

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: March 27, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 17-108 fka File No. 2032 – 1545 Collins Ave –The Royal Palm–
Progress Report**

BACKGROUND

September 20, 2011 The applicant, RP Hotel Holding, LLC, was granted a conditional use to operate an aggregate of uses - a full service restaurant, a specialty restaurant and lounge, and hotel bar - open to the general public, as a neighborhood impact establishment located in the renovated Royal Palm/Shorecrest Hotel property.

January 28, 2015 The applicant, Patria Shorecrest, Inc., appeared before the Board to affirm their understanding of the conditions of approval in the previously issued conditional use permit, as the new operator of the neighborhood impact establishment, specifically the Byblos restaurant and lounge in the space previously occupied by the Catch restaurant.

March 24, 2015 The applicant, RP Hotel Holdings, LLC, appeared before the Board to affirm their understanding of the conditions of approval in the previously issued conditional use permit, including the introduction of a new hotel operator, HEI Hotel & Resorts.

February 2, 2017 The Planning Department sent a cure letter to the applicant, RP Hotel Holdings, LLC, in response to two (2) outstanding code violations. The cure letter advised the applicant that a progress report was scheduled for the February 28, 2017 meeting.

February 28, 2017 The Board set a public hearing to consider a revocation, modification, or imposition of additional or supplemental conditions to the existing CUP.

April 25, 2018 The Board made modification to the conditions of the CUP related to delivery, loading, and operations.

March 9, 2018 The Planning Department sent a cure letter to the applicant, RP Hotel Holdings, LLC, in response to an outstanding code violation and reoccurring complaints. The cure letter advised the applicant that a progress report was scheduled for the March 27, 2018 meeting.

PROGRESS REPORT

Since the March 9, 2018 Cure Letter, staff research of city records found that the following warnings and violations are showing in the city's records as of this writing:

1. **ZV2017-01223** - 7/18/2017 and **SMC2017-00629** 10/13/2017

Section 142-153, 118-194 and 114-8. Failure to operate your business in accordance with your conditional use permit. Ref: Condition #26(d) Paint a clear and brightly painted continuous yellow stripe running in an east-west direction in a location approximately 15 feet south of Royal Palm structure in the driveway shared with other adjoining properties.

STAFF ANALYSIS

It appears that the shared driveway to the south of the property that provides access to the subject property's back of house area and two other properties' garage entrances (1501 Collins Avenue and 1500 Ocean Drive) has been obstructed by the delivery and refuse collection operations of the hotel.

Below are the conditions of the CUP that are related to the warnings, violations and open offenses:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. Ninety days after the issuance of the Business Tax Receipt or after general commencement of operations, whichever comes later, the applicant shall provide a progress report to the Planning Board. 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 owners, operators, and all successors in interest and assigns.
26. Deliveries and garbage and trash pickups shall be conducted
 - (A) from the private driveway which is located to the south of the property ~~Shorecrest~~ and to which applicant has access through agreements with the driveway's owners located to the south of the private driveway, and
 - (B) directly within the structures or private driveway and not on ~~the street~~ Collins Avenue; and
 - (C) be conducted, to the greatest extent possible, within the northern 15 feet of the shared driveway adjacent to the hotel's southern wall so as to minimize disruption of traffic within the shared driveway; and
 - (D) a clear and brightly-painted continuous yellow stripe, running in an east-west direction, shall be placed, maintained, and periodically repainted in a location approximately 15 feet south of the Royal Palm Hotel structure; and
 - (E) at the top of the ramp of the shared driveway, an arm gate, or two arm gates, one for each lane, but in either case, extending the entire width of the shared driveway, shall, within sixty days of the modification of the CUP, be installed in a sound and workmanlike manner, using materials and equipment which are generally recognized as appropriate for high-quality commercial or residential buildings. Thereafter, the arm gate(s) shall, promptly and in the same manner,

be maintained, repaired, periodically serviced, and replaced (all or in part) as may reasonably be needed from time to time.

Trash/garbage containers shall have rubber wheels and be maintained in a clean and fully operable condition.; Trash/garbage containers shall be kept in the trash room except during trash pick-up, after which the containers shall be promptly returned to the trash room. Deliveries and pickups shall be handled and managed by a dock master supervisor who shall be responsible for controlling traffic:

- (A) controlling hotel related deliveries and refuse pick up traffic in order to minimize disruption of traffic on Collins Avenue and in order to minimize interference with the business and resident traffic of the respective driveway's owners, and
- (B) enforcing the provisions of this condition relating to Deliveries and Pick-Ups.

A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room located on the south side of the south building; time of service for deliveries and best efforts used to have garbage and trash pickups shall be restricted to not before 9 A.M. and not after 6 P.M. On a 24-hour basis, applicant's management personnel shall regularly inspect the private driveway in order to determine whether it is being used for parking by any hotel guest, employee, or contractor, and shall promptly take appropriate action to remove any such vehicle.

33. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load of the accessory uses proposed for the project should there be valid complaints about loud, excessive, unnecessary, or unusual ~~late night~~ noise, or amend other conditions or add new conditions. 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.

This area has some inherent conflicts due to the built environment and the "shared" operation of the driveway. One of the main objectives of the shared driveway's operation is to ensure that the traffic from this driveway does not cause a backup of vehicles on Collins Avenue. In order to ensure that there is not any backup on to Collins Avenue, the monitoring of the driveway's operations is the responsibility of the property stakeholders.

In light of the inconsistencies with the above CUP conditions, as well as the absence of any documentation from the applicant advising of corrective actions or measures to ensure compliance with the CUP in the future, staff recommends the Board discuss the matter and consider the issue of noncompliance and whether to set a modification/revocation hearing.

STAFF RECOMMENDATION

Staff recommends that the Planning Board discuss the issue of non-compliance and continue the progress report to a date certain of April 17, 2018, to allow time for discussions between the effected parties and tangible and enforceable corrective measures to be implemented.

TRM/MAB/TUI

MIAMI BEACH

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

March 9, 2018

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

RP Hotel Holding LLC
1997 Annapolis Exchange Pkwy #410
Annapolis, MD 21401

HEI Hotel & Resorts
1545 Collins Avenue
Miami Beach, FL 33139

Re: PB17-0108 fka Planning Board File No. 2032 – 1545 Collins Avenue

Dear Sir/Madam:

A Conditional Use Permit (CUP) for a neighborhood impact establishment (NIE) was issued to RP Hotel Holding LLC, on September 20, 2011, which was modified on April 25, 2017. It has come to the Planning Department's attention that violations have been issued by the Code Compliance Department regarding the CUP's operational conditions.

In light of the aforementioned pending and adjudicated code violations and the inconsistencies with the following conditions of approval contained in the Conditional Use Permit, **you are requested to appear at the March 27, 2018 Planning Board hearing** for a verbal progress report:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. Ninety days after the issuance of the Business Tax Receipt or after general commencement of operations, whichever comes later, the applicant shall provide a progress report to the Planning Board. 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 owners, operators, and all successors in interest and assigns.

26. Deliveries and garbage and trash pickups shall be conducted

- (A) from the private driveway which is located to the south of the property ~~Shorecrest~~ and to which applicant has access through agreements with the driveway's owners located to the south of the private driveway, and
- (B) directly within the structures or private driveway and not on ~~the street~~ Collins Avenue; and
- (C) be conducted, to the greatest extent possible, within the northern 15 feet of the shared driveway adjacent to the hotel's southern wall so as to minimize disruption of traffic within the shared driveway; and
- (D) a clear and brightly-painted continuous yellow stripe, running in an east-west direction, shall be placed, maintained, and periodically repainted in a location approximately 15 feet south of the Royal Palm Hotel structure; and
- (E) at the top of the ramp of the shared driveway, an arm gate, or two arm gates, one for each lane, but in either case, extending the entire width of the shared driveway, shall, within sixty days of the modification of the CUP, be installed in a sound and workmanlike manner, using materials and equipment which are generally recognized as appropriate for high-quality commercial or residential buildings. Thereafter, the arm gate(s) shall, promptly and in the same manner, be maintained, repaired, periodically serviced, and replaced (all or in part) as may reasonably be needed from time to time.

