



# MIAMI BEACH

## PLANNING DEPARTMENT Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: May 24, 2011

FROM: Richard G. Lorber, AICP, LEED AP *RGL*  
Acting Planning Director

SUBJECT: File No.1840 - 2301 Collins Avenue (a/k/a 2377 Collins Avenue) -  
Gansevoort

The applicant, Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC, and related entities, was granted approval of a Modified Conditional Use Permit at the December 14, 2010 Board meeting. The applicant has recently been issued a number of complaints, and violations. As a result, at the April 26 meeting the Board directed staff to send a cure letter, which was mailed on May 4, 2011 to the Gansevoort counsels, as well as, counsels for the Roney Palace and the Riviera condominiums. The cure letter asked the Gansevoort to appear for a Progress Report at the May 24 meeting, at which time the Board may consider setting a Modification/Revocation hearing. Please see the cure letter with enclosures, including the Modified CUP, attached.

From February 1 to May 12, 2011, the Gansevoort was issued 10 invalid and 3 valid violations for loud noise; and 3 written warnings (two for unloading special event materials before their load-in date and one for noise) and 2 offenses (for noise with fines of \$1000 each) for violation of their Special Event Permit. There are no Special Master hearings pending at this time. Please see attached an updated Noise Complaints/Violations Report, as well as, a Special Event Violations report, from February 8, the last date for which the Board received a report, to May 12, 2011.

The Gansevoort counsels provided the Acting Planning Director the second and most recent quarterly sound system report prepared by The Audio Bug on April 18, 2011 (see attached). The report concludes that tests conducted show that the Gansevoort is in compliance with conditions of the Modified CUP and with the City's Noise Ordinance.

### STAFF RECOMMENDATIONS

Staff recommends that the applicant come back for a progress report in 60 days (July 26, 2011 meeting).

RGL/KMH

c: Gary M. Held, First Assistant City Attorney

attachments



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

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

May 4, 2010

7002 2410 0003 5176 6376

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Lucia Dougherty, Esq.  
Greenberg Traurig, P.A.  
1221 Brickell Avenue  
Miami, FL 33131

And

Alfredo J. Gonzalez, Esq.  
Greenberg Traurig, P.A.  
1221 Brickell Avenue  
Miami, FL 33131

Re: File No. 1840 – Gansevoort - Conditional Use Permit for a Neighborhood Impact Establishment

Dear Sir and Madam:

The Conditional Use Permit referenced above was issued to Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC. This Department has been advised of a written warning dated March 24 2011; two violations dated March 25, 2011 and March 27, 2011, all issued for loud noise; and several invalid complaints about loud noise since February 1, 2011 (see attached). Because of these noise violations, the Conditional Use Permit is in violation of the following condition of approval:

6. Live music outdoors shall be prohibited. This condition is applicable to the entirety of Applicant's property, as set forth in Item 3 of its Application dated July 17, 2007. Music played outdoors shall be background music only, played at a level that does not interfere with normal conversation. The additional conditions for sound applicable to the Rooftop Operation, as set forth in this Conditional Use Permit, are incorporated into this condition as well. Non-compliance with this condition shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code.

Therefore, as provided for in the following conditions of approval, we are requesting that you appear at the May 24, 2011 Planning Board hearing for a verbal progress report and the possible scheduling of a Modification/Revocation hearing as determined by the Board at that meeting.

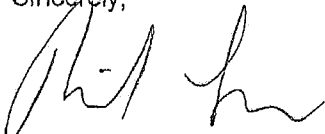
20. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation should there be complaints about loud, excessive, unnecessary, or unusual late night noise.
21. A violation of Section 46-152, Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended and as these sections may in the future be renumbered, 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.
24. Non-compliance with any of the conditions specified herein shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code, including but not limited to revocation of this Permit.

Please be advised that In accordance with the provisions of the City Code, Section 118-194(3), if the board elects to set a public hearing, the planning director shall place the matter on the board's agenda in a timely manner and all notice requirements imposed for conditional use applications shall be applicable. Should the Planning Board consider setting a public hearing for the purpose of examining the noncompliance issues and initiate revocation / modification proceedings, this issue may be placed at the next available meeting of the Board. At the public hearing, the board may consider the issue of noncompliance and the possible revocation or modification of the approval, and, based on substantial competent evidence, the board may revoke the approval, modify the conditions thereof, or impose additional or supplemental conditions.

