

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: June 23, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB20-0347. 4360-4370 Collins Avenue – Fontainebleau Hotel South Garage and Ballroom Expansion.**

An application has been filed requesting conditional use approval for the construction of a new 5-story accessory commercial structure adjacent to The Fontainebleau Hotel located at 4441 Collins Avenue, including the approval of a Neighborhood Impact Establishment with mechanical parking, pursuant to Chapter 118, Article IV, Chapter 142, Article V, Division 6, Chapter 130 Article II of the City Code.

RECOMMENDATION

Approval with conditions.

BACKGROUND

On February 25, 2020, the applicant, Fontainebleau Florida Hotel, LLC, filled an application for a Neighborhood Impact Establishment (NIE) with mechanical parking. The application is subject to the approval of an ordinance amendment to the Land Development Regulations (LDR) to authorize the proposed use in the RM-2 zoning district.

On December 11, 2019, at the request of Commissioner Ricky Arriola, the City Commission referred the companion LDR amendment pertaining to ballroom uses in the RM-2 district to the Land Use and Development Committee and the Planning Board (Item C4M). The item was placed on the January 21, 2020 agenda of the newly created Land Use and Sustainability Committee (LUSC) and deferred to the February 18, 2020 meeting. On February 18, 2020, the LUSC recommended that the City Commission approve the ordinance. On May 19, 2020, the Planning Board held a public hearing and transmitted the ordinance to the City Commission with a favorable recommendation by a vote of 7-0 with no changes. The City Commission is scheduled to consider the ordinance at first reading on June 24, 2020.

ZONING / SITE DATA

Legal Description:

4360 Collins Avenue

02-3226-001-2220

23-26-27 34 53 12 PB 5-8 MIAMI BEACH IMPROVEMENT
CO SU LOT 2 BLK 40

4370 Collins Avenue

02-3226-001-2200

23-26-27-34 53 42 MIAMI BEACH IMP CO SUB PB 5-8
E1/2 LOT 1 LESS WLY19.1FT BLK 40

02-3226-001-2210

23-26-27-34 53 42 MIAMI BEACH IMP CO SUB PB 5-8

W19.1FT OF E1/2 LOT 1 BLK 40

02-3226-001-2190

PORT OF LOT 1 BLK 40 DESC BEG NW COR OF LOT 1

TH ELY112.5 FT SLY100FT WLY110FT NLY100.125FT

TO POB & S4.55FT OF UNNUMBERED TR DESIGNATED

AS J H SNOWDEN LYG N & ADJ TO LOT 1 BLK 40 & TRS

OPP SAME FACING IND CREEK DR

Zoning: RM-2 Residential Multifamily, Medium Intensity District

Future Land Use Designation: Medium Density Multi Family Residential (RM-2)

Retail establishment area: 44,712 SF

Surrounding Uses: North: Hotel
West: Indian Creek and single family residential
South: Public parking and commercial uses
East: Hotel
(See Zoning/Site map at the end of the report)

THE PROJECT

The applicant has submitted plans entitled "FB Garage & Ballroom Expansion" as prepared by Nichols Brosch Wurst Wolfe & Associates, dated March 23, 2020. The applicant is seeking a conditional use permit (CUP) in order to operate a Neighborhood Impact Establishment with mechanical parking, which is part of a new building that will also contain ballroom uses that will be accessory to the Fontainebleau Hotel.

The proposed building would be five (5) stories at 74'-5" tall, with 88,950 square feet of floor area and 362 parking spaces. It would be located on the northern portion of the block bound by Collins Avenue to the east, 44th Street to the north, Indian Creek Drive to the west, and 43rd Street to the south. It is located in the Morris Lapidus/Mid-Century Local Historic District, and the proposal will require approval from the Historic Preservation Board (HPB). A pedestrian bridge that will connect the building to the Fontainebleau Hotel is also proposed, subject to City Commission approval.