Trash/garbage containers shall have rubber wheels and be maintained in a clean and fully operable condition; Trash/garbage containers shall be kept in the trash room except during trash pick-up, after which the containers shall be promptly returned to the trash room. Deliveries and pickups shall be handled and managed by a dock master supervisor who shall be responsible for controlling traffic:

- (A) controlling hotel related deliveries and refuse pick up traffic in order to minimize disruption of traffic on Collins Avenue and in order to minimize interference with the business and resident traffic of the respective driveway's owners, and
- (B) enforcing the provisions of this condition relating to Deliveries and Pick-Ups.

A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room located on the south side of the south building; time of service for deliveries and best efforts used to have garbage and trash pickups shall be restricted to not before 9 A.M. and not after 6 P.M. On a 24-hour basis, applicant's management personnel shall regularly inspect the private driveway in order to determine whether it is being used for parking by any hotel guest, employee, or contractor, and shall promptly take appropriate action to remove any such vehicle.

33. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load of the accessory uses proposed for the project should there be valid complaints about loud, excessive, unnecessary, or unusual ~~late~~ ~~night~~ noise, or amend other conditions or add new conditions. 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.

The following warnings, violations and open offenses are still showing in the City's records as of this writing:

1. **ZV2017-01223** - 7/18/2017 and **SMC2017-00629** 10/13/2017

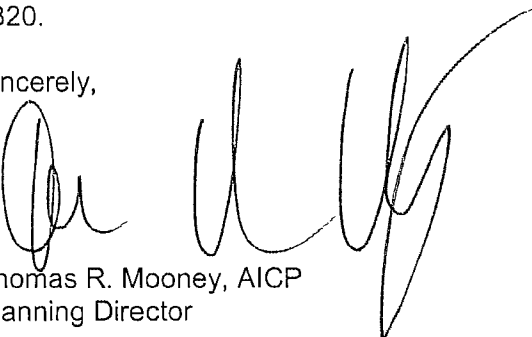
Section 142-153, 118-194 and 114-8. Failure to operate your business in accordance with your conditional use permit. Ref: Condition #26(d) Paint a clear and brightly painted continuous yellow stripe running in an east-west direction in a location approximately 15 feet south of Royal Palm structure in the driveway shared with other adjoining properties.

Please be advised that at the time of the progress report, in accordance with the provisions of City Code, Section 118-194(3), 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 and initiate modification/revocation proceedings, this issue may be placed at the next available meeting of the Board.

If a modification/revocation hearing is set at that public hearing, 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 revoke the approval, modify the conditions thereof, or impose additional or supplemental conditions.

If you have any questions, please do not hesitate to contact Ms. Tui Munday at (305) 673-7000 ext. 6320.

Sincerely,



Thomas R. Mooney, AICP
Planning Director

TRM/TUI

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

PROPERTY: 1545 Collins Avenue. The Royal Palm Hotel

FILE NO. PB 17-0108 f/k/a PB 2032

IN RE: As a result of a public hearing to consider a revocation or modification of an approved Conditional Use permit, as an enforcement action, the Planning Board modified the conditions of the original Planning Board order for the Conditional Use for RP Hotel Holding, LLC, to operate an aggregate of uses - a full service restaurant, a specialty restaurant and lounge, and hotel bar - open to the general public, as a Neighborhood Impact Establishment located in the renovated Royal Palm/Shorecrest Hotel property.

**LEGAL
DESCRIPTION:** See Attachment A

MEETING DATE: April 25, 2017

MODIFIED CONDITIONAL USE PERMIT

As a result of a public hearing to consider a revocation or modification of an approved Conditional Use permit, as an enforcement action, the Planning Board modified the conditions of the original Planning Board order for the Conditional Use for RP Hotel Holding, LLC, to operate an aggregate of uses - a full service restaurant, a specialty restaurant and lounge, and hotel bar - open to the general public, as a Neighborhood Impact Establishment located in the renovated Royal Palm/Shorecrest Hotel property pursuant Chapter 118, Article IV, "Conditional Use Procedure," of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the request for a Conditional Use Permit was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property, upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the RM-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 Ordinance;

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 conditions below, which have been accepted by the applicants. (~~Strikethrough~~ signifies deletions; Underlining signifies new language):

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. Ninety days after the issuance of the Business Tax Receipt or after general commencement of operations, whichever comes later, the applicant shall provide a progress report to the Planning Board. 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 Conditional Use Permit is issued to RP Hotel Holding, LLC as owner of the property. ~~Subsequent owners and operators shall be required to~~ In the event of any change in the owner and/or operator, the new owner and/or operator shall appear before the Board to affirm their understanding of the conditions listed herein at the earliest Board meeting for which the Planning Department can lawfully include this item on the Board's agenda.
3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
4. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.
5. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application for a Neighborhood Impact Establishment Conditional Use Permit.
6. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the following three (3) venues, with their respective approximate maximum occupant loads or such respective lower maximum occupant loads as the Fire Marshal may determine, resulting in an approximate aggregate maximum occupant load of 774 persons or such lower aggregate maximum occupant load as the Fire Marshal may determine:
 - (A) the lobby lounge and bar, presently intended to be named James Club, to be located wholly in the inside of the first floor of the north building – 70 persons;
 - (B) the full-service "destination" restaurant, lounge, and nightclub, presently unnamed, to be located at the front of the first and second floors of the south building, with a total occupant load of 543 persons, and generally consisting of:

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- (i) 54 outdoor dining seats to be located on the existing first-floor terrace located on the west side of and wrapping around the north side of the south building;
 - (ii) 233 indoor dining seats to be located on the first and second floors of the south building; and
 - (iii) 256 persons in the lounge and nightclub to be located in the rear of the first floor of the south building;
 - (C) the three-meal restaurant (which also offers room service), presently intended to be named Jimmy's Restaurant, to be located wholly outside on the south side of the first floor of the north building (presently occupied in part by exercise equipment) and wrapping around to the pool deck on the east side of the north building (presently occupied in part by a bar) – 146 seats;
7. The three (3) above-described venues shall have the following respective hours and operations:
- (A) the lobby lounge and bar will close at 5 AM – entertainment is authorized, a dance hall is not authorized;
 - (B) the full-service "destination" restaurant, lounge, and nightclub:
 - (i) The outdoor dining area will close at 2 AM (inclusive of all clean-up and other staff operations) – Neither entertainment nor a dance hall is authorized; and
 - (ii) The indoor area will close at 5 AM – Subject to compliance with applicable requirements, entertainment and a dance hall are authorized;
 - (C) the three-meal restaurant (Jimmy's) will close at 2 AM
8. An operation plan for the restaurants and commercial uses shall be submitted to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion or Business Tax Receipt, whichever occurs first.
9. None of the rooftops of the present buildings or any future buildings shall have any guest, invitee, or public usage or facilities of any kind, and there shall be no access to any such rooftop except for
- (A) emergency evacuations as required by the Fire Code and Fire Marshal, and
 - (B) the hotel's operating, maintenance, and construction personnel and contractors.
10. Applicant will install and maintain a safe, secure, and locked rear gate which can be opened only by registered hotel guests using their magnetic room key cards or other secure devices, hotel personnel, and public safety personnel.
11. Applicant will repair or install, and will thereafter maintain, a fire alarm system which reduces false alarms to a generally accepted minimum number, and which complies in all other respects with all applicable requirements.

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12. Applicant will adopt and, on a 24-hour basis will apply, such practices and procedures as are reasonably likely to remedy inappropriate guest and invitee conduct. Without limiting the generality of the foregoing, applicant's personnel will, on a 24-hour basis, regularly inspect:
- (A) all outdoor areas in order to determine whether there is any yelling, screaming, or other inappropriate sounds being made by guests or invitees who are on any terrace, balcony, pool deck, breezeway, or any other outdoor area, and will promptly take such action as may be reasonably necessary to terminate the yelling, screaming, and other inappropriate sounds and to prevent a recurrence; and
 - (B) all terraces, balconies, and other outdoor areas in order to determine whether any railings are being used to hang or dry towels, swim suits, beach toys, and other items, such inspection to be made from the ground or any other reasonable vantage point, and will promptly take such action as may be reasonable necessary to terminate such practices and to prevent their recurrence.

