

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: November 27, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



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

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, 2017 The Board made modifications 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.

March 27, 2018 The Board discussed the progress report and continued the progress report to the May 22, 2018 meeting.

May 22, 2018 The Board discussed the progress report and set a revocation/modification hearing for July 24, 2018.

July 24, 2018

The Board discussed the progress report and continued the revocation/modification hearing to November 27, 2018.

STAFF ANALYSIS

As indicated previously, the shared driveway to the south of the subject 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 delivery and refuse collection operations for the various entities that share this driveway. 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 adjacent properties.

UPDATE

Since the July 24, 2018 progress report, staff research of City records found that there has been one code violation issued to a driver of a food delivery truck that was issued by the Parking Department on 09/25/2018. Staff could not find many details regarding the violation (PV2018-00315), except that it was appealed to the special master on 10/11/2018. As of the writing of this report, the one (1) violation from the past progress report for the failure to renew a business tax receipt (CC2018-05443) was closed.

Additionally, members of the 1500 Condominium Association, to the immediate south of the subject property, met with Planning Department staff to discuss draft modifications to the CUP conditions. These modifications, which were prepared by the 1500 Association, and are attached to this report, respond to the loading and delivery issues that have been the primary subject of discussion during the most recent progress reports.

Staff forwarded the draft CUP condition modifications prepared by the 1500 Association to the applicant for consideration, and to encourage dialogue with the neighbors. The applicant responded to staff indicating that they believed the current wording of the conditions in the CUP is sufficient and that they would not agree to any modifications.

As indicated previously, staff believes that the current CUP conditions are somewhat ambiguous and that additional clarity through modifications would be appropriate in this particular instance. In this regard, the revised conditions proposed by the 1500 Condominium Association do address the specificity of loading locations and on site operational management, and are clearer and less ambiguous than the existing conditions. Staff believes they are reasonable and would not present an unfair burden on the applicant.

At the request of the Planning Board, staff has prepared a site plan for reference purposes only, which illustrates the loading area between the subject properties.

STAFF RECOMMENDATION

Staff recommends that the Planning Board consider the issue of noncompliance and discuss potential modifications to the conditions of the draft CUP related to delivery, loading, and operations. Staff further recommends that the modified conditions prepared by the 1500 Association be considered, and are included in the draft final order.

TRM/MAB/TUI

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 November 27, 2018

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. 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,

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- 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:
- (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.
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

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- (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 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 between 9:00 AM and 6 PM only; and~~
- (D) within the 15-foot-wide strip, running east-west approximately 179 feet, and located between, on the north, the hotel's southern wall, and on the south, a clear and brightly-painted continuous yellow stripe, running in an east-west direction, which shall be placed, maintained, and periodically repainted in a location approximately 15 feet south of the Royal Palm ~~Shorecrest~~ Hotel structure; and
- (E) not within the shared driveway, which is located immediately to the south of the 15-foot strip;
27. Deliveries, garbage and trash pickups shall adhere to the following operational standards:
- (A) 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.

- (B) Parking in the 15-foot-wide strip, described in Condition 26 (D) above, shall be prohibited between 8:30 AM and 6:30 PM 365 days a year, except for vehicles actively engaged in delivery and pickup operations. Applicant shall not block or obstruct in any manner any part of the 15-foot-wide strip, except for vehicles actively engaged in delivery and pickup operations. Between 8:30 AM and 6:30 PM 365 days a year, applicant's management personnel shall regularly inspect the shared driveway and the 15-foot-wide strip, in order to determine whether (i) either or both of them are being used for parking by any hotel guest, employee, or contractor, or by any other person or entity whose vehicle is attributable to applicant's hotel, and (ii) whether there is any blockage or obstruction in the 15-foot-wide-strip. If either or both conditions exist, the applicant shall promptly take appropriate action to remove any such vehicle and/or to remove any such blockage or obstruction.
- (C) 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 continuously on duty between 8:30 AM and 6:30 PM 365 days a year, and who shall be continuously stationed at a location where the entire shared driveway and the 15-foot-wide-strip can be observed and immediately accessed. The dock master supervisor shall be responsible for:
- i. 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 shared driveway's respective owners, and
 - ii. enforcing the provisions of this conditions No. 26 and 27 relating to Deliveries and Pick-Ups.
- (D) 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, with its door completely closed except during trash and garbage pickups, after which the containers shall be promptly returned to the trash room, its door completely closed, and all trash, debris, and garbage shall be removed from the area in front of the door.
- (E) 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.~~

- (F) 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.
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 _____ day of _____, 2018.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
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 _____ day of _____, _____, 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:
Print Name:
Notary Public, State of Florida
My Commission Expires:
Commission Number:

Approved As To Form:

Legal Department ()

Filed with the Clerk of the Planning Board on _____ ()

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 Easement 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

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.