

CFN 2007R1012007
DR Bk 25994 Pas 3511 - 3516f (6pgs)
RECORDED 10/17/2007 15:56:50
HARVEY ALVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

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

PROPERTY: 2301 Collins Avenue

FILE NO. 1840

IN RE: The application by Sandy Lane Residential LLC, and related entities requesting Conditional Use approval to operate two restaurants on site, a ground level VIP lounge, a ballroom and a rooftop pool and bar, which in the aggregate will constitute a Neighborhood Impact Establishment because of the resulting occupant loads of these venues.

LEGAL DESCRIPTION: See Attached Exhibit "A"

MEETING DATES: August 28, 2007 and September 25, 2007

CONDITIONAL USE PERMIT

The applicant, Sandy Lane Residential LLC, and related entities, filed an application with the Planning Director for a Conditional Use Permit for a Neighborhood Impact Establishment. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

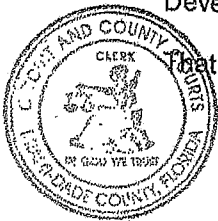
That the property in question is located in the RM-3 - Residential Multi Family, High Intensity Zoning District;

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 Land Development Regulations;

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 and the staff report and analysis, which are adopted herein, including the recommendations that the Conditional Use Permit be Granted subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the 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. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.
3. This Conditional Use Permit is issued to Sandy Lane Residential LLC, and affiliates. 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, in advance, to affirm their understanding of the conditions listed herein.
4. This Conditional Use Permit includes the rooftop area and the proposed commercial uses within the building - two restaurants: on the southwest and northwest corners; the VIP Lounge; the ballroom; the Gym and spa; and the commercial/retail spaces are hereby approved as part of this request for Conditional Use approval.
5. Prior to the issuance of a building permit, the applicant shall pay a fee in lieu of providing required parking as may be deemed necessary after a full determination of parking credits for prior uses in the building.
6. Live music outdoors shall be prohibited. Music played in the open areas shall be background music only, played at a level that does not interfere with normal conversation. Volume controls shall only be accessed by management; the DJ shall be prohibited from manipulating volume controls. 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.
7. Special "teen night," "all-ages" events, "wet T-shirt," "thong" or "bikini" contests or games shall be prohibited in all the venues proposed in this application. This shall include, but not be limited to events such as Jell-O wrestling, best-tan contests, and similar type of activities.

8. Enforcement of age restriction of 21 years and over, as provided in Section 6-5 of the City Code shall be the responsibility of the applicant. A violation of 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.
9. Street flyers and handouts shall be prohibited, including handbills from third-party promotions.
10. The operation of the rooftop lounge shall be subject to the conditions proffered by the applicant, which are hereby enumerated:
 - a. The maximum number of guests that may be permitted on the rooftop pool shall not exceed 425 persons.
 - b. The rooftop pool area shall close at 3:00 a.m. every day.
 - c. Although the City Code does not measure noise in decibels, the maximum output reading of 75 decibels shall be maintained at all times, measured 10 feet from any speaker, up to midnight and thereafter shall be reduced to a maximum of 65 decibels.
 - d. Regular valet protocol, other than for unit owners of the Paradiso Condominium, shall be to have cars returned via the garage exit on 23rd Street and make only right turns. However, at times of excessive demand, the valet manager may use his reasonable discretion in using the 24th Street out ramp for all customers who parked at the valet station on 24th Street in order to maintain appropriate car return times. This valet station, Valet Station #4, shall be located at the westernmost corner of 24th Street and the porte-cochere and no awning shall be permitted on this station.
 - e. All of the valet spots on Valet Station #4 will be for transient valet use only; no parking shall be permitted on this valet station ramp.
 - f. There shall not be any drop off/pick up at valet stations 3 and 4, for customers of the commercial uses past the hours of 11:00 p.m. on Sunday through Thursday and 12:00 a.m. on Friday and Saturday. Unit owners of Paradiso Condominium shall have full access at all times to the 24th Street porte cochere for drop-off/pick up.
 - g. Valet Station No. 2 shall have signs posted indicating that this is the location for drop-off/pick-up area for the Rooftop bar and restaurants.
 - h. Senior hotel manager and food and beverage manager shall meet on a monthly basis with the Board of 2401 Collins Avenue (Riviera Condominium) to maintain an open dialogue to air concerns, answer questions and respond to issues that may come up.

