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## **VIA ELECTRONIC & HARDCOPY SUBMITTAL**

April 25, 2022

Rogelio Madan, Chief of Community Planning &  
Sustainability  
Planning Department  
City of Miami Beach  
1700 Convention Center Drive, 2nd Floor  
Miami Beach, Florida 33139

RE: **Letter of Intent** – PB22-0495 – Modification of  
Conditional Use Permit Under File No. 1734\_for 1801 Collins  
Avenue – The Shelborne Hotel

Dear Mr. Madan:

This law firm represents Shelborne Hotel Partners WC LP. (the "Applicant") with regard to the above-referenced property (the "Property") within the City of Miami Beach (the "City"). This letter serves as the required letter of intent for a modification of the existing Conditional Use Permit ("CUP") under File No. 1734 (the "Existing CUP"). See Exhibit A, Existing CUP. The Applicant proposes to update the CUP to implement a comprehensive renovation to the historic Shelborne Hotel approved by the Historic Preservation Board ("HPB") under File No. HPB20-0443.

Property Description. The Property is an oceanfront lot on the northeast corner of the intersection of Collins Avenue and 18th Street, and is approximately 64,500 square feet (1.48 acres) in size. The Property is located within the federally-designated Miami Beach Architectural District, as well as the locally-designated Ocean Drive-Collins Avenue Local Historic District. It contains a well-known contributing structure known as the Shelborne Hotel. The Shelborne Hotel was constructed on the Property in 1940 as a 14-story 150-room hotel designed by Igor Polevitzky and Thomas Triplett Russel. Morris Lapidus designed an 8-story addition to the west end of the hotel that contained a ballroom, new

lobby, and 103 additional guest rooms. The Shelborne Hotel is an early and unique example of the Miami Modern (MiMo) adaptation of the International style of architecture. More recently, in 1993, post-war modern townhouses were added alongside the pool deck and the southern portion of the Morris Lapidus-design lobby. Today, the Property consists of approximately 340 units, for which the Miami-Dade County Property Appraiser has assigned reference Tax Folio Identification No. 02-3234-083-0001. Notably, as part of the renovation of the hotel, the existing condominium association is being dissolved. Thus, there will be no residential units within the Property.

Description of Renovation. The approved renovation includes removal of the residential units and enlargement of the existing lobby space consistent with the original Morris Lapidus design. Further, the existing ballroom is being replaced by a gym, lounge area, restrooms, and expansion of the restaurant venue at the east end of the ground level. In addition, the proposed renovation upgraded the indoor and outdoor restaurant facilities, added a retractable canopy on the mezzanine Sky Terrace, and converted the rear yard area into a lushly landscaped lawn and seating area. The renovated rear yard area improves circulation and connectivity between the existing pool deck and the Beach Walk, while increasing the amount of landscaped open space to improve stormwater drainage and flood resilience. Overall, the proposed renovation upgrades the historic Shelborne Hotel while retaining its contributing character.

Proposed CUP Modifications. The Applicant seeks to modify the CUP to implement the approved renovation, and affirm the Applicant's understanding of the conditions and limitation of the CUP. The Applicant proposes the following six (6) venues:

- 1) The Quick Service Café;
- 2) Lobby Bar;
- 3) Signature Restaurant, including Lounge, Private Dining Room, Indoor Dining Room, and Outdoor Dining Area)
- 4) Pool Deck/Pool Café;
- 5) Mezzanine Sky Terrace;
- 6) Rear Yard.

See, Exhibit B, Table of Proposed Venues.

The Applicant proposes the following modifications of the Existing CUP to reflect the proposed venues:

*Proposed Condition 2.*

This Modified Conditional Use Permit is issued to, ~~Shelborne Property Associates, LLC, Wyndham Hotel Management, Inc., and 1801 Collins Club # 1, LLC,~~ Shelborne Hotel Partners WC LP, collectively, as operator of this Neighborhood Impact Establishment. Any change of operator or ownership shall require review and approval by the Planning Board as 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.