Attached for your information are a copy of the complaints/violations table, and a copy of the recorded modified Conditional Use Permit.

If you have any questions, please do not hesitate to contact me at (305) 673-7550.

Sincerely,



Richard G. Lorber, AICP  
Acting Planning Director

RGLKMH

c: Gary Held, First Assistant City Attorney

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# MIAMI BEACH

## PLANNING DEPARTMENT Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: June 28, 2011

FROM: Richard G. Lorber, AICP, LEED AP  
Acting Planning Director

SUBJECT: File No.1840 - 2301 Collins Avenue (a/k/a 2377 Collins Avenue) -  
Gansevoort

The applicant, Sandy Lane Residential LLC, Sandy Lane Retail LLC, and Sandy Lane Beach Front LLC, and related entities, was granted approval of a Modified Conditional Use Permit at the December 14, 2010 Board meeting. From February 1 to May 12, 2011 the applicant was issued a number of complaints, and violations, valid and invalid, for loud noise and for violation of their Special Event Permit. As a result, at the April 26 meeting the Board directed staff to send a cure letter, which was mailed on May 4, 2011 to the Gansevoort counsels, as well as, counsels for the Roney Palace and the Riviera condominiums. The Gansevoort appeared before the Board at the May 24 meeting and was directed to come back for a Progress Report at the June 28 meeting and for a possible scheduling of a modification hearing at the July 26 meeting.

The Gansevoort counsels provided the Acting Planning Director the second and most recent quarterly sound system report prepared by The Audio Bug on April 18, 2011. The report concluded that tests showed that the Gansevoort is in compliance with conditions of the Modified CUP and with the City's Noise Ordinance.

Staff research found no noise violations - valid or invalid - since the last report provided to the Board at the May 24 meeting (attached); and there are no Special Master hearings for noise violations pending at this time. A copy of the Modified Conditional Use Permit is also attached.

### **STAFF RECOMMENDATIONS**

Staff recommends that the applicant come back in 30 days (July 26, 2011 meeting) if the Board deems it necessary.

RGL/KMH

c: Gary M. Held, First Assistant City Attorney

attachments



# MIAMIBEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: September 20, 2011

FROM: Richard G. Lorber, AICP, LEED AP  
Acting Planning Director

SUBJECT: File No.1840 - 2301 Collins Avenue (a/k/a 2377 Collins Avenue) -  
Gansevoort

The applicant, Sandy Lane Residential LLC, Sandy Lane Retail LLC, and Sandy Lane Beach Front LLC, and related entities, was granted approval of a Modified Conditional Use Permit at the December 14, 2010 Board meeting. From February 1 to May 12, 2011 the applicant was issued a number of complaints, and violations, valid and invalid, for loud noise and for violation of their Special Event Permit. As a result, at the April 26 meeting the Board directed staff to send a cure letter, which was mailed on May 4, 2011 to the Gansevoort counsels, as well as, counsels for the Roney Palace and the Riviera condominiums. The Gansevoort appeared before the Board at the May 24 meeting and was directed to come back for a Progress Report at the June 28 meeting and for a possible scheduling of a modification hearing at the July 26 meeting. At the June 28 meeting the Board canceled the modification hearing and voted to bring the applicant back for a Progress Report in 90 days (September meeting)

As per Condition 16c (ii), the Gansevoort counsels provided the Acting Planning Director the first and second quarterly sound system report prepared by The Audio Bug. The reports concluded that tests showed that the Gansevoort is in compliance with conditions of the Modified CUP and with the City's Noise Ordinance. The third quarterly report has been canceled several times because of weather conditions on the night of the testing with the last cancelation occurring last Friday. Audio Bug is working on rescheduling with all the parties.

As per Condition 18b of the MCUP, the applicant installed the awning, as well as the trash compactor, for the loading bay on 24<sup>th</sup> Street. The applicant obtained a variance from the Board of Adjustment on August 5, 2011 to install an 8 foot retractable gate fully enclosing the loading bay. The installation of the gate is expected to be completed by Wednesday.

