



CFN 2014R0189813  
OR Bk 29068 Pgs 3519 - 3526 (8pgs)  
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HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

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

**PROPERTY:** 1801 Collins Avenue  
Shelborne Hotel

**FILE NO.** 1734

**IN RE:** The Application by Shelborne Property Associates, LLC, requesting a modification to a Conditional Use Permit, pursuant to Chapter 118, Article IV of the Miami Beach City Code, in order to change the name of the ownership and management.

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

**MEETING DATE:** August 27, 2013

**MODIFIED CONDITIONAL USE PERMIT**

The applicant Shelborne Property Associates, LLC, filed an application with the Planning Director for a modification to a Conditional Use Permit, pursuant to Chapter 118, Article IV of the Miami Beach City Code, in order to change the name of the ownership and management.

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 RM-3, Residential multifamily 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 the staff recommendation, that a

Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction of this Modified Conditional Use Permit. The applicant shall come back to the Board within 90 days of the date of approval of the Modified Certificate of Use/Business Tax Receipt, and provide a progress report. 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 is issued to ~~Shelborne Associates, Costello Investments, Inc., Shelborne Ocean Beach Hotel corp. and Beach Group III, LLC, Shelborne Property Associates, LLC, Wyndham Hotel Management, Inc., and 1801 Collins Club #1, LLC~~ collectively, as operator of this Neighborhood Impact Establishment. ~~This MCUP approves 1801 Collins Club, #1, LLC to operate the basement venue beginning with the expiration of the current lease in 2013, after the old lessee vacates the premises.~~ Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Modified Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board, in advance, to affirm their understanding of the conditions listed herein.
3. The conditions of approval for this Modified Conditional Use Permit are binding on the applicant, the property's owners, and all successors in interest and assigns.
4. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application for a Neighborhood Impact Establishment Modified Conditional Use Permit.
5. The Final Order for File No. 7074 issued by the Historic Preservation Board on May 11, 2010 is hereby adopted and incorporated into this order by reference.
6. The Final Order for File No. 3470 issued by the Board of Adjustment on August 6, 2010 is hereby adopted and incorporated into this order by reference.
7. The applicant shall provide staff documents verifying the service of a valet operator holding the contract and the locations where vehicles will be stored. These documents shall be submitted to staff prior to the approval of a Building Permit or Modified Certificate of Use/Business Tax Receipt, whichever occurs first.
8. The hours of operation shall be as proposed by the applicant:
  - a. The Brasserie restaurant, aka Vespers, from 5:00 PM until 5:00 AM
  - b. The Lounge from 5:00 PM until 5:00 AM
  - c. The Lobby Bar/Restaurant from 6:00 AM until 5:00 AM
  - d. The Event Space (Alternative Nightclub Space) from 10:00 PM until 5:00 AM, when

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operating as a nightclub

- e. The Café, aka Vespers, from 6:00 AM until 2:00 AM
  - f. The Outdoor Café from 6:00 AM until 11:00 PM. The hours may be extended until 5:00 AM for breakfast
  - g. The Taqueria from 11:00 AM until 11:00 PM
  - h. The Basement Nightclub from 8:00 PM to 5:00 AM
  - i. The pool deck area and mezzanine terrace from 6:00 AM until 11:00 PM, except during City-approved Special Events or private functions when the hours may be determined by the event/function, but no later than 2:00 AM
9. The pool deck and mezzanine areas, shall be generally limited to the use of hotel guests and/or the guests of private functions, with the following exceptions:
- a. Patrons of the Brasserie, Café, and Outdoor Café shall be allowed access to the pool deck and mezzanine from 11:00 AM to 7:00 PM, with music played at ambient background level only, except for weekends and holidays.
  - b. The pool deck shall be open for public events on Fridays, weekends, holidays, and during City's special event periods. It shall be open to the public during these days from 10:30 AM to 7:00 PM from December 1 to April 30 and from 10:30 AM to 8:00 PM the remainder of the year.
  - c. During these events entertainment shall be permitted.
  - d. All music shall be played through the hotel's audio system and no portable speakers or third party speakers shall be allowed.
  - e. Only the hotel manager or his/her designee shall have sole control over sound levels.
  - f. Food for the weekend/holiday events shall be served by the wait staff of the Taqueria and the public shall have access to the bar within the Outdoor Café, as well as a temporary bar located on the southern end of the pool deck area.
  - g. Queuing for the events shall occur within the hotel lobby. No queuing shall be permitted on the public right of way.
  - h. The hotel shall be the sole operator of the events.
  - i. The maximum occupant content of the pool deck area during these events shall be limited to 371 persons, or as determined by the Fire Marshall, whichever is lower.
  - j. Security personnel shall use counters to ensure maximum allowed occupant content is not exceeded.