*Analysis.* The Applicant is the new owner of the Property and affirms their understanding of the CUP.

*Proposed Condition 8.*

The hours of operation shall be as proposed by the applicant:

- a. ~~The Brasseries restaurant, aka Vespers, The Signature Restaurant,~~ from ~~5:00PM~~ 6:00 AM until 5:00AM, entertainment shall be permitted;
- b. The Lounge from ~~5:00 PM~~ 6:00 AM until 5:00 AM;
- c. The Lobby Bar/Restaurant from 6:00 AM until 5:00 AM, Entertainment shall be permitted.
- d. ~~The Event Space (Alternative Nightclub Space) from 10:00 PM until 5:00 AM, when operating as a nightclub.~~
- e. ~~The Café, aka Vespers~~ Quick Service Café, from 6:00 AM until ~~2:00 AM~~ 5:00 AM.
- f. The Outdoor Café from 6:00 AM until ~~11:00 PM~~ 2:00 AM. 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 rear yard area, including the Pool Café, ~~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.
- j. The mezzanine Sky Terrace from 6:00 AM to 11:00 PM, except during City-approved special events or private functions when the hours may be determined by the event/function, but not

later than 2:00 AM. Entertainment shall not be permitted past 11:00 PM.

*Analysis.* The Applicant proposes updates hours of operation and clarify where entertainment is permitted. The Applicant intends to serve breakfast, lunch, and dinner at both the indoor and outdoor components of the Signature Restaurant. Currently, only the Outdoor Café is open for breakfast and lunch hours. The Applicant seeks a uniform opening time for the Signature Restaurant, and to limit the hours of operation of outdoor restaurant service until 2:00 AM to prevent impacts on neighboring properties. Further, the Applicant seeks to permit entertainment in the indoor portions of the Signature Restaurant and the Lobby Bar.

With respect to the outdoor venues, the proposed modification clarifies that the Pool Deck and Rear Yard operate during the same hours, from 6:00 AM until 11:00 PM. The Mezzanine Sky Terrace is envisioned as an event space, with hours matching that of the Pool Deck, except for City-approved special events or private events, in which case the mezzanine Sky Terrace may operate until 2:00 AM. However, entertainment style music is only permitted until 11:00 PM during City-approved special events or private events. Notably, Condition No. 19 of the Existing CUP generally permits private events incidentally and customarily associated with a hotel until 2:00 AM. The proposed CUP includes additional limitations on entertainment during private events for the Mezzanine Sky Terrace in order to prevent impacts on neighboring properties. Further, the approved renovation includes a retractable canopy structure for the Mezzanine Sky Terrace that will serve to contain noise during City approved special events or private events with entertainment.

*Proposed Condition No. 9(a).*

- a. Patrons of the ~~Brasserie, Café, and Outdoor Café~~ Signature Restaurant shall be allowed access to the pool deck and mezzanine from 11:00 AM to ~~7:00 PM~~ 11:00 PM, with music played at ambient background level only, except for weekends and holidays.

*Proposed Condition No. 9(f).*

- f. Food for the weekend/holiday events shall be served by the wait staff of the ~~Taqueria~~ Signature Restaurant 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.

*Analysis.* The modifications to Condition No. 9 reflect the new venues, and clarify that the Pool Deck shall be open to the patrons of the Signature Restaurant. Currently, the limitation on access to the Pool Deck by patrons of the hotel restaurant is virtually impossible to manage or enforce. The proposed modification clarifies provides a uniform closing time for the Pool Deck for all patrons.

*Proposed Condition No. 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 Sky 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.