Condition 18d requires the applicant to submit to staff a loading and delivery distribution plan for the loading docks on 23<sup>rd</sup> and 24<sup>th</sup> Streets within 120 days of the Order's rendition. This plan is close to completion and will be distributed to the neighbors and staff.

Condition 22 requires the applicant to submit to staff and neighbors a traffic circulation analysis within 120 days of the Order's rendition. As of this writing, staff has not received that plan.

Staff research found two invalid noise complaints since the last report provided to the Board at the June 28 meeting (see attached). There are no Special Master or Special Event hearings for noise violations pending at this time. A copy of the Modified Conditional Use Permit is attached.

**STAFF RECOMMENDATION**

Staff recommends that the applicant come back in 60 days (November 15, 2011 meeting) for a Progress Report or at the discretion of the Board.

RGL/KMH

c: Gary M. Held, First Assistant City Attorney

attachments

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# MIAMIBEACH

## PLANNING DEPARTMENT Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: November 15, 2011

FROM: Richard G. Lorber, AICP, LEED AP  
Acting Planning Director

SUBJECT: **File No.1840 - 2301 Collins Avenue (a/k/a 2377 Collins Avenue) -  
Gansevoort Hotel**

At the September 20 meeting the Board directed the applicant to provide 3 documents to staff, as per the following Conditions in the MCUP to be included with the November Board packages.

- Condition 16c (ii), requires the applicant to submit quarterly sound system reports prepared by The Audio Bug to staff.
- Condition 18d requires the applicant to submit to staff a loading and delivery distribution plan for the loading docks on 23<sup>rd</sup> and 24<sup>th</sup> Streets.
- Condition 22 requires the applicant to submit to staff and neighbors a traffic circulation analysis.

As of this writing, staff has not received any of these documents. Counsels for the applicant have advised staff that the sound consultant has not been able to conduct sound testing yet due to rainy and windy weather. The other two documents have been provided to the counsels for the Roney Palace and the Riviera Condominiums for their comments. Those comments have not been finalized yet. Gansevoort counsels will be at the November 15 Board meeting to give an update.

It should be noted that no noise violations or complaints were found in the records since the last report provided to the Board at the September 20 meeting. A copy of the Modified Conditional Use Permit is attached.

### **STAFF RECOMMENDATION**

Staff recommends that the applicant come back in 60 days (January 24, 2012 meeting), or at the discretion of the Board, to allow more time for the applicant to submit the aforementioned documents to staff and the Board.

RGL/KMH

c: Gary M. Held, First Assistant City Attorney

attachments



# MIAMI BEACH

## PLANNING DEPARTMENT Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: January 24, 2012

FROM: Richard G. Lorber, AICP, LEED AP  
Acting Planning Director

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SUBJECT: **File No.1840 - 2301 Collins Avenue (a/k/a 2377 Collins Avenue) -  
Gansevoort Hotel**

At the November 15, 2011 meeting the Board directed the applicant to submit to staff the final loading and delivery distribution plan and traffic circulation analysis in time to be included in the Board packages for the January 24, 2012 meeting as per the following conditions in the MCUP (see attached):

- Condition 18d requires the applicant to submit to staff a loading and delivery distribution plan for the loading docks on 23<sup>rd</sup> and 24<sup>th</sup> Streets.
- Condition 22 requires the applicant to submit to staff and neighbors a traffic circulation analysis.

The legal counsel for the Gansevoort has submitted the above noted documents to staff, as well as to the legal counsels for the Roney and the Rivera Condominiums (see attached). They have been reviewed and commented on by respective counsels and it appears that there are still some issues of concern. Nevertheless, since the Gansevoort is still in the process of implementing traffic control measures, the Gansevoort counsel has suggested that they be given 90 days after the opening of the 24<sup>th</sup> Street loading docks, which is anticipated sometime in February, to have an opportunity to evaluate how the plan works and to collaborate with the Roney and the Riviera to try to reduce any negative impacts from delivery, pickup and loading. The attorney for the Roney has agreed to this suggestion via email. The attorney for the Riviera has provided staff with his position also via email (see attached).