Approval of this CUP is subject to the approval of a companion amendment to the Land Development Regulations (LDR's) by the City Commission (Transmitted under PB20-0348). The proposed amendment would allow for stand-alone ballrooms and meeting rooms associated with a hotel located within 100 feet of the site and within the RM-3 district as conditional use. The amendment would also establish parking requirements for the use.

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Section 118, Article IV, Sec. 118-191 and Sec. 118-192 (a):

- 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. The RM-2 future

land use category allows for conditional uses as described in the LDR's.

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 proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.

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

Partially Consistent – The proposed uses will require an amendment to the LDR's. If the amendment is not adopted then the applicant will not be able to proceed with the development of this building. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a Certificate of Use (CU).

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

Partially Consistent – The proposed project may adversely affect the general welfare of nearby residents and businesses if sound, delivery, waste removal, and other operations are not controlled. Staff is recommending conditions to mitigate the potential negative impacts. The facility will have to comply with all applicable laws and regulations prior to the issuance of a Certificate of Use (CU).

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

Consistent – As per Parking District No 8, no parking is required for retail uses; however, parking can be provided up to the level required in Parking District No. 1 without counting towards the FAR limits. The proposed 54 spaces satisfy the parking requirements for the proposed commercial space without counting towards FAR.

See the attached memorandum from the Transportation and Mobility Department and the Traffic Study prepared by David Plumber and Associates.

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

Partially Consistent – Staff is recommending conditions to mitigate any adverse impacts 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.**

Consistent – Negative impacts will not be created from the concentration of uses in the surrounding neighborhood.

SECTION 130-38–MECHANICAL AND ROBOTIC PARKING SYSTEMS

Projects proposing to use mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory off-street parking requirements shall prepare schematic floor plans prior to site plan review by the applicable land use board. Two sets of schematic floor plans shall be required:

1. **One set of schematic plans sufficient to show the proposed development project with accessory off-street parking requirements satisfied by traditional, non-mechanical means, meeting all aspects of the design standards for parking spaces required in Article III of Chapter 130, and other provisions of these land development regulations, and requiring no variances from these provisions.**

Consistent – The parking is primarily located in basement levels. The mechanical lifts are only located in the lowest level. The garage is providing additional parking beyond what is required for the proposed uses. The parking requirement could be accommodated by traditional means without the need for additional variances.

2. **A second set of schematic plans, sufficient to show the same proposed development project, utilizing mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory off-street parking requirements.**

Consistent – A schematic drawing showing some of the parking for the project by mechanical means was submitted showing 178 spaces in the level 2 basement with tandem mechanical lifts. Subject to this data being provided, the project may proceed to site plan approval based on the set of plans using mechanical parking.

The Planning Board shall also consider the following review criteria when considering each application for the use of mechanical parking systems:

- (a) **Whether the scale of the proposed structure is compatible with the existing urban character of the surrounding neighborhood.**

Consistent – The scale of the project is compatible with the surrounding area. The proposed height of approximately 74'-5" is compliant with the maximum permitted height of the RM-2 zoning district. The project is adjacent to much taller structures in the RM-3 district. Additional considerations will take place as part of the COA review by the HPB.

- (b) **Whether the proposed use of mechanical parking results in an improvement of design characteristics and compatibility with the surrounding neighborhood.**

Consistent – The proposed garage structure is an improvement over the existing vacant lot. The proposed design of the mechanical parking appears to be compatible with design characteristics and with the surrounding neighborhood. Additional design characteristics and compatibility issues of the project will be evaluated as part of the HPB approval.

- (c) **Whether the proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed with conventional parking.**

Consistent – The proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed with conventional parking.

- (d) **Whether parking lifts or mechanisms are located inside, within a fully enclosed building, and not visible from exterior view.**

Consistent – The proposed parking lifts would be located inside the proposed structure in basement levels and the parking area is screened from view from the exterior.

- (e) **In cases where mechanical parking lifts are used for self-parking in multifamily residential buildings; whether approval is conditioned upon the proper restrictive covenant being provided limiting the use of each lift to the same unit applicant.**

Consistent – Per letter of intent, the proposed project will be a mix of self-parking for conventional spaces and valet parking for the mechanical lift spaces.