*Analysis.* The limitation on occupant content and entertainment in the lobby bar stemmed from the residential units located adjacent to the existing lobby bar along the south side of the Property. The approved renovation includes removal of the residential units on the south side of the Property, which eliminates the conflict between the use of the lobby bar and residents on the Property. In addition, the proposed renovation restores the original size and volume of the Shelborne lobby, as well as restores its former use as a vibrant hotel lobby bar. The Applicant proposes to use the Lobby Bar as an elevated work area, lounge, and all-day dining, with occasional entertainment (e.g. live music or Disc Jockey). Since there are no longer residential uses within the Shelborne, the proposed expanded lobby bar with entertainment does not conflict with any use within the Property. Further, it is entirely contained within the south side Shelborne lobby, which is buffered from the main entrance to the Shelborne to prevent noise impacts from spilling outside of the Property.

*Sound Study.* The Applicant has submitted an Acoustical Modeling Report prepared by Electro-Media Design, Ltd. dated April 21, 2022 to support the request to permit entertainment in the proposed lobby bar. The report utilized a sophisticated digital model to simulate the potential noise generated by entertainment style music in the proposed lobby. Pursuant to that report, sound levels generated by entertainment within the lobby bar are unlikely to generate noise impacts to adjacent properties,

including the Tower 1800 Condominium located on the west side of 18<sup>th</sup> Street and Collins Avenue.

In light of the changed conditions within the Shelborne Hotel, the proposed modification to Condition 10 is appropriate.

Satisfaction of CUP Criteria. The Applicant's request satisfies the CUP Standards in Section 118-192(a)(1)-(7) of the Code of the City of Miami Beach (the "Code") as follows:

**(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 – Policy RLU 1.1.7 provides that the RM-3 Future Land Use Designation permits accessory uses and conditional uses approved at public hearings as permitted by the Land Development Regulations. The proposed uses are consistent with Policy RLU 1.1.7 as they are permitted conditional uses that are incidental and customarily associated with hotels.

**(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 CUP modification does not result in an impact that will exceed the thresholds for the levels of service required by the Comprehensive Plan. Indeed, according to the Applicant's submitted traffic analysis, the proposed modification results in a reduction in peak hour trips. Further, the occupancies and hours and proposed by the modification do not differ significantly from what is currently operating at the Shelborne Hotel today.

**(3) Structures and uses associated with the request are consistent with these land development regulations.**

CONSISTENT – The structure and use associated with the Applicant's proposed CUP modification is a contributing building within the Collins Waterfront Historic District. As such, any inconsistencies with the land development regulations are legal nonconformities. All new construction associated with the CUP modification has been approved by the HPB through the COA process in accordance with the land development regulations. Accordingly,

all structures and uses associated with the CUP modification request are consistent with the land development regulations.

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

CONSISTENT – The Applicant’s proposed modification of the CUP does not adversely effect the public health, safety morals, or general welfare. The uses, hours of operation, and operational characteristics proposed are generally consistent with the uses, hours of operation, and characteristics of the existing venues at the Shelborne Hotel, and similar venues in the area. Activation of the Historic Shelborne Hotel with rejuvenated restaurant and entertainment venues, including a restored lobby bar, is a benefit to the public health, safety, morals, and general welfare of the community.

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

CONSISTENT – The Shelborne Hotel does not provide off-street parking and will continue to use a valet parking vendor. There are also numerous nearby parking lots and garages, and metered self-parking on surrounding streets. The Applicant further anticipates that many patrons will arrive by foot, ride-share services, or taxi. Further, the Applicant has conducted a traffic study and valet analysis to ensure that its valet facilities are adequately staffed and implementing best practices for safe and efficient valet operations.

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

CONSISTENT – The Existing CUP contains safeguards for protection of the surrounding property, persons, and neighborhood values that are being retained, such as limitations on when the Shelborne’s outdoor venues are accessible by the general public. Further, the proposed modification includes restrictions on the hours that entertainment is permitted for private events to ensure no impacts to adjacent properties.

**(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 – As this proposed modification will merely continue a use that has already existed for decades, the concentration of similar types of uses will not increase.