It should be noted that no noise violations or complaints were found in the records since the last report provided to the Board at the November 15 meeting.

### **STAFF RECOMMENDATION**

Staff recommends that the applicant come back to the Board at the May 22, 2012 meeting, or at the discretion of the Board, to allow more time for the traffic control plan to be implemented.

RGL/KMH

c: Gary M. Held, First Assistant City Attorney

attachments





# MIAMIBEACH

## PLANNING DEPARTMENT Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: April 24, 2012

FROM: Richard G. Lorber, AICP, LEED AP  
Acting Planning Director

SUBJECT: **File No.1840 – 2301 & 2377 Collins Avenue – The Perry South Beach (f.k.a. Gansevoort)**

The applicant, 2377 Collins Resort, L.P., a Delaware limited partnership, is requesting a modification to a Modified Conditional Use Permit pursuant to Section 142-1362 of the Land Development Regulations of the City Code, to introduce new property owners and operators of the property as required by Condition 3 of the Modified Conditional Use Permit.

### BACKGROUND

Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC, owners of the Gansevoort Hotel, last appeared before the Board for a Progress Report at the January 24, 2012 Board meeting relative to the following conditions in their CUP:

- Condition 18d requires the applicant to submit to staff a loading and delivery distribution plan for the loading docks on 23<sup>rd</sup> and 24<sup>th</sup> Streets.
- Condition 22 requires the applicant to submit to staff and neighbors a traffic circulation analysis.

Their legal counsels submitted the above noted documents to staff, as well as to legal counsels for the Roney and the Rivera Condominiums. They were also provided to the Board. They were reviewed and commented on by the respective counsels; however, there were still some issues of concern. Since the Gansevoort was still in the process of implementing traffic control measures, the Gansevoort counsels suggested that they be given 90 days after the opening of the 24<sup>th</sup> Street loading docks, which was anticipated sometime in February, to have an opportunity to evaluate how the plan works and to collaborate with the Roney and the Riviera to try to reduce any negative impacts from delivery, pickup and loading. The Board agreed and voted to bring the applicant back for a progress report at the May 22 meeting.

Subsequently, the property exchanged hands. The new owners' representative intends to give the progress report at the April meeting along with the request to change the name of the owners and operators in the CUP.

Staff research found no recent noise violations or valid complaints since the last progress report at the January meeting.

The applicant has read, understands, and agrees with all the conditions enumerated in the Conditional Use Permit last modified by the Board on December 14, 2010 (attached).

**STAFF RECOMMENDATION**

Staff recommends approval of the request subject to the same conditions in the existing Modified Conditional Use Permit, except condition 3, which would read as follows, ~~striketrough~~ denotes previous language and underlining denotes new language:

This Conditional Use Permit is issued to ~~Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC, and affiliates~~ 2377 Collins Resort, L.P. Any change of control shall require review by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board, within ~~90 days of the change of ownership or operator, to affirm their understanding of the conditions~~ listed herein.

RGL/KMH

c: Gary M. Held, First Assistant City Attorney

attachments

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# MIAMI BEACH

## PLANNING DEPARTMENT Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: August 28, 2012

FROM: Richard G. Lorber, AICP, LEED AP  
Acting Planning Director

SUBJECT: **File No.1840 – 2301 & 2377 Collins Avenue – The Perry South Beach (f.k.a. Gansevoort)**

The applicant, 2377 Collins Resort, L.P., a Delaware limited partnership, is back before the Board for a progress report and an update on the comprehensive restoration work the property is currently undergoing.

### BACKGROUND

The applicant gave a progress report at the April 24 meeting, as well as, made a request to change the name of the owners and operators in the CUP. The Board approved the change and directed the applicant to come back to the August 28 meeting for an update on the traffic circulation, delivery/loading plan, and quarterly sound report as per Conditions 16 c. (ii), 17 d., and 22 in the Modified Conditional Use Permit (attached) as follows.

