MIAMI BEACH
PLANNING DEPARTMENT
Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: February 27, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB06-0075. 601- 685 Washington Avenue. Goodtime Hotel. Progress Report.**

BACKGROUND

May 10, 2016: The Historic Preservation Board approved the project (HPB File No. 7632).

July 26, 2016: Th Planning Board approved a Conditional Use Permit (CUP) for the construction of a new seven story hotel development exceeding 50,000 square feet including a parking garage and a Neighborhood Impact Establishment with outdoor entertainment.

January 24, 2017: The Planning Board approved a Modified CUP to include mechanical parking in the garage.

May 25, 2021: A cure letter was sent to "Washington Squared Owner, LLC," pursuant to the requirements of Section 118-194 of the City Code. The cure letter requested that the applicant appear before the Planning Board on June 22, 2021 for a progress report.

June 22, 2021: The Planning Board discussed a Progress Report and continued it to the September 28, 2021 meeting.

June 30, 2021: A cure letter was sent to "Washington Squared Owner, LLC," pursuant to the requirements of Section 118-194 of the City Code. The cure letter requested that the applicant appear before the Planning Board on July 27, 2021 for a progress report.

July 27, 2021: The Planning Board discussed the Progress Report and scheduled a revocation modification hearing for the September 28, 2021 meeting.

September 28, 2021: The Planning Board discussed the item and continued the revocation modification hearing to the November 30, 2021 meeting.

November 30, 2021: At the request of the applicant, the Planning Board continued the item to the January 25, 2022 meeting.

January 11, 2022: The Historic Preservation Board approved the applicant's request for a Certificate of Appropriateness for the introduction of a sound barrier wall

located at the north and west sides of the 3rd level rooftop pool deck (HPB File No. HPB21-0478).

January 25, 2022: At the request of the applicant, The Planning Board discussed the item and continued the revocation modification hearing to the May 24, 2022 meeting.

May 24, 2022: The Planning Board modified the CUP to clarify the standard of measurement and incorporate violations of the noise ordinance as a CUP violation and continued the revocation/modification hearing to the September 20, 2022 hearing.

July 26, 2022: The Planning Board discussed a progress report and provided feedback regarding a proposed modification to condition No. 1 in the CUP Order, pertaining to restaurant uses at the ground floor.

September 20, 2022 The Planning Board continued the item to the October 25, 2022 meeting at the request of the applicant.

October 25, 2022 The Planning Board modified the CUP order in order to strengthen conditions related to sound and clarify that restaurants and personal service establishments are an allowable use on the ground floor and continued the revocation/modification hearing to the November 22, 2022 hearing.

November 22, 2022 The Planning Board modified the CUP to remove a condition on audio in the interior of residential units and continued the revocation/modification hearing to the January 24, 2023 meeting.

January 24, 2023 The Planning Board discussed the progress report and continued the item to the February 28, 2023 meeting.

February 28, 2023 The Planning Board modified the CUP to strike plainly audible from the conditions of approval, concluded the revocation/modification hearing, and scheduled a progress report for the February 2024 meeting.

January 9, 2024: A cure letter was sent to “Washington Squared Owner, LLC”. The cure letter requested that the applicant appear before the Planning Board on January 30, 2024, for a progress report.

January 31, 2024 The Planning Board discussed the progress report, scheduled a revocation/modification hearing for the March 26, 2024 meeting and continued the item to the February 27, 2024 meeting.

PROGRESS REPORT

On January 9, 2024, the attached cure letter was sent to “Washington Square Owner, LLC,” the applicant for the CUP that was last modified by the Planning Board on February 28, 2023, for the Goodtime Hotel. The cure letter requested that the applicant appear before the Planning Board

on January 30, 2024, for a progress report.

There have been violations and warnings regarding noise issued to the property over the last several months. These violations include, but are not limited to the following that are still pending as of the date of writing of this report:

- **11/25/2023 – CUP2023-00064 – CUP Condition Violation** – 142-153, 118-194, 114-8: Failure to operate your business in accordance with your conditional use permit. Reference: Failing to comply with Section 10 (a)(iv) of the conditional use permit by playing noise audible from the Western balconies of the Arcadia House located in the SW corner of 7th & Washington Avenue. Notice of Violation Observed. BWC USED. CCO A. Lacayo 754. CCO G. Frank 760.