- i. The applicant shall apply for a staff review and approval of a removable canvas and aluminum awning to cover the loading bay at 24th Street.
 - j. The applicant shall contract with Waste Management or another equivalent garbage disposal service for daily pickups or more often, as necessary. Hotel room garbage shall be compacted and picked up at the 23rd Street loading bay.
11. 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. 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.
 12. The Planning Board shall retain the right to call the operators back before them and modify parking and valet operation should there be complaints about loud, excessive, unnecessary or unusual late night noise.
 13. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue and 24th Street, in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times during the hours of operation.
 14. 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.
 15. The approval of this Conditional Use Permit shall be based upon the Operational Plan submitted as part of this application for Neighborhood Impact Establishment and other conditions and restrictions as articulated herein.
 16. 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.
 17. Mitigation measures to improve level of service standards and traffic conditions, especially on 24th Street shall be the sole responsibility of the applicant. The applicant shall coordinate these mitigation measures with the City's Transportation Manager, including but not limited to traffic light timing, left-hand turn signal for westbound traffic, and similar.
 18. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a modified certificate of use.
 19. 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.

Dated this 10 day of October, 2007.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

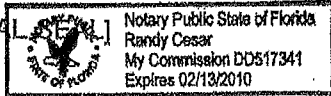
BY: Jorge G. Gomez
Jorge G. Gomez, Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 10 day of October, 2007, by Jorge G. Gomez, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

Randy Cesar
Notary:
Print Name: Randy Cesar
Notary Public, State of Florida
My Commission Expires: 2/13/2010
Commission Number: DD517341

[NOTARIAL



Approved As To Form:
Legal Department (Shed 10-9-07)

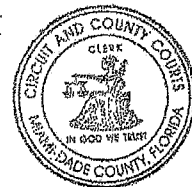
F:\PLAN\PLB\2007\09-25-07\1840 - 2301 Collins Ave CU-combined.doc

2. LEGAL DESCRIPTION:

A Block of land shown on the Record Plat as Hotel Site, and the Northerly 25.00 feet of Atlantic Avenue, later known as 23rd Street (now closed), and all of Miami Beach Drive, as said drive is bounded on the North by the Northerly line of said Hotel Site; bounded on the South by the Southerly line of the Northerly 25.00 feet of said 23rd Street (now closed) and that area East of Miami Beach Drive; bounded on the West by Easterly line of Miami Beach Drive; bounded on the East by the Erosion Control Line of the Atlantic Ocean, said Line recorded in Plat Book 105, at page 62 of the Public Records of Miami-Dade County, Florida; bounded on the North and South by the above mentioned Northerly and Southerly boundaries extended Easterly. The above mentioned Hotel Site, Miami Beach Drive and Atlantic Avenue, are all shown on the Amended Map or Plat of the Ocean Front Property of the Miami Beach Improvement Company, a subdivision recorded in Plat Book 5, at pages 7 and 8 of the Public Records of Miami-Dade County, Florida, All as described by Metes and Bounds as follows:

From a Point of Beginning, start at the Southeast corner of the intersection of Collins Avenue and Hotel Place (now known as Twenty-Fourth Street); thence South along the East boundary line of Collins Avenue, and Collins Avenue produced across formerly Atlantic Avenue (and also formerly known as Twenty-Third Street), a distance of 625.00 feet; thence east parallel to the South boundary of formerly Atlantic Avenue (and also formerly Twenty-Third Street) to the Erosion Control Line of the Atlantic Ocean, said Line recorded in Plat Book 105, at page 62 of the public records of Miami-Dade County, Florida; thence North along the Erosion Control Line of the Atlantic Ocean to a point where it intersects the South boundary line of Hotel Place (now known as Twenty-Fourth Street) extended Easterly; thence West along the South boundary line and projection of Hotel Place (now known as Twenty-Fourth Street) to the Point of Beginning (P.O.B.), all as shown by an Amended Map of Plat of The Ocean Front Property of the Miami Beach Improvement Company, a subdivision recorded in Plat Book 5, at pages 7 and 8 of the Public Records of Miami-Dade County, Florida.

