

PLANNING BOARD CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 1825 Collins Avenue – The Nautilus Hotel

FILE NO. PB1516-0022 FKA PB File No. 2227

IN RE: The applicant, Quadrum Miami Beach, LLC, requested a modification to a previously issued Conditional Use Permit, pursuant to Section 118, Article IV of the City Code. Specifically, the applicant requested a revision to increase the occupant content from previously approved 996 to 1098 persons, as per the Fire Marshal's calculation.

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

MEETING DATE: July 26, 2016

MODIFIED CONDITIONAL USE PERMIT

The applicant, Quadrum Miami Beach, LLC, requested a modification to a previously issued Conditional Use Permit 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 Multi-family, 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 Modified Conditional Use Permit as requested and set forth above be GRANTED, subject to the conditions below, which have been accepted by the applicants:

1. The Planning Board shall maintain jurisdiction of this Modified Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Modified Conditional Use Permit is issued to Quadrum Miami Beach, LLC, as owner of the Nautilus Hotel, for a Neighborhood Impact Establishment and for an Outdoor Entertainment Establishment consisting of a lobby lounge, restaurant, patio, and pool deck area. Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
3. The conditions of approval for this Modified 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.
6. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
 - a. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed 524 seat lobby lounge, restaurant, patio, and pool deck area with the criteria listed below:
 - i. The food and beverage areas of the hotel shall have a maximum occupant content of ~~996~~ 1098 persons or any lesser such occupant content as determined by the Fire Marshal.
 - ii. The lobby lounge may operate until 5:00 AM and all other areas shall not operate past 2:00 AM.

- iii. The outdoor areas associated with this venue shall not have music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation).
 - iv. The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system and have password protected security on all controls at all times. The equipment and installation plan for the sound system, including the location of all speakers and sound level controls shall be submitted for the review and approval of the Planning Department. 60 day after opening, the sound systems in the facility shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department for review.
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- b. Delivery trucks shall only be permitted to park in the driveway at the front of the building or within a freight loading zone designated by the City of Miami Beach. Delivery trucks shall not be permitted to block pedestrians on the sidewalk or vehicular traffic on Collins Avenue.
 - c. Delivery trucks shall not be allowed to idle in the driveway or within freight loading zones.
 - d. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - e. Trash collections may occur daily between 8:00 AM and 5:00 PM.
 - a. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
 - f. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
 - g. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
 - h. Garbage dumpster covers shall be closed at all times except when in active use.
 - i. Restaurant personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.

- j. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
 - k. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day
 - l. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - m. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.
- 7. If the proposed valet storage facility (237 20th Street) changes, the applicant shall submit a revised Traffic Study to the Transportation Division of Public Works for staff approval.
 - 8. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division, prior to obtaining a Certificate of Occupancy or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing. Without exception, all concurrency fees, mitigation fees and concurrency administrative costs shall be paid prior to the issuance of a Certificate of Occupancy or Business Tax Receipt.
 - 9. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Building Permit.
 - 10. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this entertainment establishment.
 - 11. 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.
 - 12. 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 should there be valid complaints about loud, excessive, unnecessary, or unusual noise. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.
 - 13. 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.

14. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
15. The executed Modified Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
16. The establishment and operation of this Modified Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any 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.

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 _____, 2016

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Michael Belush, Planning and Zoning
Manager
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Michael Belush, Planning and Zoning Manager 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 _____, 2016

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel "A":

Lots 3, 4, 11 and 12, Block 1 of FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the Plat thereof, as recorded in Plat Book 2, at Page 77, of the Public Records of Miami Dade County, Florida, excepting there from that part of said Lot 4 described as follows:

Begin at the Northeast of Lot 4, of Block 1 of FISHER'S FIRST SUB DIVISION OF ALTON BEACH, according to the Plat thereof, as recorded in Plat Book 2, at Page 77, of the Public Records of Miami-Dade County, Florida; thence run Southerly along the Easterly line of said Lot 4 a distance of 10.14 feet; thence Westerly parallel to the Northerly line of said Lot 4 a distance of 75 feet; thence Northerly parallel to the Easterly line of said Lot 4 a distance of 10.14 feet to a point on the Northerly line of said Lot 4, said point being 75 feet Westerly from the Point of Beginning; thence Easterly along the Northerly line of said Lot 4 a distance of 75 feet to the Point of Beginning.

TOGETHER WITH Parcel "B":

A portion of the 30 foot wide right-of-way as shown on said FISHER'S FIRST SUB DIVISION OF ALTON BEACH, according to the plat thereof, as recorded in Plat Book 2 at Page 77 of said Public Records of Miami Dade County, Florida, said 30 foot right-of-way vacated referred in O.R.B. 22398, at Page 1784 of said Public Records, said right-of-way adjoins the East line of said Lots 3 and 4 and bounded on the North by the Easterly extension of the Eastern most North line of said Parcel I as described above and produced Easterly and bounded on the South by the Easterly extension of the South line of said Lot 3.

TOGETHER WITH Parcel "C":

A Parcel of land which adjoins the East line of said 30 foot wide vacated right-of-way referred in O.R.B. 22398, at Page 1784 of said Public Records and bounded on the North by the Easterly extension of the Eastern most North line of said Parcel I as described above and bounded on the South by the Easterly extension of the South line of said Lot 3 and bounded on the East by the Erosion Control Line as recorded in Plat Book 105 at Page 62 of said Public Records of Miami Dade County, Florida.

ALL OF THE ABOVE being more particularly described as follows:

Begin at the Northwest corner of said Lot 11, said point lying on the Easterly right-of-way line of Collins Avenue, also known as State Road A-1-A; thence North 88°04'53" East along the North line of said Lots 11 and 4 for 325.00 feet to a point on said North line of Lot 4 being 75.00 feet Westerly from the Northeast corner of said Lot 4, as measured along said North line; thence South 07°34'45" West along a line parallel with the Easterly line of said Lot 4 for 10.14 feet; thence North 88°04'53" East along a line parallel with the Northerly line of said Lot 4 and the Easterly extension thereof for 324.48 feet to a point on the Erosion Control Line as recorded in Plat Book 105, Page 62 of said Public Records of Miami-Dade County, Florida; thence South 09°22'27" West along said Erosion Control Line for 91.61 feet; thence South 88°04'53" West along the South line of said lots 3 and 12 and the Easterly extension thereof for 646.57 feet to a point on said Easterly right-of-way line of Collins Avenue, also known as State Road A-1-A; thence North 07°34'45" East along said Easterly right-of-way line for 101.23 feet to the Point of Beginning.