- 16 c. (ii). The Audio Bug, Inc. or other sound engineer acceptable to City Staff, commencing on January 15, 2011 and quarterly thereafter shall provide to the Planning Director, Riviera Condominium Association and Roney Condominium Association a copy of a report that confirms that the sound system is in compliance with all the noise studies in 16 c. (i) in this Conditional Use Permit. The report shall also confirm that, based upon a recent inspection, the sound system has not been altered in any manner that would permit the sound system to operate at sound levels that violate the City's Noise Ordinance.
- 17 d. Regarding the loading of trucks and vehicles at the loading docks on the 23<sup>rd</sup> and 24<sup>th</sup> Streets, the Applicant shall propose a plan for the distribution to the Planning Director, the Roney and the Riviera for their approval within 120 days of rendition of this approval. In the event an agreement is not reached between the Roney, Riviera, Planning Director and Applicant the Planning Director shall bring the issue and proposed plan before the Planning Board for review and approval. The Applicant shall notify each of its tenants and operators that all vendors shall only be allowed to unload at the designated loading docks with a copy of such notice submitted to the Planning Director for the file. The plan shall be incorporated by reference into and enforced as part of this Modified Conditional Use Permit.
22. The Applicant shall prepare and submit to the Planning Department staff, the Riviera and the Roney a traffic circulation analysis prepared by a traffic engineer within 120 days from the rendition of the order. If the traffic engineer

deems it necessary he may supply a revised traffic circulation plan. The Roney and Riviera may also submit a traffic circulation analysis for consideration by the Planning Director. Any traffic improvements recommended by the analysis shall be implemented after approval by the Planning Director, Roney, Riviera and Applicant. Such agreement on such improvements shall be incorporated by reference and enforced as part of this Modified Conditional Use Permit. If an agreement is not reached between the Director, Applicant, Riviera and Roney, the Director shall bring the analysis and/or plan issue before the Planning Board to make a determination.

The applicant submitted the sound report to staff which verifies that the sound system continues to operate as intended and in conformance with the MCUP, the City's Noise Ordinance, and the sound system specifications submitted as the standard for this property. The applicant also submitted a letter describing the restoration work, with drawings showing details including temporary closures of the loading dock and 24<sup>th</sup> Street, which is projected to be completed in approximately 10 months. Since the work will affect the loading dock and part of 24th Street and sidewalk the applicant won't be able to generate a meaningful update on the traffic circulation and delivery/loading plan until construction is completed. This update has also been provided to the legal counsels for the Riviera and the Roney condominiums.

As of this writing, staff research has found no outstanding noise violations or complaints since the last progress report at the April meeting.

#### **STAFF RECOMMENDATION**

Based on the applicant's update, staff recommends that the applicant continue to submit quarterly sound reports to staff and come back to the Board when it is able to produce and submit to staff a traffic circulation and delivery/loading plan contingent upon the completion of the renovation work. Should complaints or violations be issued in the interim, staff would request their appearance before the Board as needed.

RGL/KMH

c: Gary M. Held, First Assistant City Attorney

attachments



# MIAMI BEACH

## PLANNING DEPARTMENT Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: November 28, 2012

FROM: Richard G. Lorber, AICP, LEED AP  
Acting Planning Director

SUBJECT: **File No.1840 – 2301 & 2377 Collins Avenue – The Perry South Beach (f.k.a. Gansevoort)**

The applicant, 2377 Collins Resort, L.P., a Delaware limited partnership, is back before the Board for a progress report and an update on the comprehensive restoration work the property is currently undergoing.

### BACKGROUND

- April 24, 2012 - The applicant provided a progress report and submitted a request to change the name of the owners and operators in the CUP. The Board approved the change in name and directed the applicant to come back to the Board at the August 28 meeting for an update on the traffic circulation, delivery/loading plan, and quarterly sound report as per Conditions 16 c. (ii), 17 d., and 22 in the Modified Conditional Use Permit (attached) as follows:

16c. (ii). The Audio Bug, Inc. or other sound engineer acceptable to City Staff, commencing on January 15, 2011 and quarterly thereafter shall provide to the Planning Director, Riviera Condominium Association and Roney Condominium Association a copy of a report that confirms that the sound system is in compliance with all the noise studies in 16 c. (i) in this Conditional Use Permit. The report shall also confirm that, based upon a recent inspection, the sound system has not been altered in any manner that would permit the sound system to operate at sound levels that violate the City's Noise Ordinance.