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that this is a true copy of the
original filed in this office on 17 day of
October, A.D. 2007
WITNESS my hand and Official Seal.
HARVEY RUVIN, CLERK, of Circuit and County Courts
By: Harvey Ruvins D.C.



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

PROPERTY: 2301 Collins Avenue

FILE NO. 1840

IN RE: The application by Sandy Lane Residential LLC, and related entities requesting Conditional Use approval to operate two restaurants on site, a ground level VIP lounge, a ballroom and a rooftop pool and bar, which in the aggregate will constitute a Neighborhood Impact Establishment because of the resulting occupant loads of these venues.

LEGAL

DESCRIPTION: See Attached Exhibit "A"

MEETING DATES: September 23, 2008

MODIFIED CONDITIONAL USE PERMIT

The applicant, Sandy Lane Residential LLC, and related entities, filed an application with the Planning Director for a Conditional Use Permit for a Neighborhood Impact Establishment. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

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 Land Development Regulations;

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 and the staff report and analysis, which are adopted herein, including the recommendations that the Conditional Use Permit be Granted subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board in four (4) months from the date of this modification (January 2009 meeting). Notwithstanding, if deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board before the time stipulated herein. 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. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.
3. This Conditional Use Permit is issued to Sandy Lane Residential LLC, and affiliates. 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, in advance, to affirm their understanding of the conditions listed herein.
4. This Conditional Use Permit includes the rooftop area and the proposed commercial uses within the building - two restaurants: on the southwest and northwest corners; the VIP Lounge; the ballroom; the Gym and spa; and the commercial/retail spaces are hereby approved as part of this request for Conditional Use approval.
5. Prior to the issuance of a building permit, the applicant shall pay a fee in lieu of providing required parking as may be deemed necessary after a full determination of parking credits for prior uses in the building.
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 in the open areas shall be background music only, played at a level that does not interfere with normal conversation. ~~Volume controls shall only be accessed by management; the DJ shall be prohibited from manipulating volume controls.~~ 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.

7. Only the permanently installed, management-controlled sound system shall be permitted in the Rooftop Operation, which shall be under the strict and complete control of management subject to all other terms and conditions of this Conditional Use Permit. No other sound system shall be permitted on the rooftop. 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.
8. Entertainment, as defined in the City Code shall be prohibited in the Rooftop Operation. 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.
9. Any stage structure as well as smoke machines shall be prohibited in the Rooftop Operation, except that a temporary stage may be approved through the normal City of Miami Beach Special Events permitting process, except that the restriction on temporary stage structure is not applicable to the existing management-owned bridge used to bridge the pool. However, at no time during any special event shall the provisions of Conditions number 6, 13, 14, 16, 19 and 20 herein shall be contravened.
10. No temporary lighting equipment on the rooftop shall be permitted other than that associated with an City approved Film and Print Permit. However no temporary lighting equipment shall be set up during the hours of midnight and 7:00 a.m.
11. The owner agrees to apply for permits for a revised permanent lighting system as soon as reasonably possible, but in no event later than 60 days from the effective date of this condition. The owner shall diligently pursue the issuance of the permits and shall install the system within 60 days of the issuance of all necessary permits. During the interim period the owners shall be allowed to utilize temporary lighting so long as said lighting does not shine on or into any neighboring residential units and all lights shall be appropriately shielded to minimize spillover onto neighboring residential areas and subject to any other regulatory agency review and approval or condition contained herein. There shall be no flashing or spinning lights.
12. Fireworks shall be prohibited on the Rooftop Operation.
13. Special "teen night," "all-ages" events, "wet T-shirt," "thong" or "bikini" contests or games shall be prohibited in all the venues proposed in this application. This shall include, but not be limited to events such as Jell-O wrestling, best-tan contests, and similar type of activities.
14. Enforcement of age restriction of 21 years and over, as provided in Section 6-5 of the City Code shall be the responsibility of the applicant. A violation of 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.
15. Street flyers and handouts shall be prohibited, including handbills from third-party promotions.

