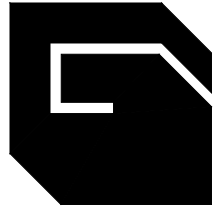


Giller & Giller, Inc.

The Giller Building
975 Arthur Godfrey Road, Suite #600
Miami Beach, Florida 33140
Tel (305) 538-6324 www.gillerandgiller.com
FL Reg. Architect No. AR-5960



June 2, 2024

Mr. Thomas Mooney
Planning Director
Planning Dept.
City of Miami Beach
1700 Convention Center Dr., 2nd Floor
Miami Beach, FL 33139

Re: **Request for a Conditional Use Permit to Increase Occupant Load
1235 Washington Ave.
Miami Beach, FL 33139**

Tom:

This office represents 1235 Redux, LLC, the Applicant and operator of M2 nightclub, concerning its Conditional Use application for a Neighborhood Impact Establishment.

This letter shall serve as a Letter of Intent in support of the Conditional Use Approval application.

Project Description:

This property is an existing night club located in the Pix Realty building owned by the Brandt family at 1235 Washington Ave. with Folio #02-3234-008-1091. The property is zoned CD-3 Commercial High-Density District, a district that allows night clubs among other uses.

Proposed Project:

The subject property is the existing night club M2 (formerly the old Cinema Theater). The night club has had a fire door exit capacity of 2,550 since its inception in 1984. It had an original Occupant Load of 2,300 people. In recent years, the occupant load was reduced due to the Fire Marshal imposing a stricter occupancy basis on Miami Beach clubs in an effort to better control the crowds.

In a meeting with the Fire Marshal last summer, the club operators were told that the occupant load could be increased by going back to the requirements of the current Fire Code and the Life Safety Code. Based thereon, the Life Safety Plan analysis brings the occupant load up to 2,471 persons. When the revised plan was submitted for Fire approval, the Planning Reviewer determined that a CUP was required for any increase in Occupancy Load. The proposed project will revise the Occupant Load approved by

Giller & Giller, Inc.

the Fire Marshal within the same space to 2,471 persons. There is no space expansion of the night club as part of this project. Most of the existing seating is currently not fixed and will be removed for the concerts. Approximately 100 fixed banquet seats will remain. The occupant load will be based upon square footage rather than seating per NFPA 101 Life Safety Code.

Property History:

This space in the coral keystone-clad commercial building was originally a supper club when built in the 1930's. Post WWII, it was converted into the Cinema Theater and remained a movie house until 1984 when it returned to its prior life as a night club. It has been an entertainment venue in the heart of Washington Avenue throughout its life.

2.5.2.2 General Standards for Approval of Conditional Uses:

The proposed project will meet the following applicable general and supplemental standards for approval by the Planning Board:

a. General standards. The following general standards shall be met by all conditional uses.

i. The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.

Entertainment use is allowed under the CD-3 zoning and has existed in this location since the 1930's.

ii. The intended use or construction shall not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.

Per the Traffic Study, the level of service does not exceed the thresholds.

iii. Structures and uses associated with the request shall be consistent with the land development regulations.

Entertainment use is allowed under the CD-3 zoning and has existed in this location since the 1930's.

iv. The public health, safety, morals, and general welfare shall not be adversely affected.

The night club has continually operated in this location for over 40 years with no adverse effect on public health, safety, morals, and general welfare.

v. Adequate off-street parking facilities will be provided, as applicable.

Off-street parking is not required per the Land Use regulations in the historic district.

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

Giller & Giller, Inc.

The night club has continually operated in this location for over 40 years with no significant adverse effect on the surrounding property, persons and neighborhood value. Adequate security will continue to be provided.

vii. The concentration of similar types of uses shall not create a negative impact on the surrounding neighborhood.

The nightclub has continually operated in this location for over 40 years and will not add to the existing concentration in the area.

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

Not applicable to an existing building in the historic district with no new construction.

ix. Appropriate consideration is given to the safety of and friendliness to pedestrian traffic; passageways through alleys is encouraged where feasible and driveways shall be minimized to the extent possible.

The safety procedures outlined in the Operating Plan will provide safety and friendliness to pedestrians. Passageways through alleys and driveways are not applicable.

7.1.2.4.a.1 Sea Level Rise and Resiliency Review Criteria:

A. A recycling or salvage plan for partial or total demolition shall be provided.

Not applicable because no demolition is a part of this application.

B. Windows that are proposed to be replaced shall be hurricane proof impact windows.

Not applicable because no demolition is a part of this application.

C. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided. *Not applicable.*

D. Resilient landscaping (salt tolerant, highly water-absorbent, native, or Florida-friendly plants) shall be provided, in accordance with Chapter 4 in Land Development Regulations.

Not applicable.

E. The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties. *Not applicable since no new construction is included in this request.*

Giller & Giller, Inc.

- F. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-way and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to 3 additional feet in height. *Not applicable since no new construction is included in this request.*
- G. As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation. *Not applicable since no new construction is included in this request.*
- H. Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard. *Not applicable at this contributing building in the historic district.*
- I. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with chapter 54 in General Ordinances. *Not applicable.*
- J. As applicable to all new construction, stormwater retention systems shall be provided. *Not applicable since no new construction is included in this request.*
- K. Cool pavement materials or porous pavement materials shall be utilized. *Not applicable since no new pavement construction is included in this request.*
- L. The design of each project shall minimize the potential for heat island effects on-site. *Not applicable since no new construction is included in this request. The existing roof is light colored.*

7.1.2.4.a.2 Sea Level Rise and Resiliency Review Criteria:

- A. Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections. *The project does not affect vulnerable areas.*
- B. Whether the proposal will increase the resiliency of the city with respect to sea level rise. *The increased occupant load will be resiliency neutral.*
- C. Whether the proposal is compatible with the city's sea level rise mitigation and

Giller & Giller, Inc.

resiliency efforts. *The increased occupant load will be resiliency neutral.*

7.5.5.4 Entertainment Establishments:

a. Review guidelines.

1. In reviewing an application for an outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, or after-hours dance hall, the planning board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to Section 2.5.2:
 - A. 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. See *Operational Plan attached as part of this Application.*
 - B. 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. See *Operational Plan attached as part of this Application. Parking is not required in this location and for this use.*
 - C. 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 will be controlled. See *Operational Plan attached as part of this Application. The existing nightclub has a large interior lobby for crowd gathering at entry. Exterior sidewalk crowd control is described in the attached Operations Plan.*
 - D. A security plan for the establishment and any parking facility, including enforcement of patron age restrictions. See *Operational Plan attached as part of this Application.*
 - E. 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 *Traffic Study attached to this Application.*
 - F. A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment. See *Operational Plan attached as part of this Application.*
 - G. A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance. *The facility is an existing nightclub that has operated since 1984. The proposed increase in occupancy will not change the existing sound system. There are no outstanding noise complaints about the existing operating nightclub.*

Giller & Giller, Inc.

- H. Proximity of proposed establishment to residential uses. *The nearest residential properties are hotels located across Collins Court to the east. This relationship has existed for more than 40 years.*
- I. Cumulative effect of proposed establishment and adjacent pre-existing uses. *The relationship between the existing nightclub and adjacent commercial stores, restaurants, and offices is unchanged by this request. This relationship has existed for over 40 years. In fact, most of the stores, restaurants, and offices are closed during the operating hours of the nightclub. The increased occupancy has existed in the past and has not adversely affected the adjacent pre-existing uses.*

If you have any questions or concerns, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ira D. Giller", written over a horizontal line.

Ira D. Giller, A.I.A.
President