Applicant will arrange for hotel management on duty to be available by telephone, on 24-hour basis, to receive and act promptly upon complaints of inappropriate guest or invitee conduct.

13. No outdoor bar counters shall be permitted except that the bar at Jimmy's Restaurant shall be part of a full service restaurant at all times. No outdoor bar counter shall be placed on any roof, terraces, private decks, or balconies at any time. Temporary outdoor bar counters, including temporary outdoor bar counters on the 2nd floor pool deck, will be permitted during customary hotel events (not open to the general public) which shall be removed on:

Sunday through Thursday: 11:00 p.m.
Friday and Saturday: Midnight

14. Calculations for required parking for the project shall be determined by the Planning Department prior to approval of a building permit. Such parking calculations shall be based upon both the number of hotel rooms, residential units, and additionally, the intensity of the proposed accessory uses as measured by the number of seats in dining areas, and by the square footage of the liquor service areas not included in the areas for which seats are calculated. A final determination for the required parking shall be conducted at the time of the Building Permit and any deficiency may be paid by a fee in lieu of providing the required parking, which shall be paid before the building permit is issued.
15. A queuing analysis relating to the valet parking processing rate shall be revised to determine whether additional attendants will need to be added to the valet operation. The revised queuing analysis shall be submitted to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion, or Business Tax Receipt, whichever occurs first.
16. All parking and vehicle retrieval will be The revised queuing analysis shall be submitted to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion, or Business Tax Receipt, whichever occurs first, by valet attendants only; self-parking will not be permitted (except in off-property parking garages elsewhere). Valet attendants will drive the vehicles to and retrieve the vehicles from either:
- (A) the present on-site garage with its 104 parking spaces, or

- (B) the City garage located on the south side of 16th Street immediately west of Collins Avenue

Applicant shall not in any manner directly or indirectly participate in the storage or parking of vehicles for non-hotel guests or invitees or entities in either of the above two facilities.

17. Directional signs shall be posted at the entrance to the hotel and exit to Collins Avenue. Such signs shall be submitted to the Planning Department and Public Works Department for review and approval and shall be indicated on the Plans submitted to the Building Department for final permit.
18. The following conditions of approval by the Historic Preservation Board for File No. 7245 are hereby incorporated as part of the Planning Board conditions of approval:
 - (A) The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced. Owner agrees to include the rules and regulations set forth in these conditions in any contract or assignment.
 - (B) The applicant shall install a distributive sound system for providing ambient music in all open areas, as well as in facilities, such as the proposed restaurant on the first level, which are open to the outside. The controls for the distributive sound system shall be adjusted by a sound engineer professional to limit the amplitude of music and adjust the sound system so that it will comply with all applicable noise ordinances. Other than the sound engineer professional, only the Hotel Manager may have access to the controls which shall be locked.
 - (C) All DJ or live music associated with "customary" accessory uses not for the general public in the outside areas, on and around the pool deck on the first level, such as the restaurant on the first level which facilities are open to the outside, shall be prohibited except from 11:30 am to 11:00 pm, Sunday through Thursday, and from 11:30 a.m. to midnight, Friday and Saturday. No other live music or DJ shall occur in these areas except according to a special event permit. Any DJ shall use the approved distributed sound system only. Outdoor customary hotel events with live music shall also use the hotel's approved distributed sound system only.
 - (D) Live music is prohibited on the second level pool deck, except in accordance with a valid Special Event Permit.
 - (E) Should the applicant materially increase the outside pool deck areas greater than as proposed in the application, that change must be presented and approved by the HPB in a subsequent application, and not by staff review, unless such change is approved in writing by 1500 Ocean Drive.
 - (F) The applicant will establish rules that prohibit guests from bringing electronic amplification devices on the decks and balconies that may disturb the residents of 1500 Collins Avenue.
 - (G) The rooftops of the lanai building shall not be used as habitable areas.
 - (H) Owner agrees to install an exhaust system, if required by code, for the kitchen that will substantially reduce grease and smoke that would otherwise escape to the

surrounding area. This may include the installation of a fan in connection with the kitchen exhaust system within the interior of the building in order to reduce noise levels at the exhaust outlet.

19. Hotel security personnel and other hotel staff shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
20. The Applicant will provide supervisory training to senior staff personnel to ensure that at all times there are trained staff members on site to monitor and control guest behavior in the outdoor areas, in particular open spaces at Jimmy's and pool deck areas. Senior staff will ensure that all conditions stipulated in the Conditional Use Permit are followed by hotel guests and invitees. In addition, the Applicant will purchase a two-way radio system so personnel can maintain contact with the general manager and/or the senior manager on duty. Additionally, security cameras will be utilized and off duty police or security personnel will be hired on an as needed basis.
21. If any outdoor venue has doors which open upon any indoor venue which is authorized by this Conditional Use Permit to remain open later than its connected outdoor venue, then, at and after the time specified in this Conditional Use Permit for that outdoor venue to close, the indoor venue must either (A) close those connecting doors, or (B) reduce the volume of the music to the level specified in the noise ordinance. Background ambient music will be turned off around the pool area:

Sunday through Thursday: 11:00 p.m.
 Friday and Saturday: Midnight
 Jimmy's Restaurant (three-meal restaurant): 2:00 a.m.
22. No outside sound systems shall be permitted; only house sound systems shall be used. At all times, each of the house sound systems shall be under the control only of the general manager, the manager on duty, or the hotel manager on duty. Following installation and testing, each sound system shall be locked and password-protected, so that its volume cannot be changed
 - (A) by any one other than one of those individuals, or
 - (B) to a volume which would violate the City's Noise Ordinance. Each sound system shall, in all respects, be installed, tested, and operated so that it complies with the specifications and requirements of the Noise Study prepared by The Audio Bug, Inc. and dated July 25, 2011 ("Sound Study"). The Audio Bug, Inc. will prepared an updated letter from its report addressing directional noise transfer issues that may exist in the direction of the 1500 Ocean property.
23. Special Events may exceed restrictions except for the noise ordinance and any other Ordinances, rules or regulations existing at the time, and shall be noticed by the applicant in advance of filing an application for special events, proof of which shall be filed with the application, to abutting residential condominium associations for suggestions and objections. If a Special Event Permit is issued, a specific condition of the event shall be that no live music or entertainment shall be permitted after 2:00 a.m. except for New Year's Eve and July 4th.

24. The installation plan for each proposed new sound system and for each proposed material modification of an existing 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. Speakers shall not be installed above ground (walls, etc.)
25. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
26. Deliveries and garbage and trash pickups shall be conducted
 - (A) from the private driveway which is located to the south of the property Shorecrest and to which applicant has access through agreements with the driveway's owners located to the south of the private driveway, and
 - (B) directly within the structures or private driveway and not on the street Collins Avenue; and
 - (C) be conducted, to the greatest extent possible, within the northern 15 feet of the shared driveway adjacent to the hotel's southern wall so as to minimize disruption of traffic within the shared driveway; and
 - (D) a clear and brightly-painted continuous yellow stripe, running in an east-west direction, shall be placed, maintained, and periodically repainted in a location approximately 15 feet south of the Royal Palm Hotel structure; and
 - (E) at the top of the ramp of the shared driveway, an arm gate, or two arm gates, one for each lane, but in either case, extending the entire width of the shared driveway, shall, within sixty days of the modification of the CUP, be installed in a sound and workmanlike manner, using materials and equipment which are generally recognized as appropriate for high-quality commercial or residential buildings. Thereafter, the arm gate(s) shall, promptly and in the same manner, be maintained, repaired, periodically serviced, and replaced (all or in part) as may reasonably be needed from time to time.