- (f) **In cases where mechanical parking lifts are used for valet parking; whether approval is conditioned upon the proper restrictive covenant being provided stipulating that a valet service or operator must be provided for such parking for so long as the use continues.**

Consistent – The proper restricted covenant shall be provided prior to the issuance of building permit.

- (g) **Whether a traffic study has been provided that details the ingress, egress and circulation within the mechanical parking facility, and the technical and staffing requirements necessary to ensure that the proposed mechanical parking system does not cause excessive stacking, waiting, or backups onto the public right-of-way.**

Consistent – See the attached memorandum from the Transportation and Mobility Department and the Traffic Study prepared by David Plumber and Associates.

- (h) **Whether a proposed operations plan, including hours of operation, number of employees, maintenance requirements, noise specifications, and emergency procedures, has been provided.**

Consistent – The proposed operations plan is attached.

- (i) **In cases where the proposed facility includes accessory uses in addition to the parking garage, whether the accessory uses are in proportion to the facility as a whole, and delivery of merchandise and removal of refuse, and any additional impacts upon the surrounding neighborhood created by the scale and intensity of the proposed accessory uses, are adequately addressed.**

Consistent – The attached operations plan and traffic study indicates how deliveries and trash collections will take place. See the attached memorandum from the Transportation and Mobility Department and the Traffic Study prepared by David Plumber and Associates.

- (j) **Whether the proximity of the proposed facility to similar size structures and to residential uses creates adverse impacts and how such impacts are mitigated.**

Consistent – The proposed project appears to be compatible with the surrounding neighborhood and it appears that it would not create any significant adverse impacts to nearby residential uses.

- (k) **Whether a cumulative effect from the proposed facility with adjacent and nearby structures arises, and how such cumulative effect shall be addressed.**

Consistent – No negative impact is anticipated from the cumulative effect from the proposed facility and nearby structures.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

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

Consistent – The applicant has indicated that a recycling and salvage plan will be provided at permitting.

(2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

Not applicable – This is new construction and windows do not need to be replaced.

(3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Not Consistent – The applicant has not provided information regarding passive cooling systems.

(4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

Consistent – Native and Florida Friendly landscaping that is highly water-absorbent will be provided.

(5) 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.

Partially Consistent – The applicant has indicated that sea level rise projections were considered.

(6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.

Consistent – The applicant has stated that the ground floor of the development will be adaptable to the raising of public rights-of-way and adjacent land.

(7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

Consistent – Electrical and mechanical systems will be located above base flood elevation.

- (8) **Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.**

Not Applicable – The subject site currently consists of a surface parking lot.

- (9) **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 of 54 of the City Code.**

Consistent – There will be no habitable space below the base flood elevation, with the exception of storage.

- (10) **Where feasible and appropriate, water retention systems shall be provided.**

Not Consistent – The applicant has not provided information regarding water retention systems.

- (11) **Cool pavement materials or porous pavement materials shall be utilized.**

Not Consistent – The applicant has provided no information regarding the use of cool or porous pavement materials.

- (12) **The design of each project shall minimize the potential for heat island effects on-site.**

Not Consistent – The applicant has provided no information regarding any efforts to minimize heat island effects.

ANALYSIS

The Proposal

The applicant, Fontainebleau Florida Hotel, LLC has submitted an application for a Conditional Use Permit (CUP) in order to operate a Neighborhood Impact Establishment (NIE) with mechanical parking, which is part of a new building that will also contain ballroom uses that will be accessory to the Fontainebleau Hotel. Because the ballrooms will be an accessory to the Fontainebleau Hotel, a pedestrian bridge that will span 44th Street to connect the proposed building to the Fontainebleau Hotel is also proposed. As it will be located over the public right of way, it is subject to City Commission approval. This walkway is expected to provide the primary entrance for patrons attending functions at the places of assembly.