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- k. The general public shall be permitted on the pool deck during City-approved special events.
  - l. The occupant content for City-approved special events on the pool deck shall be as determined by the Fire Marshall.
10. The lobby bar/restaurant shall be restricted to an occupant content of no more than 79 persons as proposed by the applicant, and the music shall be played as background only, at a level that does not interfere with normal conversation. The occupant load for the Event Space/Nightclub Space and all other venues serving alcohol, including the pool deck and mezzanine terrace shall be as determined by the Fire Marshall, except that the occupant content for the public events on the pool deck shall be limited as provided in this Order. The Fire Department staff shall make a final inspection of the pool deck venue premises to validate the patron occupant load, prior to the approval of a Certificate of Occupancy or Modified Certificate of Use/Business Tax Receipt for the pool deck venue.
  11. The occupant content of the Basement Nightclub shall be limited to a maximum of 150 persons.
  12. Security measures shall be taken to ensure that members of the public do not access the mezzanine terrace and pool deck areas, except as allowed under the terms of this Modified Conditional Use Permit. A detailed security plan for that purpose shall be submitted to staff for review and approval before a Modified Certificate of Use/Business Tax Receipt is issued.
  13. Hotel security personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all the alcoholic beverage venues.
  14. As per The Audio Bug's report recommendations, the sound system shall be carefully monitored and controlled by its integrated digital processor and shall only be allowed to be changed when the DJ connects his signal sources to the existing sound system. No additional speakers shall be permitted in order to maintain the balance of sound distribution. Any higher music levels shall be adjusted under the supervision of a qualified acoustical consultant. The time periods during which these events take place shall be programmed into the digital processor so that system levels are automatic. No later than 3 months after implementation, these recommendations shall be verified by a qualified acoustical consultant and a written report shall be submitted to staff for review and approval.
  15. The installation plan for the sound system, including the location of all the speakers and sound system controls, shall be submitted to staff for review and approval prior to obtaining a building permit.
  16. When the sound system is completely installed, but before the Modified Business Tax Receipt has been issued, it shall be tested under the supervision of a staff approved acoustic professional to ensure that all aspects of the system's performance comply with the design intent and recommendations of the sound system study submitted as part of this application. A final report issued by the acoustic professional shall be submitted to staff.



17. During the proposed events at the pool deck or more active periods, the hotel shall add additional security staff, as well as additional hotel managers, to meet the needs of that particular event. Security staff shall be placed at access points - the main lobby entrance, the entrance to the Café and Brasserie along 18<sup>th</sup> Street, and the beach access.
18. The applicant may apply for City approved special events pursuant to Section 12-5 of the City Code, including having live music, and entertainment as defined in the City Code, and adhere to the conditions stated herein with regard to these special event permits. In these cases, the applicant shall notify the neighboring homeowners, condominiums or neighborhood associations in writing in accordance with applicable City special events approval requirements. The following shall apply to City approved special events:
  - a. Occupant load to be determined by the Fire Marshal/Building Official for Special Events
  - b. Entertainment, including live music, concerts and the like may be permitted according to the restrictions imposed by the Special Event Permit approval
19. The applicant may hold hotel events and functions incidental and customarily associated with a hotel such as, but not limited to, weddings, receptions, and private cocktail parties for hotel guests or clients, not open to the public. The following shall apply to those events and functions in the outdoor areas.
  - a. Only the hotel sound system shall be used.
  - b. Hours of operation to be determined by the event/function, but not later than 2:00 a.m.
  - c. Access to the pool deck shall be closed to the general public. Guests of the event/function shall access the venue only through the hotel lobby, and access shall be monitored by hotel security.
20. 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, that may be issued during either **City-approved special events or private events/functions** or at any other 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.
21. In the event there is an admission charge, queuing shall only be inside in the hotel lobby and a plan shall be presented to staff for review and approval. Any queuing in the public right-of-way shall be strictly prohibited.
22. There shall be at least 10 additional security personnel on duty on weekends and during Special Events, private events/functions and pool events open to the public.
23. All "wet T-shirt," "thong" or "bikini" events shall be prohibited.
24. All performances shall be limited to the interior of the establishments except for entertainment associated with public pool deck events or City-approved Special Events; only speakers playing ambient music, subject to the Audio Bug recommendations in the sound study submitted with