*Review Criteria for Neighborhood Impact Establishments and Outdoor Entertainment Establishments.* The proposed modification complies with the review criteria under Section 142-1362(a)(1)-(9) as follows:

**(1) 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.**

The Applicant has submitted a modified operations plan that addresses hours of operation, staffing levels, goals of the renovation, and other pertinent operational characteristics of the Shelborne Hotel. The operations plan details the hours of operation and vision for each individual venue, the security that will be provided on the Property, valet parking operations, as well as provides for specialized conditions during City-approved special events or private functions. In addition, the proposed modified operations plan has incorporated strategies for crime prevention through environmental design as recommended by the Miami Beach Police Department.

**(2) A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, selfpark, shared parking, after-hour metered spaces and the manner in which it is to be managed.**

The Applicant's proposed modified operations plan and submitted traffic study address how parking will be provided. As an existing contributing historic site, the Shelborne Hotel does not provide any on-site parking. The Shelborne utilizes a reputable valet provider stationed at the entrance to hotel. In addition, there are public metered spaces in 18<sup>th</sup> Street available to patrons of the Shelborne Hotel. The Applicant also intends to provide multi-modal means of transportations, such as complimentary hotel bicycles to guests, that will mitigate the need for automobiles, thereby reducing parking demand.



**(3) 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.**

The Applicant's proposed modified operations plan addresses crowd control. Specifically, the operations plan explains that the Shelborne Hotel has three access points for the hotel guests and the general public, which include the hotel's main lobby entrance, the entrance to the Hotel Restaurant along 18th Street, and the beach access. The hotel will have security located at these access points to ensure groups of patrons gain entry to the venues in an orderly fashion and monitor the circulation of patrons and occupancy levels in the queuing areas.

**(4) A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.**

The Applicant's proposed modified operations plan provides for 24-hour security on the premise, including digital surveillance and security strategies through environmental design. In addition, all hotel personnel shall undergo Responsible Beverage Service training to ensure enforcement of patron age restrictions.

**(5) 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.**

The Applicant has submitted a detailed traffic and valet operations analysis based on recent data collection on both weekdays and weekends. The analysis provides that the proposed modification is expected to result in an overall reduction in peak hour trips on both weekdays and weekends, which corresponds to reduced impact on the neighborhood roadways. Further, the Applicant has committed to implement best practices with its valet operations to ensure minimal impact on Collins Avenue, as well as other traffic mitigation strategies. These include providing bicycle racks on site, transit information within the Property, and potentially subsidizing transit passes for employees to further reduce the number of vehicle trips coming to and from the Shelborne Hotel. Overall, the proposed modification results in less traffic impact than the existing CUP and is providing additional mitigation strategies to ensure there are no negative impacts to the surrounding neighborhood.

**(6) A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.**

The proposed modified operations plan addresses sanitation, such as trash pick up procedures, as well as daily sanitation and cleaning practices.

**(7) A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance.**

The Applicant has submitted a sound study with respect to the proposed lobby bar and the outdoor venues have been previously studied. Based on these sound studies, the Applicant will implement policies to ensure that noise is controlled and all venues remain in compliance with the noise ordinance. In addition, the hours where entertainment is permitted have been carefully selected to avoid negative impacts to neighboring properties and ensure compliance with the noise ordinance.

**(8) Proximity of proposed establishment to residential uses.**

The Shelborne hotel is located across Collins Avenue from the Tower 1800 Condominium located at 1800 Collins Avenue. The Applicant has carefully considered potential impacts to this residential use in its submitted sound study and is committed to ensuring that sound from the hotel venues does not interfere with adjacent residential use.

**(9) Cumulative effect of proposed establishment and adjacent pre-existing uses.**

The Shelborne Hotel has operated as a Neighborhood Impact Establishment since at least 2005. The proposed modified Conditional Use Permit reduces the total occupancy of the venues, thereby reducing any cumulative impact on adjacent pre-existing uses.