16. The operation of the rooftop lounge Rooftop Operation shall be subject to the conditions proffered by the applicant, which are hereby enumerated:
- a. The maximum number of guests that may be permitted ~~on the rooftop pool~~ shall not exceed 425 persons.
 - b. ~~The rooftop pool area~~ Closing time shall ~~close at~~ be 3:00 a.m. every day.
 - c. ~~Although the City Code does not measure noise in decibels, the maximum output reading of 75 decibels shall be maintained at all times, measured 10 feet from any speaker, up to midnight and thereafter shall be reduced to a maximum of 65 decibels. The following sound conditions shall govern the Rooftop Operation:~~
 - (i) compliance in all respects with the following noise studies: Cerami & Associates, Inc., dated June 9, 2006, and The Audio Bug, Inc., all as submitted by Applicant under Tab 16 of its "Hearing Notebook" filed with the Planning Board at the Board's July 29, 2008 meeting, as amended by The Audio Bug, Inc. report dated September 17, 2008; and the following nine additional sound conditions (ii - x) shall govern to the extent that they are not inconsistent with said studies and report;
 - (ii) a maximum output reading which does not exceed 75 decibels at any time before midnight, and thereafter until the applicable closing time does not exceed 65 decibels, in each instance measured 10 feet from any speaker or television;
 - (iii) deployment of many small, closely spaced speakers, each of which is unable to operate above the maximum sound levels specified above;
 - (iv) a distributed sound system which distributes sound uniformly within the Rooftop Operation and which operates in a manner that does not interfere with normal conversation;
 - (v) a sound system which is locked and which will not permit sound above the maximum levels specified above;
 - (vi) a sound system for which the hotel general manager will have full responsibility and to which disc jockeys and other individuals, whether employed by the hotel or not, will not have access;
 - (vii) a sound system which has a centralized computer control and digital processor which will allow only limited access via password security among other security options;
 - (viii) speakers, each of which is equipped with small woofers incapable of producing appreciable levels of low frequency energy;
 - (ix) speakers, each of which will be aimed in a manner which will minimize sound propagation to other properties; and

(x) a prohibition upon the introduction or use of any other sound-generating equipment of any kind, whether from an outside source or from within the Applicant's property."

- ~~e-17.~~ Regular valet protocol, other than for unit owners of the Paradiso Condominium shall be as follows: shall be to have
- a. Cars shall be returned via the garage exit on 23rd Street and make only right turns. However, at times of excessive demand, the valet manager may use his reasonable discretion in using the 24th Street out ramp for all customers who parked at the valet station on 24th Street in order to maintain appropriate car return times. This valet station, Valet Station #4, shall be located at the westernmost corner of 24th Street and the porte-cochere and no awning shall be permitted on this station.
 - eb. All of the valet spots on Valet Station #4 will be for transient valet use only; no parking shall be permitted on this valet station ramp.
 - fc. There shall not be any drop off/pick up at valet stations 3 and 4, for customers of the commercial uses past the hours of 11:00 p.m. on Sunday through Thursday and 12:00 a.m. on Friday and Saturday.
 - d. Unit owners of Paradiso Condominium shall have full access at all times to the 24th Street porte cochere for drop-off/pick up.
 - ge. Valet Station No. 2 shall have signs posted indicating that this is the location for drop-off/pick-up area for the Rooftop bar and restaurants.
 - h-f. Senior hotel manager and food and beverage manager shall meet on a monthly basis with the Board of 2401 Collins Avenue (Riviera Condominium) to maintain an open dialogue to air concerns, answer questions and respond to issues that may come up.
- 17.i. The applicant shall apply for a staff review and approval of a removable canvas and aluminum awning to cover the loading bay at 24th Street.
- 18.j. The applicant shall contract with Waste Management or another equivalent garbage disposal service for daily pickups or more often, as necessary. Hotel room garbage shall be compacted and picked up at the 23rd Street loading bay.
19. 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. ~~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.~~
20. 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.