Trash/garbage containers shall have rubber wheels and be maintained in a clean and fully operable condition; Trash/garbage containers shall be kept in the trash room except during trash pick-up, after which the containers shall be promptly returned to the trash room. Deliveries and pickups shall be handled and managed by a dock master supervisor who shall be responsible for controlling traffic:

- (A) controlling hotel related deliveries and refuse pick up traffic in order to minimize disruption of traffic on Collins Avenue and in order to minimize interference with the business and resident traffic of the respective driveway's owners, and
- (B) enforcing the provisions of this condition relating to Deliveries and Pick-Ups.

A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room located on the south side of the south building; time of service for deliveries and best efforts used to have garbage and trash pickups shall be restricted to not before 9 A.M. and not after 6 P.M. On a 24-hour basis, applicant's management personnel shall regularly inspect the private driveway in order to determine whether it is

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being used for parking by any hotel guest, employee, or contractor, and shall promptly take appropriate action to remove any such vehicle.

27. All garbage and trash from hotel rooms, restaurants, bars, meeting rooms, and any other facilities or activities on or attributable to the property will be disposed of on a daily basis and will be consolidated in an air-conditioned trash/garbage holding room located on the south side of the south building. Applicant will enter into a contract with an appropriate waste removal operator, and at that time a more detailed sanitation plan shall be provided to Planning Department staff for review and approval, such plan to include a copy of the fully-signed contract with the waste removal operator.
28. All variances, as may be necessary for the entire project shall be applied for and obtained prior to applying for a building permit.
29. The applicant shall submit an MOT (Method of Transportation) 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.
30. In accordance with Chapter 122 of the Code of the City of Miami Beach, the Transportation and Concurrency Management Division shall conduct a final concurrency determination that will meet the City's concurrency requirements and level-of-service standards prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), by paying its fair share cost, as may be determined by the Concurrency Management Division. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.
31. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.
32. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the structure.
33. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load of the accessory uses proposed for the project should there be valid complaints about loud, excessive, unnecessary, or unusual late night noise, or amend other conditions or add new conditions. 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.
34. Applicant agrees to replace the garage exhaust fans and install new fans per building code requirements that are state of the art Quiet Technology within 60 days of the issuance of a Temporary Certificate of Occupancy for the new destination restaurant located in the Shorecrest hotel.
35. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.

MB

36. 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.
37. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County within a reasonable time after receipt at the expense of the applicant. 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.
38. 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.
39. 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 22nd day of MAY, 2017.

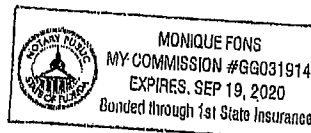
PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush
Michael Belush, AICP
Chief of Planning and Zoning
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 22nd day of MAY, 2017, by Michael Belush, AICP, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



Notary: [Signature]
Print Name: MONIQUE FONG
Notary Public, State of Florida
My Commission Expires: 9/19/20
Commission Number:

Approved As To Form:
Legal Department

[Signature] 5/22/17
F:\PLAN\PLB\2017\4-25-17\PB17-0108 - fka PB 2032 -1545 Collins Ave\PB 17-0108 fka 2032 - MCUP.doc

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 1 (Royal Palm Hotel site)

The South 12.65 feet (measured along the lot line) of Lots 7 and 14, all of Lots 6 and 15, and the North 10.0 feet (measured along the lot line) of Lots 5 and 16, all in Block 56, FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the Plat thereof, as recorded in Plat Book 2, Page 77, Public Records of Dade County, Florida, together with that certain parcel of land lying East and adjacent to the above described parcel, said parcel bounded on the South by the South line of the above described parcel extended Easterly, bounded on the North by the North line of the above described parcel extended Easterly, bounded on the East by the Erosion Control Line of the Atlantic Ocean, and bounded on the West by the East line of the above mentioned Block 56; said lands containing 0.9941 acres more or less.

Parcel 2 (Shorecrest Hotel site)

The South 40.00 feet (measured along the lot line) of Lots 5 and 16, and the North one-half of Lots 4 and 17, all in Block 56, FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the Plat thereof, as recorded in Plat Book 2, Page 77 of the Public Records of Dade County, Florida, together with that certain parcel of land lying East and adjacent to the above described parcel, said parcel bounded on the South by the South line of the above described parcel extended Easterly, bounded on the North by the North line of the above described parcel extended Easterly, bounded on the East by the Erosion Control Line of the Atlantic Ocean, and bounded on the West by the East line of the above mentioned Block 56; Said lands containing 0.8849 acres more or less.

All lands described above located, lying and being in Section 34 Township 53 South, Range 42 East, City of Miami Beach, Florida.

Parcel 3

Easement for the benefit of Parcels I and II as contained in that Garage Basement Agreement dated May 28, 1998, recorded July 1, 1998, in Official Records Book 18170, page 1082 of the Public Records of Dade County, Florida, over and across the following described lands:

Lots 8, 9, 10, 11, 12 and 13, Block 57, FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the plat thereof, recorded in Plat Book 2, page 77 of the Public Records of Dade County, Florida, together with that portion of 16th Street (Avenue "C") lying West of the West Right of way line of Collins Avenue, as shown on said Plat, LESS AND EXCEPT the following described parcel:

BEGINNING at the Southwest corner of Block 54 of said FISHER'S FIRST SUBDIVISION OF ALTON BEACH plat, thence N88°00'53"E, along the South line of said Block 54, a distance of 443.08 feet to the Southeast corner of said Block 54, thence S07°35'04"W, a distance of 96.26 feet to a point of cusp with a tangent curve concave to the Southwest, thence along the arc of said curve to the left, having a radius of 25.00 feet and a central angle of 90°00'00" an arc distance of 39.27 feet to a point of tangency; thence N82°24'52"W, a distance of 24.75 feet; thence

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S88°00'53"W, along a line 8.00 feet North of and parallel with, as measured at right angles to the North line of Block 57 of said plat, a distance of 382.18 feet to a point on the Easterly right of way line of Washington Avenue, thence N01°59'11"W along said Easterly right of way line, a distance of 62.00 feet to the Southwest corner of said Block 54 and the POINT OF BEGINNING. Said lands lying and being in the City of Miami Beach, Dade County, Florida.

Parcel 4

Easement for the benefit of Parcels I and II as contained in that Reciprocal Access, Use, Development and Easement Agreement dated October 21, 1997, recorded July 1, 1998, in Official Records Book 18170, page 1156 of the Public Records of Dade County, Florida, over and across the following described lands:

All of Lots 1, 2, 3, 18, 19, 20 and the South Half of Lots 4 and 17, all in Block 56 of FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the Plat thereof recorded in Plat Book 2, page 77 of the Public Records of Dade County, Florida.

AND

A parcel of land adjacent to and immediately East of the above described lands and more particularly described as follows:

BEGINNING at the Southeast corner of said Lot 1, Block 56, of FISHER'S FIRST SUBDIVISION OF ALTON BEACH, thence N7°35'20"E, along the Easterly line of said Block 56 for a distance of 177.47 feet to the Northeast corner of the South Half of said Lot 4, Block 56; thence N88°00'23"E along the Easterly extension of the North line of said South Half of Lot 4 for a distance of 195.26 feet to a point on a line known as the Erosion Control Line as recorded in Plat Book 105 at page 82 of the Public Records of Dade County, Florida; thence S3°26'45"W, along said Erosion Control Line also known as the Bulkhead line as described in Ordinance No. 856 Section 1 of the City of Miami Beach, recorded in Plat Book 74 at page 4 of the Public Records of Dade County, Florida for a distance of 175.78 feet; thence S88°00'21"W, along the Easterly extension of the South line of said Lot 1, Block 56 for 208.14 feet to the POINT OF BEGINNING, lying and being in the City of Miami Beach, Dade County, Florida.