17d. Regarding the loading of trucks and vehicles at the loading docks on the 23<sup>rd</sup> and 24<sup>th</sup> Streets, the Applicant shall propose a plan for the distribution to the Planning Director, the Roney and the Riviera for their approval within 120 days of rendition of this approval. In the event an agreement is not reached between the Roney, Riviera, Planning Director and Applicant the Planning Director shall bring the issue and proposed plan before the Planning Board for review and approval. The Applicant shall notify each of its tenants and operators that all vendors shall only be allowed to unload at the designated loading docks with a copy of such notice submitted to the Planning Director for the file. The plan shall be incorporated by reference into and enforced as part of this Modified Conditional Use Permit.

22. The Applicant shall prepare and submit to the Planning Department staff, the Riviera and the Roney a traffic circulation analysis prepared by a traffic engineer within 120 days from the rendition of the order. If the traffic engineer deems it necessary he may supply a revised traffic circulation plan. The Roney and Riviera may also submit a traffic circulation analysis for consideration by the

Planning Director. Any traffic improvements recommended by the analysis shall be implemented after approval by the Planning Director, Roney, Riviera and Applicant. Such agreement on such improvements shall be incorporated by reference and enforced as part of this Modified Conditional Use Permit. If an agreement is not reached between the Director, Applicant, Riviera and Roney, the Director shall bring the analysis and/or plan issue before the Planning Board to make a determination.

- August 28, 2012 - The applicant submitted the sound report to staff, which verifies that the sound system continues to operate as intended and in conformance with the MCUP, the City's Noise Ordinance, and the sound system specifications submitted as the standard for this property. The applicant also submitted a letter describing the restoration work, with drawings showing details including temporary closures of the loading dock and 24<sup>th</sup> Street, which is projected to be completed in approximately 10 months. Since the work will affect the loading dock and part of 24th Street, including the sidewalk, the applicant won't be able to generate a meaningful update on the traffic circulation and delivery/loading plan until construction is completed. This update was also provided to the legal counsels for the Riviera and the Roney condominiums. The Board directed the applicant to come back to the October 30 meeting for another update. The Board also voted to have the quarterly sound inspection reports submitted to staff, as stated in the MCUP.
- October 30, 2012 – The Board continued the item to the November 28 meeting without hearing it, due to a short board.

### **UPDATE**

The applicant submitted the most recent quarterly sound report to staff, dated October 14, 2012, which concludes that the sound system continues to comply with all requirements of the City of Miami Beach's Noise Ordinance (see attached). Legal counsel for the applicant re-submitted the letter dated August 13, 2012, which is still an accurate description of the construction in progress, along with drawings depicting construction staging (see attached).

As of this writing, staff research has found no outstanding noise violations or complaints since the last progress report at the August 28 meeting.

### **STAFF RECOMMENDATION**

Based on the applicant's update, staff recommends that the applicant continue to submit quarterly sound reports to staff and come back to the Board when it is able to produce and submit to staff a traffic circulation and delivery/loading plan contingent upon the completion of the renovation work. Should complaints or violations be issued in the interim, staff will request the applicant's appearance before the Board, as needed.

RGL/KMH

c: Gary M. Held, First Assistant City Attorney  
attachments



# MIAMI BEACH

## PLANNING DEPARTMENT Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: April 30, <sup>2013</sup>2012

FROM: Richard G. Lorber, AICP, LEED AP  
Acting Planning Director

SUBJECT: **File No.1840 – 2301 & 2377 Collins Avenue – (f/k/a The Perry South Beach, f/k/a Gansevoort)**

### BACKGROUND

The original Modified Conditional Use Permit CUP was issued on April 24, 2012 (see attached). The following is a synopsis of previous progress reports:

- **April 24, 2012** - The applicant provided a progress report and submitted a request to change the name of the owners and operators in the CUP. The Board approved the change in name and directed the applicant to come back to the Board at the August 28 meeting for an update on the traffic circulation, delivery/loading plan, and quarterly sound report as per Conditions 16 c. (ii), 17 d., and 22 in the Modified Conditional Use Permit (attached) as follows:

16c. (ii). The Audio Bug, Inc. or other sound engineer acceptable to City Staff, commencing on January 15, 2011 and quarterly thereafter shall provide to the Planning Director, Riviera Condominium Association and Roney Condominium Association a copy of a report that confirms that the sound system is in compliance with all the noise studies in 16 c. (i) in this Conditional Use Permit. The report shall also confirm that, based upon a recent inspection, the sound system has not been altered in any manner that would permit the sound system to operate at sound levels that violate the City's Noise Ordinance.