- **11/25/2023 – NC2023-27244 – Noise Complaint** – Reference: loud music (649 Euclid Avenue) Correct QTH: 601 Washington Ave Time of Arrival: 4:20 PM Time of Departure: 6:05 PM Notice of Violation Issued: 2nd Offense $1,500 Fine CCO G Frank 760 BWC used.

- **12/2/2023 – CUP2023-00065 – CUP Condition Violation** – Sections 142-153, 118-194, 114-8: Failure to operate your business in accordance with your conditional use permit. Reference: Failing to comply with Section 10 (a)(iv) of the conditional use permit by playing noise unreasonably loud and excessive, Music can be heard from complainant's roof terrace and unit. Notice of Violation Observed. BWC USED. CCO A. Lacayo 754. CCO G. Frank 760.

- **12/2/2023 – NC2023-27273 – Noise Complaint** – REF: Loud Music Arrival Time: 3:15 PM Departure Time: 4:30 PM Section 46-152: Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. YOU SHALL IMMEDIATELY CEASE THE VIOLATION. You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law. 3rd Offense, $3,000 Fine. Notice of violation issued. L.Reyes, 741 A.Lacayo, 754 BWC Used.

- **12/9/2023 – CUP2023-00066 – CUP Condition Violation** – Sections 142-153, 118-194, 114-8: Failure to operate your business in accordance with your conditional use permit. Reference: Failing to comply with Section 10 (a)(iv) of the conditional use permit by playing noise unreasonably loud and excessive, Music can be heard from complainant's roof terrace, Unit & Courtyard. Notice of Violation Observed. BWC USED. CCO A. Lacayo 754. CCO L. Reyes 741.

- **12/9/2023 – NC2023-27337 – Noise Complaint** – REF: Loud Music Arrival Time: 3:18 PM Departure Time: 4:30 PM Section 46-152: Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami

Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. YOU SHALL IMMEDIATELY CEASE THE VIOLATION. You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law. 4rd Offense, $4,000 Fine. Notice of violation issued. L.Reyes, 741 A.Lacayo, 754 BWC Used

STAFF ANALYSIS

As identified above, the Goodtime Hotel has received several violations for noise, as well as CUP violations. At the February 28, 2023, revocation/modification hearing, the Planning Board scheduled a progress report for the February 27, 2024, meeting. However, the aforementioned violations were of concern to staff and a progress report was scheduled for the January 30, 2024, meeting.

The following conditions of approval contained in the approved CUP are applicable regarding the above noted violations and warnings:

2. *The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the business tax receipt (BTR) for any of the proposed outdoor entertainment venue.*

   When BTRs are issued for at least 75% of the building area, but no later than one (1) year from the issuance of the BTR for the proposed hotel use, the applicant shall appear before the Planning Board for a progress report specific to traffic, including providing a full revised traffic study outlining the actual transportation operations on-site and in the surrounding initial study area, and including valet operations and loading/servicing of the building.

   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).

4. *The Planning Board shall retain the right to call the owner or operator back before them and make modifications to this Conditional Use Permit 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.*

10. *The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and*

management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:

a. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed lounge, café, restaurant, café cart, and two (2) outdoor courtyard areas located on the roof of the second floor (3rd level) with the criteria listed below:

i. The food and beverage areas of the hotel covered in the CUP shall have a maximum occupant content of approximately 1200 persons or any lesser such occupant content as determined by the Fire Marshal.

ii. The indoor portions of the project may operate until 5:00 AM and shall be permitted to have a DJ or music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation), seven (7) days per week, from 11:00 AM to 5:00 AM.

iii. All outdoor areas of the venue(s) may operate until 1:00 AM and shall be permitted to have a DJ or music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation), as follows seven (7) days per week:

Times	Type of Permitted Music	DJ Permitted
9:00 AM to 11:00 AM	Ambient Only	Yes, Ambient Only
11:00 AM to 8:00 PM	Ambient Or Entertainment	Yes, Ambient Or Entertainment
8:00 PM to 1:00 AM	Ambient Only	Yes, Ambient Only
1:00 AM to 9:00 AM	None	No