21. The Planning Board shall retain the right to call the operators back before them and modify parking and valet operation should there be complaints about loud, excessive, unnecessary or unusual late night noise.
22. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue and 24th Street, in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times during the hours of operation.
23. 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.
24. The approval of this Conditional Use Permit shall be based upon the Operational Plan submitted as part of this application for Neighborhood Impact Establishment and other conditions and restrictions as articulated herein.
25. 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.
26. Mitigation measures to improve level of service standards and traffic conditions, especially on 24th Street shall be the sole responsibility of the applicant. The applicant shall coordinate these mitigation measures with the City's Transportation Manager, including but not limited to traffic light timing, left-hand turn signal for westbound traffic, and similar.
27. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a modified certificate of use.
28. 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.

Dated this _____ day of _____, 2008.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

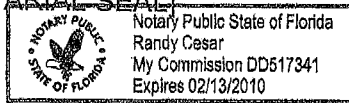
BY: *Jorge G. Gomez*
Jorge G. Gomez, Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 25 day of November, 2008, by Jorge G. Gomez, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

Randy Cesar
Notary:
Print Name:
Notary Public, State of Florida
My Commission Expires:
Commission Number:

[NOTARIAL SEAL]



Approved As To Form
Legal Department *(Filed 11-20-08)*

F:\PLAN\PLB\2008\09-23-08\1840 - 2301 Collins Ave-modified CU-9-23-08.doc



CFN 2010R0511343
DR Bk 27370 Pgs 0847 - 8541 (8pgs)
RECORDED 07/30/2010 09:30:46
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

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

PROPERTY: 2301 Collins Avenue

FILE NO. 1840

IN RE: The application by Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC, and related entities requesting Conditional Use approval to operate two restaurants on site, a ground level VIP lounge, a ballroom and a rooftop pool and bar, which in the aggregate will constitute a Neighborhood Impact Establishment because of the resulting occupant loads of these venues.

LEGAL DESCRIPTION: See Attached Exhibit "A"

MEETING DATE: June 22, 2010

MODIFIED CONDITIONAL USE PERMIT

The applicants, Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC, and related entities, filed an application with the Planning Director for a Conditional Use Permit for a Neighborhood Impact Establishment. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

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 Land Development Regulations;

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 and the staff report and analysis, which are adopted herein, including the staff recommendations, that the Conditional Use Permit be Granted subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction over this Conditional Use Permit. The applicant shall provide a progress report to the Board in four (4) months from the date of this modification (June 2010 meeting). Notwithstanding, if deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board before the time stipulated herein. 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. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.
3. This Conditional Use Permit is issued to Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC, and affiliates. 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, in advance within 90 days of the change of ownership or operator, to affirm their understanding of the conditions listed herein.
4. This Conditional Use Permit includes the rooftop area (n/k/a "Rooftop Operation") and the proposed commercial uses within the building - two restaurants: on the southwest and northwest corners; the VIP Lounge; the ballroom; the Gym and spa; and the commercial/retail spaces are hereby approved as part of this request for Conditional Use approval.
5. Prior to the issuance of a building permit, the applicant shall pay a fee in lieu of providing required parking as may be deemed necessary after a full determination of parking credits for prior uses in the building.
6. Live music outdoors shall be prohibited. This condition is applicable to the entirety of Applicants' property, as set forth in Item 3 of their 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.