Approval of this CUP is subject to the approval of a companion amendment to the Land Development Regulations (LDR's) by the City Commission (Transmitted via PB20-0348 on May 19, 2020). The proposed amendment would allow for stand-alone ballrooms and meeting rooms associated with a hotel located within 100 feet of the site and within the RM-3 district as conditional use. The amendment would also establish parking requirements for the use.

As the site is located in the Morris Lapidus/Mid-Century Local Historic District, the applicant has also submitted an application to the Historic Preservation Board (HPB) requesting approval of a Certificate of Appropriateness (COA). The application is scheduled to be considered by the HPB on July 14, 2020 (File No. HPB20-0378).

The project is located at 4360 Collins Avenue, and the site currently contains a surface parking lot with 148 spaces. The parking lot would be demolished as part of the proposal. The proposed

building would be five (5) stories at 74'-5" tall, with 88,950 square feet of floor area and 362 parking spaces, most of which will be located in basement levels. The ballrooms/assembly space would be divided as follows:

- Level 2 – 12,593 SF
- Level 3 – 2,801 SF
- Level 4 – 16,301 SF
- Roof deck – 5,000 SF
- **Total – 36,698 SF**

The vehicular and loading entrances will be from Collins Avenue and Indian Creek Drive. Vehicles will exit only to Collins Avenue. Loading, some vehicle parking, and access to the three basement levels will be from the ground floor. The ground floor is screened by outdoor decks that provide direct access to the assembly areas above and large landscaped areas.

Operations

The applicant has indicated that the proposal is intended to strengthen the Fontainebleau Hotel's ability to attract conference business, as its event space is said to be lagging in comparison to the number of rooms in the hotel. As such, it is expected that most of the people attending events in the building will be guests of the hotel. It is expected that this facility will bring more quality events to the City. Additionally, the building will provide additional parking for hotel staff.

The applicant submitted an Operations Plan. The plan indicates that it is expected that the ballrooms and assembly areas will be primarily used for pre-function events. It also indicates that food and drink (including alcohol) shall only be served during events in the facility. Staff is recommending a condition to ensure that the facility does not cater to users that are not attending events at the facility.

Sound

The proposed rooftop assembly space and the proximity of the proposed structure to the single-family residential area located to the west across the Indian Creek raises concerns regarding noise. The Operations Plan indicates that rooftop uses will never be used passed 11pm, unless there is a Special Events Permit. Staff is recommending that rooftop operations cease by 10pm on Sunday through Thursday, and 11pm on Friday and Saturday. Staff is also recommending that events not commence prior to 10 am.

Additionally, the Operations Plan indicates that outdoor speakers will be limited to ambient background levels and that there will not be any outdoor entertainment. Staff has included conditions in the attached draft order to minimize the potential for sound impacts in the adjacent community.

Security

The applicant's Operations Plan indicates that cameras will be provided throughout the site to assist with security and that hotel and security personnel will be available at all times to address security concerns. It also indicates that additional personnel will be available when there are events, depending on the occupancy of the event. Staff has recommended conditions to ensure that the site remains secure.

Traffic, Parking, and Site Access

The site will include a total of 362 spaces. The spaces include 214 spaces to comply with the requirements for the proposed assembly space and replacing the 148 spaces that currently exist

on the lot. Most of the parking will be located in three basement levels. Most of the spaces will consist of tandem parking spaces. The mechanical parking lifts will be located in the lowest level. The parking will be distributed as follows:

- Ground Floor – 9 spaces
- Basement Level – 90 spaces
- Basement Level 1 – 85 spaces
- Basement Level 2 – 178 spaces
- **Total – 362 spaces**

According to the Operations Plan the parking spaces will only be used by employees. Hotel guests and conference guests will be parked elsewhere. With the exception of the mechanical lift parking spaces, parking will be self-parked. The mechanical spaces will use valet operations. Staff has incorporated conditions into the attached order to ensure that issues related to parking operations are minimized.

Pedestrian access to the site will be possible from all frontages via the outdoor decks that front each street. However, it is expected that most will access the site via the pedestrian bridge over 44th Street from the hotel facilities. As result, queuing is not expected on public rights of way as a result of the proposed use.