MB

Henry S. Stolar
1500 Ocean Drive – Apt. 803
Miami Beach, FL 33139

Tel: 305-673-8172
Fax: 305-673-8501

E-Mail: henrystolar@bellsouth.net

February 12, 2018

Re: Royal Palm Hotel, 1545 Collins Avenue - File PB 17-108 (f/k/a File 2032)

By Hand – To Each of the Three Individuals Named Below

Planning Department
City of Miami Beach

Attn: Thomas R. Mooney
Michael A. Belush
Tui Munday ✓

Ladies and Gentlemen:

REQUEST FOR MODIFICATION OR REVOCATION OF
MODIFIED CONDITIONAL USE PERMIT

I request that the Planning Department begin, at the earliest possible time, the process of notices and meetings necessary for the Planning Board to consider and act upon a modification or revocation of the Modified Conditional Use Permit dated April 25, 2017 issued to the Royal Palm Hotel, 1545 Collins Avenue (respectively, the “MCUP”, and the “Hotel”).

The MCUP modified the first Conditional Use Permit issued to the Hotel, as approved unanimously by the Planning Board on September 20, 2011 (the “Original CUP”).

The two groups of reasons for this Request for Modification or Revocation are:

- (1) two determinations by the Special Master, within a one-year period, of violations by the Hotel of conditional use conditions—first a violation of the Original CUP, and then a violation of the MCUP; and
- (2) at least thirteen episodes of violations of the MCUP during a five-and-one-half month period, as I observed and reported them – reports attached.*

These two groups of reasons are described below. The events in them are presented chronologically, irrespective of into which of these two groups of reasons each event falls.

I ask that copies of this Request for Modification or Revocation be included in the usual packets of Agenda documents which will be distributed to Planning Board members in advance of the first meeting at which consideration will be given to this matter.

The Original CUP – September 20, 2011. The Original CUP recognized that the authorizations that it was granting would permit Hotel operations in the context of dense, intense, and concentrated residential and commercial uses and activities by other entities and individuals in the Hotel's immediate neighborhood. Some or all of those entities and individuals could suffer detrimental consequences resulting from the Hotel operations being authorized by the Original CUP.

That recognition is reflected in the Original CUP's: extensive and detailed regulation of numerous Hotel operations and activities—including music, sound systems, opening and closing hours, guest conduct, increases in the size of one of the pool decks, areas of the Hotel's property which are limited or prohibited for Hotel activities, the garage exhaust fans, and false fire alarms.

The Original CUP also recognized the competing, conflicting, and burdensome demands upon the shared east-west driveway located immediately south of the Hotel (the "Shared Driveway"). That recognition is reflected in Condition No. 26 of the Original CUP (the "Original Shared Driveway Condition" - page 7). It required that:

"...; [D]eliveries and pickups shall be handled and managed by a dock master supervisor who shall be responsible for controlling traffic...in order to minimize interference with the business and resident traffic of the respective driveway's owners." (emphasis supplied).

Violation of CUP – Special Master's First Finding of Violation – January 5, 2017. Violation by the Hotel of the Original Shared Driveway Condition resulted in the issuance to the Hotel, by Code Compliance on April 24, 2016, of Violation No. CE16004502. In relevant part, it described the violation as follows:

"Failure to operate your business in accordance with your conditional use permit...: [E]mpty dumpsters left outside of garbage room and no Dock Master Supervisor on site." (emphasis supplied).

On January 5, 2017, the Special Master "Ordered and Adjudged...That the violator is hereby adjudicated guilty of the violation." (Special Master Case No. SMC2016-00209).

Planning Department's Position at the April 25, 2017 Planning Board Meeting. In advance of the Planning Board's April 25, 2017 hearing on modification / revocation of the Original CUP, the Planning Department's Staff Report & Recommendation (the "Staff Report") clearly expressed staff disapproval of the Hotel's non-compliance:

"It appears that the shared driveway to the south of the property that provides access to the subject property's back of house area and two other properties'

garage entrances (1501 Collins Avenue and 1500 Ocean Drive) has been obstructed by the delivery and refuse collection operations of the hotel. Additionally, there seems to be intermittent sanitation issues with the operation of the garbage and refuse collection area.” (Staff Report, page 2).

After identifying violations of the City Code and violations of the Original CUP, the Staff Report continued as follows:

“In light of the inconsistencies with the above CUP conditions, as well as the absence of any documentation from the applicant advising of corrective actions or measures to ensure compliance with the CUP in the future, the Board should consider the issue of noncompliance and consider modifying the conditions of the CUP.” (Staff Report, page 3 – emphasis supplied).

“Additionally, the board should continue the progress report to a future date to monitor compliance with both the existing and any new conditions, including but not limited to requiring to see the contract for a security guard/dock master, as that is already a condition of the final order. It is further recommended that the Planning Board discuss a cap on the number of times the conditions of the CUP will be reviewed for enforcement without considering a revocation.” (Staff Report, page 4 – emphasis supplied).

Planning Board – April 25, 2017 Meeting – The MCUP. By reason of the Hotel’s violations as described above in the Staff Report, and by reason of testimony and other evidence presented at the April 25, 2017 meeting of the Planning Board, the Board approved the MCUP. It imposed far more extensive and detailed requirements upon the Hotel concerning the Shared Driveway (the “Modified Shared Driveway Condition” - Page 7 – Condition No. 26):¹

“Deliveries and garbage and trash pickups shall...(C) be conducted, to the greatest extent possible, within the northern 15 feet of the shared driveway adjacent to the hotel’s southern wall so as to minimize disruption of traffic within the shared driveway; and

“(D) [A] clear and brightly painted continuous yellow stripe, running in an east-west direction, shall be placed, maintained, and periodically repainted in a location approximately 15 feet south of the Royal Palm Hotel structure;...

“...Deliveries and pickups shall be handled and managed by a **dock master supervisor** who shall be responsible for ~~controlling traffic~~:

¹Underscoring and strike-throughs in these quotations appear in the MCUP itself, reflecting additions or deletions by the Planning Board to the provisions of the Original CUP. I have added the **boldfacing** for ease of subject-matter reference.

“(A) controlling hotel related deliveries and refuse pick up traffic in order to minimize disruption of traffic on Collins Avenue and in order to minimize interference with the business and resident traffic of the respective driveway’s owners, and

“(B) enforcing the provisions of this condition relating to Deliveries and Pick-Ups.”

The Hotel’s Subsequent Thirteen Episodes of Violations. At the April 25, 2017 hearing, the Hotel’s General Manager and the Hotel’s counsel pledged compliance with the MCUP. However, during a five-and-one-month period (August 28, 2017 – February 9, 2018), I observed and reported thirteen episodes of the Modified Shared Driveway Condition. Those reports are attached.*

Each of those thirteen reports was sent to the Hotel’s General Manager, with copies to: the Hotel’s two lawyers; the Planning Director and two senior Planning Department staff members; and the 1500 Ocean Drive Condominium Association’s representative in this matter. No reply was ever received from the Hotel (similar to Planning’s experience).

Each of the thirteen violation reports reflect the “core” violation of failure to require deliveries and pickups to be conducted in the 15-foot wide area immediately south of the Hotel. Then, each of those thirteen “core” violations is identified as being accompanied by a second, separate violation: either absence of a dock master supervisor, or dock master supervisor present but fails to act.

Accordingly, a total of 26 violations are identified in the attached reports, broken down as follows:

- (1) thirteen violations - failure to require deliveries and pickups to be conducted in the 15-foot wide area immediately south of the Hotel;
- (2) seven violations – absence of the dock master supervisor; and
- (3) six violations – dock master supervisor present, but fails to act.

Violation of MCUP – Special Master’s Second Finding of Violation – January 11, 2018. Violation by the Hotel of the Modified Shared Driveway Condition resulted in the issuance to the Hotel, by Code Compliance on July 18, 2017, of Violation No. ZV2017-01223. In relevant part, it described the violation as follows:

“Failure to operate your business in accordance with your conditional use permit. Ref: Condition #26(d) Paint a clear and brightly painted continuous yellow stripe running in an east-west direction in a location approximately 15 feet south of Royal Palm structure in the driveway shared with other adjoining properties.”

