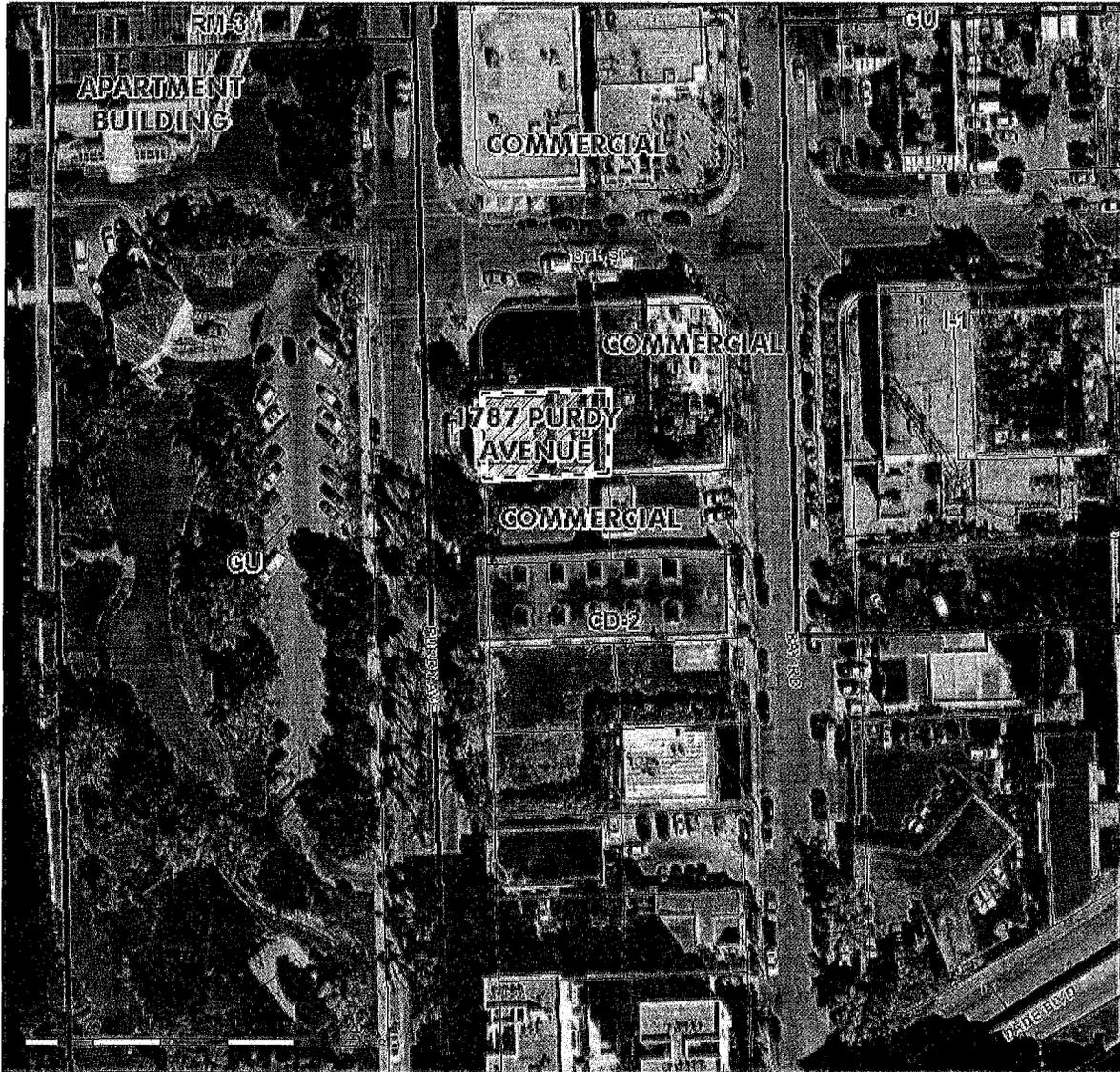
specific mitigation measures as necessary.

9. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a BTR to operate this entertainment establishment.
10. 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.
11. 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.
12. 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.
13. Within a reasonable time after applicant's receipt of this Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No building permit or certificate of completion shall be issued until this requirement has been satisfied.
14. 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.
15. 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

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ZONING AND LOCATION MAP



City of Miami Beach Planning Board
File No. 2287
1787 Purdy Avenue



The applicant, TB Purdy Restaurant, LLC, is requesting Conditional Use approval to permit the expansion of an existing restaurant with an occupant content exceeding 100 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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