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this application, shall be permitted outdoors; except as permitted during a public pool deck event or City-approved Special Event, all outdoor music shall be ambient background music.

25. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
26. A final certificate of completion or certificate of occupancy, whichever may apply including an occupant load certificate for the entire combined space, shall be obtained before an application is made for a Modified Certificate of Use/Business Tax Receipt.
27. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation should there be complaints about noise. Violation of the Miami-Dade County Code Section 21-28 (a/k/a "noise ordinance") shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Sec. 118-194 of the City Code.
28. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), as determined by the Transportation Concurrency section.
29. 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 sidewalks, 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.
30. 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 Modified Certificate of Use/Business Tax Receipt to operate this entertainment establishment.
31. 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.
32. ~~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, certificate of use, certificate of occupancy, certificate of completion or business tax receipt shall be issued until this requirement has been satisfied. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant, and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.~~
33. The establishment and operation of this Modified 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

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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.

34. 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 12<sup>th</sup> day of March, 2014.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]  
Thomas R Mooney, AICP, Acting Planning Director,  
For Chairman

STATE OF FLORIDA       )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of March, 2014, by Thomas R. Mooney, AICP, 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.



[NOTARIAL SEAL]

TERESA MARIA  
MY COMMISSION # FF 042188  
EXPIRES: December 2, 2017  
Bonded Thru Budget Notary Services

Notary: [Signature]  
Print Name: Teresa Maria  
Notary Public, State of Florida  
My Commission Expires: 12-2-17  
Commission Number: FF 042188

Approved As To Form:  
City Attorney's Office (9/12/14)

Filed with the Clerk of the Planning Board on (3/12/14) [Signature]

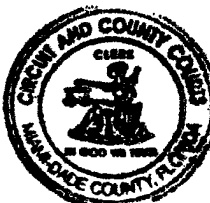
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EXHIBIT "A"  
LEGAL DESCRIPTION

THAT CERTAIN PARCEL OF LAND BOUNDED ON THE WEST BY THE WEST LINE OF LOTS 13 AND 14, AND ON THE NORTH BY THE NORTH LINE OF LOTS 13 AND 2 AND ITS EASTERLY EXTENSION, AND ON THE SOUTH BY THE SOUTH LINE OF LOTS 14 AND 1 AND ITS EASTERLY EXTENSION, OF BLOCK 1, "FISHER'S FIRST SUBDIVISION OF ALTON BEACH" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 77 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND ON THE EAST BY THE EROSION CONTROL LINE AS DEPICTED IN PLAT BOOK 134, PAGE 47 OF SAID PUBLIC RECORDS.

STATE OF FLORIDA, COUNTY OF DADE  
HEREBY CERTIFY that this is a true copy of the  
original filed in this office on APR 27 2012 day of APR, A.D. 2012  
WITNESS my hand and Official Seal.  
HARVEY RUVIN, CLERK, of Circuit and County Courts  
By TANASHIA ARNOLD D.C.  
1144



**CERTIFICATION**

THIS IS TO CERTIFY THAT THE ATTACHED DOCUMENT  
IS A TRUE AND ACCURATE COPY OF THE ORIGINAL ON  
FILE IN THE OFFICE OF THE PLANNING DEPARTMENT.  
CITY OF MIAMI BEACH

[Signature] 5-22-2012  
(Signature of Planning Director or Designee) (Date)

[Signature]  
Notary Public, State of Florida at Large

Printed Name: TERESA MARIA  
My Commission Expires: (Seal)

This document contains 7 pages.



TERESA MARIA  
MY COMMISSION # DD 928148  
EXPIRES: December 2, 2013  
Bonded Thru Budget Notary Services