~~iv.~~ The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system and have password protected security on all controls at all times in accordance with the design intent and recommendations of the sound system study submitted as part of this application. The equipment and installation plan for the sound system, including the location of all speakers and sound level controls shall be submitted for the review and approval of the Planning Department. Prior to the issuance of the Business Tax Receipt (BTR), the sound system shall be tested under the supervision of a qualified acoustical professional and the City's sound study peer reviewer, 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. This shall include the requirement that noise from the sound system shall not be unreasonably

loud, excessive, unnecessary or unusual (as defined in Chapter 46, Article IV of the City Code) anywhere west of Washington Avenue.

v. *If a decibel-level pilot program for noise enforcement is established by the City, the applicant has voluntarily agreed to be a participant in the program.*

vi. *At all times when any operations approved under this Conditional Use Permit are open, the Applicant shall continuously maintain a Manager on Duty or equivalent ("Manager on Duty"), on premises, to oversee the operations. Passwords for sound systems shall be provided only to the Manager on Duty. Only the Manager on Duty shall have access to house sound system maximum audio level controls. Only the Manager on Duty is authorized to allow access by verified installers, programmers, and repair personnel to the full complement of the Outdoor Speaker System's controls and adjustments, ensuring compliance with the sound and noise requirements, restrictions, and limitations in this Conditional Use Permit.*

vii. *The Outdoor Speaker System shall require the deployment of multiple small, closely spaced speakers driven at low individual volumes. The system shall physically distribute sound uniformly within the listening area and prevent sound from being audible from nearby residential buildings.*

viii. *All outdoor speakers shall be oriented in such a way as to minimize sound propagation towards nearby residential buildings.*

ix. *Only the Applicant's approved outdoor speakers, as approved by this Conditional Use Permit, shall be used. All performers, including DJs, shall be required to connect to the Applicant's house sound system. The Applicant shall be required to inform all guest DJs as to the requirements of this conditional use permit related to outdoor sound.*

x. *When sound exceeds ambient levels, the Applicant shall have staff continuously monitor the sound levels from the west side of Washington Avenue. Should the sound from the outdoor entertainment be unreasonably loud, excessive, unnecessary or unusual (as defined in Chapter 46, Article IV of the City Code) anywhere west of Washington Avenue, the monitoring staff shall immediately notify the manager on duty who shall immediately take corrective action and lower the audio levels so that sound is no longer heard from any area to the west of Washington Avenue. The monitoring shall continue until such time that the Planning Board, as part of a Progress Report, (i) determines that the Applicant is consistently complying with the requirements for Outdoor Entertainment in this conditional use permit and (ii) authorizes the Applicant to cease continuous monitoring. Should there be subsequent violations, the Planning Board may, as part of a Progress Report, reinstate the monitoring requirement set forth in this paragraph.*

16. *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.*

The subject site has previously received several cure letters, and has been through multiple revocation/modification hearings. Staff continues to have concerns with the impacts that the outdoor entertainment venue has on the quality of life of nearby residents. Staff would also emphasize that per Condition 16 of the CUP, the establishment and operation of this Conditional Use Permit must comply with all the conditions of approval and non-compliance shall constitute a violation of the City Code. Additionally, the CUP is subject to enforcement procedures set forth in Section 2.5.2.5 of the Land Development Regulations and such enforcement procedures as are otherwise available.

On January 30, 2024, the Planning Board discussed the progress report and scheduled a revocation/modification hearing for the March 26, 2024, meeting. Staff will provide any recommendations as to proposed modifications to the CUP at the March meeting. Staff recommends that board discuss and continue this progress report 30 days to further assess the operation of the establishment, as well as monitor compliance with the conditions of the CUP.

STAFF RECOMMENDATION

Staff recommends that the Planning Board discuss and continue the progress report to the March 26, 2024, meeting.

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

PLANNING DEPARTMENT
Tel: 305-673-7550 Fax: 305-673-7559

January 9, 2024

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Washington Squared Owner, LLC,
601- 685 Washington Avenue
Miami Beach, FL 33139

Re: PB 06-0075, a.k.a. PB 0616-0031, f.k.a., PB File No. 2320.