7. Only the permanently installed, management-controlled sound system shall be permitted in the Rooftop Operation, which shall be under the strict and complete control of management subject to all other terms and conditions of this Conditional Use Permit. No other sound system shall be permitted. 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.
8. Entertainment, as defined in the City Code shall be prohibited in the Rooftop Operation. 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.
9. Any stage structure as well as smoke machines shall be prohibited in the Rooftop Operation, except that a temporary stage may be approved through the normal City of Miami Beach Special Events permitting process, except that the restriction on temporary stage structure is not applicable to the existing management-owned bridge used to bridge the pool. However, at no time during any Special Event shall the provisions of Conditions number **6, 13, 14, 16, 19 and 20** herein be contravened.
10. No temporary lighting equipment on the rooftop shall be permitted other than that associated with a City approved Film and Print Permit. However no temporary lighting equipment shall be set up during the hours of midnight and 7:00 a.m.
11. The ~~owner~~ applicants agrees to apply for permits for a revised permanent lighting system as soon as reasonably possible, but in no event not later than 60 days from the effective date of this condition. The owner shall diligently pursue the issuance of the permits and shall install the system within 60 days of the issuance of all necessary permits. During the interim period the owners shall be allowed to utilize temporary lighting so long as said lighting does not shine on or into any neighboring residential units and all lights shall be appropriately shielded to minimize spillover onto neighboring residential areas and subject to any other regulatory agency review and approval or condition contained herein. There shall be no flashing or spinning lights.
12. Fireworks shall be prohibited on the Rooftop Operation.
13. Special "teen night," "all-ages" events, "wet T-shirt," "thong" or "bikini" contests or games shall be prohibited in all the venues proposed in this application. This shall include, but not be limited to events such as Jell-O wrestling, best-tan contests, and similar type of activities.

14. Enforcement of age restriction of 21 years and over, as provided in Section 6-5 of the City Code shall be the responsibility of the applicant. A violation of 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.
15. Street flyers and handouts shall be prohibited, including handbills from third-party promotions.
16. The Rooftop Operation shall be subject to the conditions proffered by the applicant, which are hereby enumerated:
 - a. The maximum number of guests that may be permitted ~~on the rooftop pool~~ shall not exceed 425 persons.
 - b. Closing time shall be 3:00 a.m. every day.
 - c. The following sound conditions shall govern the Rooftop Operation:
 - (i) compliance in all respects with the following noise studies: Cerami & Associates, Inc., dated June 9, 2006, and The Audio Bug, Inc., all as submitted by Applicant under Tab 16 of its "Hearing Notebook" filed with the Planning Board at the Board's July 29, 2008 meeting, as amended by The Audio Bug, Inc. report dated September 17, 2008; and the following nine additional sound conditions (ii - x) shall govern to the extent that they are not inconsistent with said studies and report:
 - ~~(ii) a maximum output reading which does not exceed 75 decibels at any time before midnight, and thereafter until the applicable closing time does not exceed 65 decibels, in each instance measured 10 feet from any speaker or television;~~
 - (iii) deployment of many small, closely spaced speakers, each of which is unable to operate above the maximum sound levels specified above;
 - (iv) a distributed sound system which distributes sound uniformly within the Rooftop Operation and which operates in a manner that does not interfere with normal conversation;
 - (v) a sound system which is locked and which will not permit sound above the maximum levels specified above;
 - (vi) a sound system for which the hotel general manager will have full responsibility and to which disc jockeys and other individuals, whether employed by the hotel or not, will not have access;
 - (vii) a sound system which has a centralized computer control and digital processor which will allow only limited access via password security among other security options;
 - (viii) speakers, each of which is equipped with small woofers incapable of producing

appreciable levels of low frequency energy;

- (ix) speakers, each of which will be aimed in a manner which will minimize sound propagation to other properties; and
- (x) a prohibition upon the introduction or use of any other sound-generating equipment of any kind, whether from an outside source or from within the Applicant's property."