Loading, deliveries and sanitation

The Operations Plan indicates that trash pickup and deliveries will only occur in the morning hours. Additionally, it states that trash pickups will take place seven (7) days a week, food deliveries will take place three (3) days a week, and beverage deliveries two (2) days a week. The loading takes place via the two (2) internal loading bays. Staff is recommending conditions to minimize potential impacts that can result from loading operations.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the application for a Conditional Use Permit be approved subject to the conditions enumerated in the attached draft order.

ZONING/SITE PLAN



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

PROPERTY: 4360-4370 Collins Avenue

FILE NO. PB 20-0347

IN RE: A conditional use approval for the construction of a new 5-story accessory commercial structure to The Fontainebleau Hotel, including the approval of a Neighborhood Impact Establishment with mechanical parking, pursuant to Chapter 118, Article IV, Chapter 142, Article V, Division 6 , Chapter 130 Article II of the City Code.

LEGAL

DESCRIPTION: 4360 Collins Avenue
02-3226-001-2220
23-26-27 34 53 12 PB 5-8 MIAMI BEACH IMPROVEMENT CO SU LOT 2
BLK 40

4370 Collins Avenue
02-3226-001-2200
23-26-27-34 53 42 MIAMI BEACH IMP CO SUB PB 5-8 E1/2 LOT 1
LESS WLY19.1FT BLK 40

02-3226-001-2210
23-26-27-34 53 42 MIAMI BEACH IMP CO SUB PB 5-8 W19.1FT OF
E1/2 LOT 1 BLK 40

02-3226-001-2190
PORT OF LOT 1 BLK 40 DESC BEG NW COR OF LOT 1 TH ELY112.5
FT SLY100FT WLY110FT NLY100.125FT TO POB & S4.55FT OF
UNNUMBERED TR DESIGNATED AS J H SNOWDEN LYG N & ADJ TO
LOT 1 BLK 40 & TRS OPP SAME FACING IND CREEK DR

MEETING DATE: June 23, 2020

CONDITIONAL USE PERMIT

The applicant, Fontainebleau Florida Hotel, LLC, filed an application with the Planning Director requesting conditional use approval for the construction of a new 5-story accessory commercial structure adjacent to The Fontainebleau Hotel, located at 4441 Collins Avenue, including the approval of a Neighborhood Impact Establishment with mechanical parking, pursuant to Chapter 118, Article IV, Chapter 142, Article V, Division 6 , Chapter 130 Article II of the City Code. 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 of the record for this matter:

That the property in question is located in the RM-2 Residential Multifamily, Medium Intensity 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 the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

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, including modification to the hours of operation, 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 Fontainebleau Florida Hotel, LLC, and any changes in ownership or 50% (fifty percent) or more stock ownership, or the equivalent, shall require the new owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Business Tax Receipt.
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. 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.

5. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
6. As part of the Building Permit plans for the project, the applicant shall submit revised architectural drawings, which shall be subject to the review and approval of staff; at a minimum, such plans shall satisfy the following:
 - a. A raised curb design for the vehicle entry on Collins Avenue shall be provided to narrow the entry so that delivery trucks do not use this entrance.
7. The following shall apply to the construction and operation of the parking garage and the proposed mechanical parking lift system:
 - a. The noise or vibration from the operation of mechanical parking lifts, car elevators, or robotic parking systems shall not be plainly audible to or felt by any individual standing outside an apartment or hotel unit at any adjacent or nearby property. In addition, noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage.
 - b. For mechanical lifts, the parking lift platform must be fully load bearing, and must be sealed and of a sufficient width and length to prevent dripping liquids or debris onto the vehicle below.
 - c. All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage; vehicle elevators must have backup generators sufficient to power the system.
 - d. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift.
 - e. The ceiling heights of any parking level with parking lifts within the parking garage shall be a minimum of 11 feet by six inches.
 - f. All mechanical parking systems, including lifts, elevators and robotic systems, must be inspected and certified as safe and in good working order by a licensed mechanical engineer at least once per year and the findings of the inspection shall be summarized in a report signed by the same licensed mechanical engineer or firm. Such report shall be furnished to the Planning Director and the Building Official.
 - g. All parking lifts shall be maintained and kept in good working order.
 - h. Parking operation for mechanical parking spaces shall be by valet attendants only. A contract with a valet operator, or other evidence of an acceptable valet operation shall be submitted to staff for review and approval prior to a final Certificate of Occupancy or Business Tax Receipt, whichever occurs first.