Dear Sir/Madam:

A Conditional Use Permit (CUP) to operate was issued to Washington Squared Owner, LLC, on January 24, 2017. The CUP was subsequently modified by the Planning Board at a revocation/modification hearing on February 28, 2023 (see attached). It has come to the Planning Department's attention that additional written warnings and violations have been issued by the Code Compliance Department regarding the operation of the venue. These additional violations, include the following violations that are still pending as of the date of this letter:

- **11/25/2023 – CUP2023-00064 – CUP Condition Violation** – 142-153, 118-194, 114-8: Failure to operate your business in accordance with your conditional use permit. Reference: Failing to comply with Section 10 (a)(iv) of the conditional use permit by playing noise audible from the Western balconies of the Arcadia House located in the SW corner of 7th & Washington Avenue. Notice of Violation Observed. BWC USED. CCO A. Lacayo 754. CCO G. Frank 760.

- **11/25/2023 – NC2023-27244 – Noise Complaint** – Reference: loud music (649 Euclid Avenue) Correct QTH: 601 Washington Ave Time of Arrival: 4:20 PM Time of Departure: 6:05 PM Notice of Violation Issued: 2nd Offense $1,500 Fine CCO G Frank 760 BWC used.

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VIOLATION. You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law. 3rd Offense, $3,000 Fine. Notice of violation issued. L.Reyes, 741 A.Lacayo, 754 BWC Used.

- **12/9/2023 – CUP2023-00066 – CUP Condition Violation** – Sections 142-153, 118-194, 114-8: Failure to operate your business in accordance with your conditional use permit. Reference: Failing to comply with Section 10 (a)(iv) of the conditional use permit by playing noise unreasonably loud and excessive, Music can be heard from complainant's roof terrace, Unit & Courtyard. Notice of Violation Observed. BWC USED. CCO A. Lacayo 754. CCO L. Reyes 741.

- **12/9/2023 – NC2023-27337 – Noise Complaint** – REF: Loud Music Arrival Time: 3:18 PM Departure Time: 4:30 PM Section 46-152: Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. YOU SHALL IMMEDIATELY CEASE THE VIOLATION. You shall be subject to additional penalties if the violation continues. Repeat violations of Section 46-152 will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license and /or certificate of use, or accessory use, and/or injunctive and/or other legal proceedings as provided by law. 4rd Offense, $4,000 Fine. Notice of violation issued. L.Reyes, 741 A.Lacayo, 754 BWC Used

The following conditions of approval contained in the Conditional Use Permit are applicable to the above noted violations and warnings:

2. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the business tax receipt (BTR) for any of the proposed outdoor entertainment venue.

   When BTRs are issued for at least 75% of the building area, but no later than one (1) year from the issuance of the BTR for the proposed hotel use, the applicant shall appear before the Planning Board for a progress report specific to traffic, including providing a full revised traffic study outlining the actual transportation operations on-site and in the surrounding initial study area, and including valet operations and loading/servicing of the building.

   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).

4. The Planning Board shall retain the right to call the owner or operator back before them and make modifications to this Conditional Use Permit 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.

10. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:

    a. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed lounge, café, restaurant, café cart, and two (2) outdoor courtyard areas located on the roof of the second floor (3rd level) with the criteria listed below:

        i. The food and beverage areas of the hotel covered in the CUP shall have a maximum occupant content of approximately 1200 persons or any lesser such occupant content as determined by the Fire Marshal.

        ii. The indoor portions of the project may operate until 5:00 AM and shall be permitted to have a DJ or music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation), seven (7) days per week, from 11:00 AM to 5:00 AM.

        iii. All outdoor areas of the venue(s) may operate until 1:00 AM and shall be permitted to have a DJ or music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation), as follows seven (7) days per week:

Times	Type of Permitted Music	DJ Permitted
9:00 AM to 11:00 AM	Ambient Only	Yes, Ambient Only
11:00 AM to 8:00 PM	Ambient Or Entertainment	Yes, Ambient Or Entertainment
8:00 PM to 1:00 AM	Ambient Only	Yes, Ambient Only
1:00 AM to 9:00 AM	None	No