Sea Level Rise and Resiliency Criteria. The new home advances the sea level rise and resiliency criteria in Section 133-50(a) of the Code, as follows:

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

To the extent required, a recycling or salvage plan shall be provided.

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

To the extent new windows are proposed, new windows will be hurricane proof impact windows.

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

The Applicant will provide, where feasible, passive cooling systems.

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

All landscaping will be Florida friendly and resilient.

**5. Whether 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, including a study of land elevation and elevation of surrounding properties were considered.**

Sea level rise projections were considered and informed design decisions to increase permeable open space and improve stormwater drainage. The Property contains an existing contributing building that cannot be elevated further.

**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.**

Any new ground floor driveways or ramping shall be adaptable to the raising of public rights of way and adjacent land.

**7. Where feasible and appropriate. All critical mechanical and electrical systems are located above base flood elevation.**

To the extent possible, all mechanical and electrical systems will be located above base flood elevation.

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

It is not feasible to elevate the existing Shelborne Hotel to base flood elevation.

**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.**

Habitable spaces below base flood elevation plus freeboard will use flood proofing system in accordance with the Code.

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

Where feasible, water retention systems will be provided.

**11. Cool pavement materials or porous pavement materials shall be utilized.**

Cool pavement materials or porous pavement materials will be utilized where possible.

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

The proposed design provides a number of shaded open spaces and non-air-conditioned shaded living spaces to strategically minimize the potential for heat island effects on site. The Applicant is also providing significant plantings on the site to provide shade and reduce heat island effects.

Conclusion. The proposed CUP modification implements the approved renovation, which significantly upgrades the Shelborne Hotel. The modifications proposed herein do not increase the impacts of the venues within the Shelborne Hotel, and, in fact, improve operations and mitigate impacts from its venues. Overall, the proposed modifications to the Existing CUP are consistent with the Code. Accordingly, we look forward to your favorable review of the application. If you have any questions or comments in the interim, you may reach me at 305-377-6236.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Larkin', with a long horizontal line extending to the right.

Michael Larkin

cc: Mitch Cohen  
Ben Leahy  
Maurice Petignat  
Grace Dillon  
Nicholas Rodriguez, Esq.



CFN 2014R0189813  
OR Bk 29068 Pgs 3519 - 3526 (8pgs)  
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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.



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

[NOTARIAL SEAL]

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]

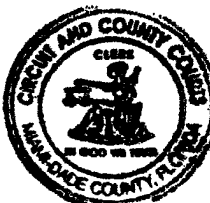
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August 27, 2013

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

Exhibit B	Venue	Proposed Occupant Content	Proposed Hours of Operation	Entertainment Permitted
	Basement Nightclub	150 persons	8PM – 5 AM	Yes
	Quick Service Café	29 persons or as determined by the Fire Marshall.	6AM – 5AM	No
	Lobby Lounge and Bar	246 persons or as determined by the Fire Marshall.	6AM – 5AM	Yes
	Signature Restaurant (includes Lounge, Private Dining Room, Indoor Dining Room, and Outdoor Dining Area)	368 persons or as determined by the Fire Marshall.	6AM – 5AM (indoor) 6AM – 2AM (outdoor)	Yes
	Mezzanine Skydeck	225 persons or as determined by the Fire Marshall.	6AM – 11PM except during City-approved special events or private functions, then 2AM.	Yes, until 11PM. Otherwise only ambient background music.
	Pool Deck/Pool Café	280 persons or as determined by the Fire Marshall.	6AM – 11PM; except during City-approved special events then 2AM. Restaurant patrons may access pool until 11PM.  Open for public events Fridays, weekends, holidays, and City’s special events periods from 10:30AM to 7PM (12/1 – 4/30) and 10:30AM to 8PM for remainder of year.	Yes, until 11 PM. Otherwise only ambient background music.
	Rear Yard	316 persons or as determined by the Fire Marshall.	Same as Pool Deck.	Yes, same as Pool Deck.