- i. Self-parking shall only be available to employees parking in areas of the garage do not use mechanical lifts.
 - j. Storage of vehicles shall be exclusively for the Fontainebleau Hotel, residents, and accessory uses, as proposed. Storage for any other off-site facilities shall not be permitted.
 - k. There shall be qualified personnel of at least one person, on-site, monitoring the garage operation during hours of operation seven days a week. The structure, operation, procedures, maintenance, service response procedures, remote technical service team, local, on-site service team, and spare parts inventory shall be in accordance with the requirements of the manufacturer.
 - l. Signs prohibiting tire-screeching and unnecessary horn-honking shall be posted at the garage entrance.
8. The Applicant agrees to the following operational conditions for the entire facility:
- a. Except as required for life safety purposes, outdoor speakers shall be limited to ambient background levels.
 - b. Unless a special events permit is obtained, the rooftop operations shall cease by 10 pm Sunday through Thursday and 11 pm on Friday and Saturday. Rooftop operations shall not commence prior to 10 am.
 - c. There shall be no outdoor entertainment.
 - d. Food and drink may only be served during events in the facility. Food and drink shall not be served to users that are not attending events in the facility.
 - e. All deliveries shall be accommodated within the site. No backing in or backing out of the loading area onto the street shall be permitted at any time.
 - f. Entry of delivery vehicles from Collins Avenue shall be prohibited.
 - g. Stacking, idling or loading shall not be permitted on the street at any time.
 - h. Vehicular regulating signage shall be provided in the garage in a manner to be reviewed and approved by staff.
 - i. Cameras shall be provided throughout the site to assist with security.
 - j. There shall be security personnel of at least one person on-site monitoring the site at all times.
 - k. A delivery and refuse plan, including all delivery access points and routes, as well as the location of all trash and refuse areas, shall be provided and shall be subject to the review and approval of staff.

- l. Deliveries and trash collection shall take place only at the designated areas proposed by the applicant as shown in the plans.
 - m. Delivery trucks shall not be allowed to idle in the loading zone.
 - n. Deliveries and waste collections may occur daily between 9:00 AM and 3:00 PM and 6:00 PM to 8:00 PM on Monday to Friday; and 9:00 AM to 4:00 PM Saturday and Sunday.
 - o. Equipment and supplies shall not be stored in areas visible from streets or nearby buildings.
 - p. 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.
 - q. 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.
 - r. An air conditioned trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that no more than one pick up of garbage per day will be necessary.
 - s. Garbage dumpster covers shall be closed at all times except when in active use.
 - t. 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.
 - u. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
9. The applicant shall pay all impact, mobility, and concurrency fees due prior to obtaining a Building Permit, Certificate of Occupancy, or Business Tax Receipt, whichever may occur first.
10. The applicant shall abide by the Traffic Demand Management (TDM) plan incorporated into the Operations Plan. Additionally, the applicant shall abide by the following:
- a. The applicant shall identify locations, acceptable to the Transportation Department, for bicycle racks to be installed in the public right-of-way and within the proposed development. The applicant shall provide the location of short-term and long-term bicycle parking, consistent with the requirements for each type of bicycle parking, as defined in Section 114-1 of the City Code. The applicant shall furnish and install the bicycle racks in accordance with the standards outlined in the City of Miami

Beach Public Works Manual.

- b. The applicant may be required to coordinate with the South Florida Commuter Services in participating in the transit subsidy program.
11. 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 with entertainment.
12. 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.
13. The Planning Board shall retain the right to call the owner or operator back before the Board 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.
14. 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.
15. 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.
16. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
17. 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.
18. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.
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.

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