        ~~iv.~~ The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system and have password protected security on all controls at all times in accordance with the design intent and recommendations of the sound system study submitted as part of this application. The equipment and installation plan for the sound system, including the location of all speakers and sound level controls shall be submitted for the review and approval of the Planning Department. Prior to the issuance of the Business Tax Receipt (BTR), the sound system shall be tested under the supervision of a qualified acoustical professional and the

City's sound study peer reviewer, 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. This shall include the requirement that noise from the sound system shall not be unreasonably loud, excessive, unnecessary or unusual (as defined in Chapter 46, Article IV of the City Code) anywhere west of Washington Avenue.

v. If a decibel-level pilot program for noise enforcement is established by the City, the applicant has voluntarily agreed to be a participant in the program.

vi. At all times when any operations approved under this Conditional Use Permit are open, the Applicant shall continuously maintain a Manager on Duty or equivalent ("Manager on Duty"), on premises, to oversee the operations. Passwords for sound systems shall be provided only to the Manager on Duty. Only the Manager on Duty shall have access to house sound system maximum audio level controls. Only the Manager on Duty is authorized to allow access by verified installers, programmers, and repair personnel to the full complement of the Outdoor Speaker System's controls and adjustments, ensuring compliance with the sound and noise requirements, restrictions, and limitations in this Conditional Use Permit.

vii. The Outdoor Speaker System shall require the deployment of multiple small, closely spaced speakers driven at low individual volumes. The system shall physically distribute sound uniformly within the listening area and prevent sound from being audible from nearby residential buildings.

viii. All outdoor speakers shall be oriented in such a way as to minimize sound propagation towards nearby residential buildings.

ix. Only the Applicant's approved outdoor speakers, as approved by this Conditional Use Permit, shall be used. All performers, including DJs, shall be required to connect to the Applicant's house sound system. The Applicant shall be required to inform all guest DJs as to the requirements of this conditional use permit related to outdoor sound.

x. When sound exceeds ambient levels, the Applicant shall have staff continuously monitor the sound levels from the west side of Washington Avenue. Should the sound from the outdoor entertainment be unreasonably loud, excessive, unnecessary or unusual (as defined in Chapter 46, Article IV of the City Code) anywhere west of Washington Avenue, the monitoring staff shall immediately notify the manager on duty who shall immediately take corrective action and lower the audio levels so that sound is no longer heard from any area to the west of Washington Avenue. The monitoring shall continue until such time that the Planning Board, as part of a Progress Report, (i) determines that the Applicant is consistently complying with the requirements for Outdoor Entertainment in this conditional use permit and (ii) authorizes the Applicant to cease continuous monitoring. Should there be subsequent violations, the Planning Board may, as part of a Progress Report, reinstate the monitoring requirement set forth in this paragraph.

16. 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.

These violations exhibit repeated and intermittent noncompliance with the conditions of this CUP and underscore a concern about further repeated or intermittent noncompliance with the conditions of the CUP. At the February 28, 2023 revocation/modification hearing, the Planning Board scheduled a progress report for the February 27, 2024 meeting. The aforementioned violations are of concern to staff and merit a progress report prior to the February 27, 2024 meeting.

Therefore, in light of the inconsistencies with the aforementioned conditions of approval contained in the CUP, the repeated and intermittent noncompliance with the conditions of this CUP, and the pending code violations, **you are requested to appear at the January 30, 2024 Planning Board hearing** for a verbal progress report. Please be advised that at the time of the progress report, in accordance with the provisions of Section 2.5.2.5 of the Land Development Regulations of the City Code (LDR's), the Planning Board may consider setting a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings.

Should the Planning Board consider setting a public hearing for the purpose of examining the noncompliance issues noted herein, and initiate modification/revocation proceedings, this matter may be placed on the March 26, 2024 agenda of the Board as a modification/revocation hearing. If a future public hearing is set, the board may consider the issue of noncompliance and the possible modification or revocation of the approval. Based on substantial competent evidence, the board may consider revoking the approval, modifying the conditions thereof, or imposing additional or supplemental conditions.

If you have any questions, please do not hesitate to contact Mr. Rogelio Madan at (305) 673-7000 ext. 26131 or via email at rogeliomadan@miamibeachfl.gov.