17d. Regarding the loading of trucks and vehicles at the loading docks on the 23<sup>rd</sup> and 24<sup>th</sup> Streets, the Applicant shall propose a plan for the distribution to the Planning Director, the Roney and the Riviera for their approval within 120 days of rendition of this approval. In the event an agreement is not reached between the Roney, Riviera, Planning Director and Applicant the Planning Director shall bring the issue and proposed plan before the Planning Board for review and approval. The Applicant shall notify each of its tenants and operators that all vendors shall only be allowed to unload at the designated loading docks with a copy of such notice submitted to the Planning Director for the file. The plan shall be incorporated by reference into and enforced as part of this Modified Conditional Use Permit.

22. The Applicant shall prepare and submit to the Planning Department staff, the Riviera and the Roney a traffic circulation analysis prepared by a traffic engineer within 120 days from the rendition of the order. If the traffic engineer deems it necessary he may supply a revised traffic circulation plan. The Roney and Riviera may also submit a traffic circulation analysis for consideration by the Planning Director. Any traffic improvements recommended by the analysis shall be implemented after approval by the Planning Director, Roney, Riviera and

Applicant. Such agreement on such improvements shall be incorporated by reference and enforced as part of this Modified Conditional Use Permit. If an agreement is not reached between the Director, Applicant, Riviera and Roney, the Director shall bring the analysis and/or plan issue before the Planning Board to make a determination.

- **August 28, 2012** - The applicant submitted the sound report to staff, which verifies that the sound system continues to operate as intended and in conformance with the MCUP, the City's Noise Ordinance, and the sound system specifications submitted as the standard for this property. The applicant also submitted a letter describing the restoration work, with drawings showing details including temporary closures of the loading dock and 24<sup>th</sup> Street, which is projected to be completed in approximately 10 months. Since the work will affect the loading dock and part of 24th Street, including the sidewalk, the applicant won't be able to generate a meaningful update on the traffic circulation and delivery/loading plan until construction is completed. This update was also provided to the legal counsels for the Riviera and the Roney condominiums. The Board directed the applicant to come back to the October 30 meeting for another update. The Board also voted to have the quarterly sound inspection reports submitted to staff, as stated in the MCUP.
- **October 30, 2012** – The Board continued the item to the November 28 meeting without hearing it, due to a short board.
- **November 28, 2012** – The applicant submitted a quarterly sound report to staff, dated October 14, 2012, which concluded that the sound system continued to comply with all requirements of the City of Miami Beach's Noise Ordinance. Legal counsel for the applicant re-submitted the letter dated August 13, 2012, which was still an accurate description of the construction in progress, along with drawings depicting construction staging.

#### UPDATE

Legal Counsel for the applicant has advised staff that the hotel, including the rooftop venue, is completely closed to the public. The rooftop has been closed since New Year's and the hotel operations ceased on April 15, 2013. The closures will allow the remaining restoration and remodeling work at the Property to be completed with a higher level of efficiency. The applicant has further indicated that the hotel and rooftop venue is tentatively scheduled to reopen at the end of the first quarter of 2014.

#### STAFF RECOMMENDATION

In view of the current status of the property, staff believes it would not make sense for the applicant to provide a traffic circulation, delivery/loading plan, or quarterly sound report, as required by the Conditional Use Permit, at this time. Therefore, staff recommends that the applicant come back to the Board for a Progress Report prior to the expected re-opening of the hotel in early 2014 or sooner, if the Board deems appropriate.

RGL/KMH

c: Gary M. Held, First Assistant City Attorney  
attachments