Almost exactly one year after the Special Master, on January 5, 2017, made a finding of violation of the Original Shared Driveway Condition, the Special Master, on January 11,

2018, made a second finding of violation—this time of the Modified Shared Driveway Condition’s requirement to place and maintain “a clear and brightly painted continuous yellow stripe”:

“...[T]he violations as cited by a Building Inspector...still exist...[T]above-named violator(s) have violated the above stated provisions of the Code of the City of Miami Beach.” (Special Master Case No. SMC2017-00629).²

Other Violations – E.g., Littering, Failure to Pay Littering Fine, Operating without a Business Tax Receipt. There are other violations by the Hotel which are not directly related to the violations of the Original Shared Driveway Condition or the Modified Shared Driveway Condition. But, in my view, the other violations, combined with the Shared Driveway violations, demonstrate a general attitude of defiance of legal requirements.

With a major corporate owner and a major corporate operator—both apparently with sufficient resources to comply with what are really quite modest applicable requirements—the Hotel’s defiance is, in my view, knowing, willful, and intentional.

I consider the following “other” violations—three littering violations; failure to pay or appeal a fine for the third of those littering violations; and failure to obtain a Business Tax Receipt—as compelling evidence of purposeful defiance on the part of the Hotel. Here is why:

On January 19, 2017—only two weeks after being adjudicated guilty by the Special Master of violating the Original Shared Driveway Condition by reason of having no dock master supervisor—the Hotel was again back before the Special Master for failure to obtain a Business Tax Receipt (Case No. SMC2016-00371). A BTR is the most basic and fundamental requirement for conducting any business in the City of Miami Beach. The underlying Code Compliance Notice of Violation was issued on December 8, 2016 (Violation No. CC2016-01611).

That failure by the Hotel to obtain a BTR was attributable, in turn, to the Hotel’s failure to pay a \$3,000 fine for its third trash violation (CE16001531 – February 5, 2016). The Finance Department will not issue a BTR to a business which owes money to the City.

At approximately the time of the January 19, 2017 hearing before the Special Master on the no-BTR violation, the Hotel finally paid its \$3,000 fine (plus \$276 in interest and penalties for its long-delayed payment); the BTR was then issued to the Hotel; and the Special Master dismissed the case based upon his finding of compliance with the BTR requirement.

²This Order also requires (1) a progress report to be given at the Special Master session to be held on March 1, 2018, and (2) the yellow stripe to be maintained.

At that point, the very large Hotel had operated for three and one-half months without the BTR which is required of every storefront pizza parlor, head shop, or tattoo parlor.

In my view, taking the record as a whole, the Hotel has a pattern or practice of selective non-compliance with applicable legal requirements.

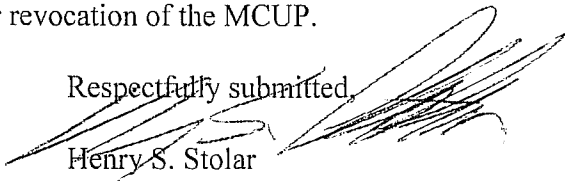
Reasons for the Modified Shared Driveway Condition. As part of this record, I believe it important to note the reason that the Planning Department and the Planning Board—both times unanimously—have consistently imposed detailed, but reasonable and practicable, conditions upon the Hotel's use of the Shared Driveway.

The east-west driveway is shared by three properties—the Hotel, the 1501 Ocean Steps commercial condominium, and the 1500 Ocean Drive residential condominium. That one driveway must serve all of the following five groups of competing needs:

- (1) truck and van deliveries and pickups for the Hotel itself, with its 390 guest rooms; several function rooms; two swimming pools which are often the sites of functions; its three restaurants: Florida Cookery; Byblos; and The Grove; its two bars: the Lobby Bar and the Pool Bar; and its currently closed club;
- (2) the personal cars for the comings and goings of the 112 Unit Owners in the 1500 Ocean Drive residential condominium, and all major truck and van deliveries and pickups for the condominium association;
- (3) the separate public underground parking garage at 1501 Collins Avenue;
- (4) Quality Meats, a large restaurant in the 1501 Ocean Steps commercial condominium; and
- (5) Tequila Chica's, a large restaurant in the 1501 Ocean Steps commercial condominium.

For the foregoing reasons, I request that the Planning Department begin, at the earliest possible time, the process of notices and meetings necessary for the Planning Board to consider and act upon a modification or revocation of the MCUP.

Respectfully submitted,


Henry S. Stolar

*Attachment (pages 7-15) – Thirteen Reports of Violations (references: pages 1 and 4 above)

cc (with Attachment): Kevin Fox, Vice President and Acting President
1500 Ocean Drive Condominium Association, Inc.

THIRTEEN REPORTS OF VIOLATIONS

AUGUST 28, 2017 – FEBRUARY 9, 2018 (IN REVERSE ORDER)

From: Henry Stolar [mailto:henrystolar@bellsouth.net]
Sent: Friday, February 09, 2018 5:01 PM
To: 'patrick.dougherty@royalpalmsouthbeach.com'
<patrick.dougherty@royalpalmsouthbeach.com>
Cc: 'kevin fox' <kevinfoxny@optonline.net>; 'Mooney, Thomas'
<ThomasMooney@miamibeachfl.gov>; 'Belush, Michael'
<MichaelBelush@miamibeachfl.gov>; 'Munday, Tui'
<TuiMunday@miamibeachfl.gov>; 'cmcdowell@bilzin.com' <cmcdowell@bilzin.com>;
'Carly Grimm' <cgrimm@bilzin.com>
Subject: RE: Royal Palm Hotel, 1545 Collins Avenue (the "Hotel") - Planning Board
File PB 17-0108 - Modified Conditional Use Permit dated April 25, 2017 (the "MCUP")

Dear Patrick,

This is my tenth, eleventh, twelfth, and thirteenth report to you of apparent violations of the MCUP by the Hotel—all within a period of just under 24 hours. The nine previous reports are attached below.

Here are the four new violation reports, some of which include, as did the previous nine violation reports, two violations within one report:

No. 1. Yesterday (Thursday, February 8), at approximately 4:30 PM, a Hotelier Linen truck serving the Hotel was squarely parked opposite the Hotel on the south side of the driveway.

As a second apparent violation, the MCUP-required dockmaster supervisor was nowhere to be seen.

No. 2. Today (Friday, February 9), at approximately 11:15 AM, a Crown Linen truck serving the Hotel was squarely parked opposite the Hotel on the south side of the driveway.

While the Crown Linen truck was there, the African-American male, who is presumably the dockmaster supervisor, walked east to west on the driveway, straight past the Crown Linen truck. He stopped at the westernmost of the cars parked diagonally against the Hotel. He opened the driver's door, and placed in the cup holder the cup that he had been carrying. That was the extent of his activity. His failure to perform the duties prescribed for him by the MCUP is a second apparent violation.

No. 3. Today (Friday, February 9), at approximately 12:50 PM, a UPS truck serving the Hotel was squarely parked on the north side of the driveway.

While the UPS truck was there, the African-American male, who is presumably the dockmaster supervisor, was simply standing on the south side of the driveway, facing north (toward the Hotel). That was the extent of his activity. His failure to perform the duties prescribed for him by the MCUP is a second apparent violation.

No. 4. Today (Friday, February 9), at approximately 2:40 PM, an Enterprise Rental truck serving the Hotel was partially parked on the north side of the driveway.

As a second apparent violation, the MCUP-required dockmaster supervisor was nowhere to be seen.

Sincerely,

Henry

Henry S. Stolar
1500 Ocean Drive - Apt. 803
Miami Beach, FL 33139

Tel: 305-673-8172
Fax: 305-673-8501
henrystolar@bellsouth.net
[signature block deleted from all emails below]

From: Henry Stolar [<mailto:henrystolar@bellsouth.net>]
Sent: Thursday, February 01, 2018 6:11 PM
To: 'patrick.dougherty@royalpalmsouthbeach.com'
<patrick.dougherty@royalpalmsouthbeach.com>
Cc: 'kevin fox' <kevinfoxny@optonline.net>; 'Mooney, Thomas'
<ThomasMooney@miamibeachfl.gov>; 'Belush, Michael'
<MichaelBelush@miamibeachfl.gov>; 'Munday, Tui'
<TuiMunday@miamibeachfl.gov>; 'cmcdowell@bilzin.com' <cmcdowell@bilzin.com>;
'Carly Grimm' <cgrimm@bilzin.com>
Subject: RE: Royal Palm Hotel, 1545 Collins Avenue (the "Hotel") - Planning Board
File PB 17-0108 - Modified Conditional Use Permit dated April 25, 2017 (the "MCUP")

Dear Patrick,

This is my ninth report to you of apparent violations of the MCUP. The eight previous reports appear below.