Sincerely,

Thomas R. Mooney, AICP
Planning Director

TRM\RAM

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LUIS G. MONTALDO, CLERK AD INTERIM
MIAMI-DADE COUNTY, FL

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 601-685 Washington Avenue

FILE NO. PB 06-0075, a.k.a. PB 0616-0031, f.k.a., PB File No. 2320

IN RE: The application for a modification to a previously issued Conditional Use Permit for the construction of a new seven story hotel development exceeding 50,000 square feet including a parking garage and a Neighborhood Impact Establishment with outdoor entertainment. Specifically, the modification includes mechanical parking in the garage, pursuant to Section 118, Article IV and Section 130, Article II of the City Code. On May 24, 2022, the Planning Board held a public hearing to consider a revocation, modification, or imposition of additional conditions on the existing Conditional Use Permit due to code violations and complaints.

LEGAL DESCRIPTION: Lots 11-21 of Block 34, of "Ocean Beach Fla Addition No. 1", according to the Plat thereof, as recorded in Plat Book 3, page 11 of the Public Records of Miami-Dade County, Florida.

MEETING DATE: January 24, 2017, May 24, 2022, ~~and~~ October 25, 2022, ~~and~~ November 22, 2022, and February 28, 2023.

MODIFIED CONDITIONAL USE PERMIT

The applicant, Washington Squared Owner, LLC, requested a Conditional Use approval for the construction of a new seven story hotel development exceeding 50,000 square feet including a parking garage, with mechanical parking in the garage and a Neighborhood Impact Establishment with outdoor entertainment, pursuant to Section 118, Article IV, Section 142, Article II, and Section 142, Article V 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:

The property in question is located in the CD-2 – Commercial, Medium Intensity Zoning District.

The use is consistent with the Comprehensive Plan for the area in which the property is located;

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;

The structures and uses associated with the request are consistent with the Land Development Regulations;

The public health, safety, morals, and general welfare will not be adversely affected;

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

DS

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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 to which the applicant has agreed. Underlining denotes new language and ~~strikethrough~~ denotes stricken language from the previous order:

1. This Conditional Use Permit is issued to Washington Squared Owner, LLC, to construct a seven (7) story mixed use hotel project, with retail, personal service and restaurant space on the first floor, traditional parking and mechanical parking on the 2nd floor, food and beverage areas located on the roof and interior of the second floor (3rd level), and a pool and pool deck on the upper roof deck. Any proposed change to the uses approved in this Conditional Use shall require the review and approval of the Planning Board.

2. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the business tax receipt (BTR) for any of the proposed outdoor entertainment venue.

   When BTRs are issued for at least 75% of the building area, but no later than one (1) year from the issuance of the BTR for the proposed hotel use, the applicant shall appear before the Planning Board for a progress report specific to traffic, including providing a full revised traffic study outlining the actual transportation operations on-site and in the surrounding initial study area, and including valet operations and loading/servicing of the building.

   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).

3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property applicants, operators, and all successors in interest and assigns. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.

4. The Planning Board shall retain the right to call the owner or operator back before them and make modifications to this Conditional Use Permit 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.

5. 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.

6. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.

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7. All existing overhead utilities abutting the subject site shall be placed underground at the sole expense of the applicant.

8. The following shall apply to the operation of the proposed parking garage:

   a. There shall be security personnel of at least one person, on-site, monitoring the garage during all hours of operation.

   b. Signs prohibiting tire-screeching and unnecessary horn-honking shall be posted at the garage entrance.

   c. Signs to minimize vehicle conflict in the driveways in and out of the property shall be posted in appropriate locations.

   d. The minimum parking required by the land development regulations shall be provided, or parking in lieu fee shall be paid for any spaces that cannot be provided in the parking level.

9. The following shall apply to the construction and operation of the proposed mechanical parking system:

   a. The noise or vibration from the operation of the mechanical parking lifts 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. The parking lift platforms 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.

   d. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift.

   e. All mechanical parking lifts 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.

   f. All parking lifts shall be maintained and kept in good working order.

   g. Parking operation shall be by valet attendants only. A contract with a valet operator shall be submitted to staff for review and approval prior to a final Certificate of Occupancy or Business Tax Receipt, whichever occurs first

10. The Applicant agrees to the following operational conditions for all permitted and

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accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:

a. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed lounge, café, restaurant, café cart, and two (2) outdoor courtyard areas located on the roof of the second floor (3rd level) with the criteria listed below:

i. The food and beverage areas of the hotel covered in the CUP shall have a maximum occupant content of approximately 1200 persons or any lesser such occupant content as determined by the Fire Marshal.

ii The indoor portions of the project may operate until 5:00 AM and shall be permitted to have a DJ or music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation), seven (7) days per week, from 11:00 AM to 5:00 AM.

iii. All outdoor areas of the venue(s) may operate until 1:00 AM and shall be permitted to have a DJ or music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation), as follows seven (7) days per week:

Times	Type of Permitted Music	DJ Permitted
9:00 AM to 11:00 AM	Ambient Only	Yes, Ambient Only
11:00 AM to 8:00 PM	Ambient Or Entertainment	Yes, Ambient Or Entertainment
8:00 PM to 1:00 AM	Ambient Only	Yes, Ambient Only
1:00 AM to 9:00 AM	None	No

iv The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system and have password protected security on all controls at all times in accordance with the design intent and recommendations of the sound system study submitted as part of this application. The equipment and installation plan for the sound system, including the location of all speakers and sound level controls shall be submitted for the review and approval of the Planning Department. Prior to the issuance of the Business Tax Receipt (BTR), the sound system shall be tested under the supervision of a qualified acoustical professional and the City's sound study peer reviewer, 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. This shall include the requirement that noise from the sound system shall not be ~~plainly~~

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~~audible~~ unreasonably loud, excessive, unnecessary or unusual (as defined in Chapter 46, Article IV of the City Code) anywhere west of Washington Avenue.

v. ~~Reserved.~~ If a decibel-level pilot program for noise enforcement is established by the City, the applicant has voluntarily agreed to be a participant in the program.

vi. At all times when any operations approved under this Conditional Use Permit are open, the Applicant shall continuously maintain a Manager on Duty or equivalent ("Manager on Duty"), on premises, to oversee the operations. Passwords for sound systems shall be provided only to the Manager on Duty. Only the Manager on Duty shall have access to house sound system maximum audio level controls. Only the Manager on Duty is authorized to allow access by verified installers, programmers, and repair personnel to the full complement of the Outdoor Speaker System's controls and adjustments, ensuring compliance with the sound and noise requirements, restrictions, and limitations in this Conditional Use Permit.

vii. The Outdoor Speaker System shall require the deployment of multiple small, closely spaced speakers driven at low individual volumes. The system shall physically distribute sound uniformly within the listening area and prevent sound from being audible from nearby residential buildings.

viii All outdoor speakers shall be oriented in such a way as to minimize sound propagation towards nearby residential buildings.

ix. Only the Applicant's approved outdoor speakers, as approved by this Conditional Use Permit, shall be used. All performers, including DJs, shall be required to connect to the Applicant's house sound system. The Applicant shall be required to inform all guest DJs as to the requirements of this conditional use permit related to outdoor sound.

x When sound exceeds ambient levels, the Applicant shall have staff continuously monitor the sound levels from the west side of Washington Avenue. Should the sound from the outdoor entertainment be ~~audible~~ unreasonably loud, excessive, unnecessary or unusual (as defined in Chapter 46, Article IV of the City Code) anywhere west of Washington Avenue, the monitoring staff shall immediately notify the manager on duty who shall immediately take corrective action and lower the audio levels so that sound is no longer heard from any area to the west of Washington Avenue. The monitoring shall continue until such time that the Planning Board, as part of a Progress Report, (i) determines that the Applicant is consistently complying with the requirements for Outdoor Entertainment in this conditional use permit and (ii) authorizes the Applicant to cease continuous monitoring. Should there be subsequent violations, the Planning Board may, as part of a Progress Report, reinstate the monitoring requirement set forth in this paragraph.

xi. Reserved.