Today (Thursday, February 1, 2018), at approximately 11:15 AM, two trucks—Crown Linen and R+L Carriers—were serving the Hotel while squarely parked opposite the Hotel on the south side of the driveway.

As a separate violation, the MCUP-required dockmaster supervisor was nowhere to be seen.

Sincerely,

Henry

From: Henry Stolar [<mailto:henrystolar@bellsouth.net>]
Sent: Thursday, January 25, 2018 3:03 PM
To: 'patrick.dougherty@royalpalmsouthbeach.com'
<patrick.dougherty@royalpalmsouthbeach.com>
Cc: 'kevin fox' <kevinfoxny@optonline.net>; 'Mooney, Thomas'
<ThomasMooney@miamibeachfl.gov>; 'Belush, Michael'
<MichaelBelush@miamibeachfl.gov>; 'Munday, Tui'
<TuiMunday@miamibeachfl.gov>; 'cmcdowell@bilzin.com' <cmcdowell@bilzin.com>;
'Carly Grimm' <cgrimm@bilzin.com>
Subject: RE: Royal Palm Hotel, 1545 Collins Avenue (the "Hotel") - Planning Board
File PB 17-0108 - Modified Conditional Use Permit dated April 25, 2017 (the "MCUP")

Dear Patrick,

This is my eighth report to you on apparent violations of the MCUP. The seven previous reports appear below.

Yesterday (Wednesday, January 24), from approximately 10:40 AM until approximately 11:55 AM, a Crown Linen truck serving the Hotel was squarely parked opposite the Hotel on the south side of the driveway.

In some of my previous similar reports, I have stated that there was a second apparent violation at the same time—namely, the absence of the MCUP-required dockmaster supervisor. This time, though, he was very much in evidence—strolling around the driveway, looking at his cell phone, making no visible effort to speak with the Crown Linen driver, and standing, facing west, at the west end of the driveway, apparently enjoying the morning air and sunshine.

Sincerely,

Henry

From: Henry Stolar [<mailto:henrystolar@bellsouth.net>]
Sent: Thursday, December 07, 2017 11:49 PM
To: 'patrick.dougherty@royalpalmsouthbeach.com'
<patrick.dougherty@royalpalmsouthbeach.com>
Cc: 'kevin fox' <kevinfoxny@optonline.net>; 'Mooney, Thomas'
<ThomasMooney@miamibeachfl.gov>; 'Belush, Michael'
<MichaelBelush@miamibeachfl.gov>; 'Munday, Tui'
<TuiMunday@miamibeachfl.gov>; 'cmcdowell@bilzin.com' <cmcdowell@bilzin.com>;

'Carly Grimm' <cgrimm@bilzin.com>

Subject: RE: Royal Palm Hotel, 1545 Collins Avenue (the "Hotel") - Planning Board
File PB 17-0108 - Modified Conditional Use Permit dated April 25, 2017 (the "MCUP")

Dear Patrick,

This is my seventh report to you of apparent violations of the MCUP. The previous reports are attached.

At approximately 4:45 PM yesterday (December 6, 2017), an Estes Express truck was servicing the Hotel. It was located largely on the north side of our shared driveway, in apparent violation of the MCUP.

The dockmaster supervisor was nowhere to be seen, constituting another apparent violation of the MCUP.

Sincerely,

Henry

From: Henry Stolar [mailto:henrystolar@bellsouth.net]

Sent: Wednesday, November 22, 2017 4:53 PM

To: 'patrick.dougherty@royalpalmsouthbeach.com'
<patrick.dougherty@royalpalmsouthbeach.com>

Cc: 'kevin fox' <kevinfoxny@optonline.net>; 'Mooney, Thomas'
<ThomasMooney@miamibeachfl.gov>; 'Belush, Michael'
<MichaelBelush@miamibeachfl.gov>; 'Munday, Tui'
<TuiMunday@miamibeachfl.gov>; 'cmcdowell@bilzin.com' <cmcdowell@bilzin.com>;
'Carly Grimm' <cgrimm@bilzin.com>

Subject: RE: Royal Palm Hotel, 1545 Collins Avenue (the "Hotel") - Planning Board
File PB 17-0108 - Modified Conditional Use Permit dated April 25, 2017 (the "MCUP")

Dear Patrick,

This is my sixth report to you of apparent violations of the MCUP. The previous reports are attached.

At approximately 10:20 AM today (Wednesday, November 22, 2017), a U.S. Foods truck was servicing the Hotel. The truck was located squarely on the north side of the driveway, in apparent violation of the MCUP. The dockmaster supervisor was present, but I did not see him taking any action, which constitutes another apparent violation of the MCUP.

Separately, as you know, the MCUP also requires the following:

“a clear and brightly-painted continuous yellow stripe, running in an east-west direction, shall be placed, maintained, and periodically repainted in a location approximately 15 feet south of the Royal Palm Hotel structure;”
(MCUP – Page 7 – Condition No. 26(D)).

Almost seven months after the entry of the Order, some work on the yellow stripe was done earlier this week (on or about Monday, November 20). In my view, what has been done does not comply with the above provision of the MCUP. My observation is that the yellow stripe, in some sections, has already begun to disappear. Apparently, the paint was applied directly to the broken, crumbling pavement, without first repairing the pavement to which the yellow paint was applied.

It appears to me that, as vehicles drive over the stripe, the broken chunks of pavement move and, with them, the yellow paint which was applied to them also is dislocated.

Sincerely,

Henry

From: Henry Stolar [<mailto:henrystolar@bellsouth.net>]

Sent: Friday, November 03, 2017 6:39 PM

To: 'patrick.dougherty@royalpalmsouthbeach.com'
<patrick.dougherty@royalpalmsouthbeach.com>

Cc: 'kevin fox' <kevinfoxny@optonline.net>; 'Mooney, Thomas'

<ThomasMooney@miamibeachfl.gov>; 'Belush, Michael'

<MichaelBelush@miamibeachfl.gov>; 'Munday, Tui'

<TuiMunday@miamibeachfl.gov>; 'cmcdowell@bilzin.com' <cmcdowell@bilzin.com>;
'Carly Grimm' <cgrimm@bilzin.com>

Subject: RE: Royal Palm Hotel, 1545 Collins Avenue (the "Hotel") - Planning Board
File PB 17-0108 - Modified Conditional Use Permit dated April 25, 2017 (the "MCUP")

Dear Patrick,

This is my fifth report to you of apparent violations of the MCUP. The previous reports are attached.

At approximately 3:25 PM yesterday (Thursday, November 2, 2017), a truck bearing the name Wilson was servicing the Hotel. The truck was located squarely on the north side of the driveway, in apparent violation of the MCUP. The dockmaster supervisor was nowhere to be seen, constituting another apparent violation of the MCUP.

Sincerely,
Henry

From: Henry Stolar [<mailto:henrystolar@bellsouth.net>]
Sent: Sunday, October 22, 2017 2:02 PM
To: 'patrick.dougherty@royalpalmsouthbeach.com'
<patrick.dougherty@royalpalmsouthbeach.com>
Cc: 'kevin fox' <kevinfoxny@optonline.net>; 'Mooney, Thomas'
<ThomasMooney@miamibeachfl.gov>; 'Belush, Michael'
<MichaelBelush@miamibeachfl.gov>; 'Munday, Tui'
<TuiMunday@miamibeachfl.gov>; 'cmcdowell@bilzin.com' <cmcdowell@bilzin.com>;
'Carly Grimm' <cgrimm@bilzin.com>
Subject: RE: Royal Palm Hotel, 1545 Collins Avenue (the "Hotel") - Planning Board
File PB 17-0108 - Modified Conditional Use Permit dated April 25, 2017 (the "MCUP")

Dear Patrick,

At approximately 4:50 PM yesterday (Saturday, October 21, 2017), a Hotelier Linen Services truck was servicing the Hotel. The truck was located fully on the south side of the driveway, in apparent violation of the MCUP. The dockmaster supervisor was nowhere to be seen, constituting another apparent violation of the MCUP.