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xii. Within 30 days of the completion of the barrier wall approved by Historic Preservation Board Order HPB21-0478 around the pool deck, the outdoor sound system shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department and the City's sound study peer reviewer for review and approval. Such report shall demonstrate that sound from any outdoor areas is not audible anywhere west of Washington Avenue and that the system's performance continues to comply with the design intent and recommendations of the sound system study submitted as part of this application. The applicant shall be responsible to cover the fees of the City's peer reviewer.

xiii. The Applicant shall train staff members who service outdoor areas on the sound-related conditions of this CUP in order to assist with enforcing sound limits.

xiv. A progress report regarding outdoor entertainment shall be scheduled for the February 2024 Planning Board meeting. ~~60 days from the completion of the barrier wall approved by Historic Preservation Board Order HPB21-0478~~.

b. Delivery trucks shall only be permitted to make deliveries from the designated loading spaces contained within the property and from designated on-street loading zones for trucks not to exceed 20"-0" in length, as authorized by the Parking Department.

c. Delivery trucks shall not be allowed to idle in the loading areas.

d. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.

e. Deliveries and waste collections may occur daily, but shall occur only between 6:00 AM and 5:00 PM.

f. There shall be a loading dock master, on-site, monitoring the interaction between loading and refuse pick up with the operation of the valet and garage during all hours of deliveries and refuse pick up.

g. 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.

h. 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.

i. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per

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day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.

j. Garbage dumpster covers shall be closed at all times except when in active use.

k. Restaurant personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.

l. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises, except adjacent to Collins Court, on private property.

m. 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

n. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.

o. Special Events shall not be issued for the outdoor areas. Special Events may occur on the interior of the building, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.

p. No outdoor bar counter shall be permitted on the roof deck located above the highest level of hotel units.

q. The rooftop deck located above the highest level of hotel units shall be for the exclusive use of hotel guests and their invitees.

11. The applicant shall address the following Concurrency and Traffic requirements, as applicable:

a. A Method of Transportation (MOT) shall be submitted to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.

b. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as may be determined as determined by the Concurrency Management Division.

c. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.

d. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Business Tax Receipt.

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e. Valet or loading activities shall not block the garage ramp at any time.

f. Valet pick-up may only occur in front of the two (2) northernmost loading spaces (the middle of the three (3) valet spaces) between 5:00 PM and 7:00 AM.

g. The required number of valet runners will be provided in order to prevent queued vehicles from blocking traffic on Collins Court.

h. A representative shall be identified who will be in charge of implementing the Transportation Demand Management (TDM) strategies identified and approved in the original traffic impact study memorandum dated May 24, 2016. Once a TDM plan is implemented, the City will contact the TDM representative to determine how well the plan is working and if any adjustment are needed with time.

i Parking and valet operations shall not result in any adverse impacts within or on the public right of way, including, but not limited to, sidewalks, streets, on-street parking spaces and alleys. In the event parking and valet parking operations result in adverse impacts within or on the public right of way, as determined by the City, additional mitigation measures shall be required.

12. 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 Building permit.

13. The applicant shall obtain a full building permit within 18 months from the date of the original approval, on July 26, 2016, of this Conditional Use Permit, 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.

14. 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.

15. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

16. 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.

17. 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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18. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (the "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 of the City Code. Notwithstanding any other provision of this Order, including the approval to conduct entertainment pursuant to condition no. 10, the applicant/establishment shall at all times comply with the Noise Ordinance, and no provision of this Order may be construed to supersede any provision of the Noise Ordinance.

Dated 5/26/2023 | 3:57 PM EDT

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by
BY: Rogelio Madan
Rogelio A. Madan, AICP
Chief of Planning and Sustainability
for Chairman

STATE OF FLORIDA
)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 30 day of May 2023, by Rogelio A. Madan, Chief of Community Planning and Sustainability for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL] MIRIAM TERESA HERRERA
Notary Public - State of Florida
Commission # GG 940469
My Comm. Expires Dec 16, 2023
Bonded through National Notary Assn.

Miriam Herrera
Notary:
Print Name: Miriam Herrera
Notary Public, State of Florida
My Commission Expires: 12-16-23
Commission Number: GG940469

Approved As To Form:
Legal Department DocuSigned by: Nicklaus 5D9CB88CCAB8462 (5/26/2023 | 3:37 PM EDT

Filed with the Clerk of the Planning Board on DocuSigned by: Jessica Gonzalez (5/26/2023 | 4:44 PM EDT

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