This is my fourth report to you of apparent violations within less than a two-month period. Attached are the three previous reports: August 28, 2017; September 6, 2017; and October 12, 2017 (two episodes).

I had hoped that these reports, by reason of my furnishing them to you on a timely basis, and by reason of what I have understood to be your testimony to the Planning Board expressing an intent to comply with the MCUP, might prompt you to take corrective compliance action and/or to say something (anything) to me by way of reply. Neither has happened.

Sincerely,

Henry

From: Henry Stolar [<mailto:henrystolar@bellsouth.net>]
Sent: Thursday, October 12, 2017 11:55 PM
To: 'patrick.dougherty@royalpalmsouthbeach.com'
<patrick.dougherty@royalpalmsouthbeach.com>
Cc: 'kevin fox' <kevinfoxny@optonline.net>; 'Mooney, Thomas'
<ThomasMooney@miamibeachfl.gov>; 'Belush, Michael'
<MichaelBelush@miamibeachfl.gov>; 'Munday, Tui'
<TuiMunday@miamibeachfl.gov>; 'cmcdowell@bilzin.com' <cmcdowell@bilzin.com>;
'Carly Grimm' <cgrimm@bilzin.com>
Subject: RE: Royal Palm Hotel, 1545 Collins Avenue (the "Hotel") - Planning Board
File PB 17-0108 - Modified Conditional Use Permit dated April 25, 2017 (the "MCUP")

Dear Patrick,

I recently returned to town after being away for almost a month. It appears to me that the Hotel continues to violate the MCUP. This is my third report to you, in a period of a little more than six weeks, of what strike me as clear violations. My first and second reports are attached below (August 28, 2017 and September 6, 2017).

At approximately 10:25 AM today (Thursday, October 12, 2017), two trucks—Crown Linen and Mr. Greens Produce—appeared to be servicing the Hotel. They were located fully on the south side of the driveway. The “dock master supervisor” required by the MCUP was nowhere to be seen.

Then, at approximately 2:45 PM today, an Ambius Interior Plants truck appeared to be servicing the Hotel. It was located fully on the south side of the driveway. And, again, the dock master supervisor was nowhere to be seen.

I'm sure you understood that you were free to reply to the two emails below, in case you believed that those reports were not factually accurate. But, to remove all ambiguity, I am happy to be explicit: Please tell me if I got anything wrong about those two previous episodes or about today's episodes. Please tell me anything else you wish pertinent to the subject matter of what appears to me to be the Hotel's pattern and practice of violating the MCUP.

Sincerely,

Henry

From: Henry Stolar [mailto:henrystolar@bellsouth.net]

Sent: Wednesday, September 06, 2017 12:01 AM

To: 'patrick.dougherty@royalpalmsouthbeach.com'

<patrick.dougherty@royalpalmsouthbeach.com>

Cc: 'kevin fox' <kevinfoxny@optonline.net>; 'Mooney, Thomas'

<ThomasMooney@miamibeachfl.gov>; 'Belush, Michael'

<MichaelBelush@miamibeachfl.gov>; 'Munday, Tui'

<TuiMunday@miamibeachfl.gov>; 'cmcdowell@bilzin.com' <cmcdowell@bilzin.com>;

'Carly Grimm' <cgrimm@bilzin.com>

Subject: RE: Royal Palm Hotel, 1545 Collins Avenue (the "Hotel") - Planning Board
File PB 17-0108 - Modified Conditional Use Permit dated April 25, 2017 (the "MCUP")

Dear Patrick,

In all sincerity, I wish you, your staff, and the Hotel generally the very best as you prepare for the hurricane.

For the same reason, I regret what I consider the unfortunate timing of this report. However, I believe it important (1) that you be kept informed in case you decide that you wish to take any action on the basis of this report, and (2) that the persons copied above be furnished with a contemporaneous report.

I write to advise you of what appears to me a second violation of the above MCUP, substantially the same as the first violation reported in my August 28, 2017 e-mail below. The persons copied above are the same as the ones copied on that previous e-mail.

At approximately 10:50 AM today (Tuesday, September 05, 2017), a First U.S. Linen and Laundry truck, which appeared to me to be servicing the Hotel, was located fully on the south side of the driveway. Clearly present on the driveway was the same Hotel "dock master supervisor".

Sincerely,

Henry

From: Henry Stolar [<mailto:henrystolar@bellsouth.net>]
Sent: Monday, August 28, 2017 11:58 PM
To: 'patrick.dougherty@royalpalmsouthbeach.com'
<patrick.dougherty@royalpalmsouthbeach.com>
Cc: 'kevin fox' <kevinfoxny@optonline.net>; 'Mooney, Thomas'
<ThomasMooney@miamibeachfl.gov>; 'Belush, Michael'
<MichaelBelush@miamibeachfl.gov>; 'Munday, Tui'
<TuiMunday@miamibeachfl.gov>; 'cmcdowell@bilzin.com' <cmcdowell@bilzin.com>;
'Carly Grimm' <cgrimm@bilzin.com>
Subject: Royal Palm Hotel, 1545 Collins Avenue (the "Hotel") - Planning Board File PB 17-0108 - Modified Conditional Use Permit dated April 25, 2017 (the "MCUP")

Dear Patrick,

I have been out of town for substantial periods of time this summer. Recently, we returned, following an absence of almost seven weeks.

One might have thought that, (1) after all the Hotel's costs and diversion of personnel from other duties which preceded the above MCUP, and (2) after a four-month period following the approval of the MCUP, one would see compliance with the strengthened provisions of the MCUP. If one thought that, one would be wrong.

At approximately 8:50 AM today (Monday, August 28, 2017), I was exiting 1500 Ocean Drive on foot, via our shared driveway. Located fully on the south side of the driveway was a truck serving the Hotel, bearing the following identification: Cintas Facility Services, 222433, US DOT 888671, Florida License DAU-K20.

For quite some time, an African-American gentleman has served as the Hotel's "dock master supervisor"—a position required by, and whose duties are described in, the MCUP. This morning, he was standing within easy visual distance of the Cintas truck. He was bent over his cell phone, which has been what I have observed him doing virtually every one of the many times that I have seen him.

I approached him; stated that the truck was not authorized to be on the south side of the driveway; and that it needed to be moved to the area against the Hotel's south wall (which was wide open). As with previous encounters with him, I found him rude, belligerent, and, most importantly, refusing to direct the Cintas truck driver to move his vehicle to the authorized area.

No useful purpose would be served by summarizing, much less quoting from, all the proceedings in this matter. Suffice it to say that never have I seen such self-defeating and costly corporate conduct—particularly where compliance with legal requirements is so easy. All that is necessary is to explain to this gentleman the pertinent parts of the MCUP, and that it is his duty under MCUP Condition No. 26(B), and as your employee or independent contractor, "to [enforce] the provisions of [Condition No. 26] relating to Deliveries and Pick-Ups."

So that all concerned will have a contemporaneous report of what I consider to be this morning's flagrant violation of the MCUP, I am sending copies of this e-mail to our Condominium Association's representative Board member; to the Planning Board staff members who have been involved in this matter; and to your lawyers.

Back in the world of my Midwestern roots, we had an expression: "You pays your money, and you takes your choice." I am at a complete loss to understand why the Hotel would pay its money to make what seems to me to be a clearly unwise choice.

I will continue to follow this matter from time to time, and will consider seeking such action by the City and others as may be appropriate.

Sincerely,

Henry