17. Regular valet protocol, other than for unit owners of the Paradiso Condominium shall be as follows:
 - a. Cars returned via the garage exit on 23rd Street and make only right turns. However, at times of excessive demand, the valet manager may use his reasonable discretion in using the 24th Street out ramp for all customers who parked at the valet station on 24th Street in order to maintain appropriate car return times. This valet station, Valet Station #4, shall be located at the westernmost corner of 24th Street and the porte-cochere and no awning shall be permitted on this station.
 - b. All of the valet spots on Valet Station #4 will be for transient valet use only; no parking shall be permitted on this valet station ramp.
 - c. There shall not be any drop off/pick up at valet stations 3 and 4, for customers of the commercial uses past the hours of 11:00 p.m. on Sunday through Thursday and 12:00 a.m. on Friday and Saturday.
 - d. Unit owners of Paradiso Condominium shall have full access at all times to the 24th Street porte cochere for drop-off/pick up.
 - e. Valet Station No. 2 shall have signs posted indicating that this is the location for drop-off/pick-up area for the Rooftop bar and restaurants.
 - f. Senior hotel manager and food and beverage manager shall meet on a monthly basis with the Board of 2401 Collins Avenue (Riviera Condominium) to maintain an open dialogue to air concerns, answer questions and respond to issues that may come up.
18. The applicant shall apply for a staff review and approval of a removable canvas and aluminum awning to cover the loading bay at 24th Street.
19. The applicant shall contract with Waste Management or another equivalent garbage disposal service for daily pickups or more often, as necessary. Hotel room garbage shall be compacted and picked up at the 23rd Street loading bay.

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.
22. The Planning Board shall retain the right to call the operators back before them and modify parking and valet operation should there be complaints about loud, excessive, unnecessary or unusual late night noise.
23. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue and 24th Street, in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times during the hours of operation.
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.
25. The approval of this Conditional Use Permit shall be based upon the Operational Plan submitted as part of this application for Neighborhood Impact Establishment and other conditions and restrictions as articulated herein.
26. 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.
27. Mitigation measures to improve level of service standards and traffic conditions, especially on 24th Street shall be the sole responsibility of the applicant. The applicant shall coordinate these mitigation measures with the City's Transportation Manager, including but not limited to traffic light timing, left-hand turn signal for westbound traffic, and similar.
28. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a modified certificate of use.
29. 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.

30. Nothing in this order authorizes a violation of the City Code or other applicable law, nor supersedes any requirement or standard set forth in the City Code (or City's Noise Ordinance, etc).

Dated this 26th day of July, 2010.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]

Richard G. Lorber, Acting Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 26th day of July, 2010, by Richard G. Lorber, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



TERESA MARIA
MY COMMISSION # 928148
EXPIRES: December 2, 2013
Bonded Thru Budget Notary Services

[Signature]

Notary:
Print Name: TERESA MARIA
Notary Public, State of Florida
My Commission Expires: 12-2-13
Commission Number: 928148

[NOTARIAL SEAL]

Approved As To Form:
Legal Department (gheld 7-23-10)

Underlines and strike-throughs reflect changes from prior permits.

F:\PLAN\PLB\2010\6-22-2010\1840 - 2301 Collins Ave-modified CU-6-22-10.docx

EXHIBIT "A"

LEGAL DESCRIPTION:

A Block of land shown on the Record Plat as Hotel Site, and the Northerly 25.00 feet of Atlantic Avenue, later known as 23rd Street (now closed), and all of Miami Beach Drive, as said drive is bounded on the North by the Northerly line of said Hotel Site; bounded on the South by the Southerly line of the Northerly 25.00 feet of said 23rd Street (now closed) and that area East of Miami Beach Drive: bounded on the West by Easterly line of Miami Beach Drive; bounded on the East by the Erosion Control Line of the Atlantic Ocean, said Line recorded in Plat Book 105, at page 62 of the Public Records of Miami-Dade County; Florida; bounded on the North and South by the above mentioned Northerly and Southerly boundaries extended Easterly. The above mentioned Hotel Site, Miami Beach Drive, and Atlantic Avenue, are all shown on the Amended Map or Plat of the Ocean Front Property of the Miami Beach Improvement Company, a subdivision recorded in Plat Book 5, of pages 7 and 8 of the Public Records of Miami-Dade County, Florida, All as described by Metes and Bounds as follows:

From a Point of Beginning, start at the Southeast corner of the Intersection of Collins Avenue and Hotel Place (now known as Twenty-Fourth Street); thence South along the East boundary line of Collins Avenue, and Collins Avenue produced across formerly Atlantic Avenue (and also formerly known as Twenty-Third Street), a distance of 625.00 feet; thence east parallel to the South boundary of formerly Atlantic Avenue (and also formerly Twenty-Third Street) to the Erosion Control Line of the Atlantic Ocean, said Line recorded in Plat Book 105, at page 62 of the public records of Miami-Dade County, Florida; thence North along the Erosion Control Line of the Atlantic Ocean to a point where it intersects the South boundary line of Hotel Place (now known as Twenty-Fourth Street) extended Easterly; thence West along the South boundary line and projection of Hotel Place (now known as Twenty-Fourth Street) to the Point of Beginning (P.O.B.), all as shown by an Amended Map of Plat of The Ocean Front Property of the Miami Branch Improvement Company, a subdivision recorded in Plat Book 5, at pages 7 and 8 of the Public Records of Miami-Dade County, Florida.



CFN 2011R0211620
 OR Bk 27638 Pgs 3678 - 36861 (9pgs)
 RECORDED 04/01/2011 16:04:27
 HARVEY RUVIN, CLERK OF COURT
 MIAMI-DADE COUNTY, FLORIDA

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

PROPERTY: 2301 Collins Avenue

FILE NO. 1840

IN RE: The application by Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC, and related entities requesting Conditional Use approval to operate two restaurants on site, a ground level VIP lounge, a ballroom and a rooftop pool and bar, which in the aggregate will constitute a Neighborhood Impact Establishment because of the resulting occupant loads of these venues.

LEGAL DESCRIPTION: See Attached Exhibit "A"

MEETING DATE: ~~June 22, 2010~~ December 14, 2010

MODIFIED CONDITIONAL USE PERMIT

The applicants, Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC, and related entities, filed an application with the Planning Director for a Conditional Use Permit for a Neighborhood Impact Establishment. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

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 Land Development Regulations;

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

Kmt

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 and the staff report and analysis, which are adopted herein, including the staff recommendations, that the Conditional Use Permit be Granted subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction over this Conditional Use Permit. ~~The applicant shall provide a progress report to the Board in four (4) months from the date of this modification (June 2010 meeting). Notwithstanding, if deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board before the time stipulated herein. 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). This condition does not limit any other remedies available to the Board or the City with respect to this Conditional Use.~~
2. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.
3. This Conditional Use Permit is issued to Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC, and affiliates. 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, ~~in advance~~ within 90 days of the change of ownership or operator, to affirm their understanding of the conditions listed herein.
4. This Conditional Use Permit includes the rooftop area (n/k/a "Rooftop Operation") and the commercial uses within the building - two restaurants: on the southwest and northwest corners; the VIP Lounge; the ballroom; the Gym and spa; and the commercial/retail spaces are hereby approved as part of this request for Conditional Use approval.
5. ~~Prior to the issuance of a building permit, The applicant shall continue to pay a fee in lieu of providing required parking as may be deemed necessary after a full determination of parking credits for prior uses in the building determined by staff in accordance with applicable law and any newly provided spaces.~~
6. Live music outdoors shall be prohibited. This condition is applicable to the entirety of Applicants' property, as set forth in Item 3 of their 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.~~
7. Only the permanently installed, hotel management-controlled sound system shall be permitted in the Rooftop Operation, which shall be under the strict and complete control of management subject to all other terms and conditions of this Conditional Use Permit. No other sound system shall be permitted. Non-compliance with this condition shall be deemed a violation of this

KMH

Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code.

8. Entertainment, as defined in the City Code shall be prohibited in the Rooftop Operation. 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.
9. Any stage structure as well as smoke machines shall be prohibited in the Rooftop Operation, except that a temporary stage may be approved through the normal City of Miami Beach Special Events permitting process, except that the restriction on temporary stage structure is not applicable to the existing management-owned bridge used to bridge the pool. However, at no time during any Special Event shall the provisions of Conditions number 6, 13, 14, 16, 19 and 20 herein be contravened.
10. No temporary lighting equipment on the rooftop shall be permitted other than that associated with a City approved Film and Print Permit. However no temporary lighting equipment shall be set up during the hours of midnight and 7:00 a.m.
11. ~~The applicants agree to apply for permits for a revised permanent lighting system as soon as reasonably possible, but in no event not later than 60 days from the effective date of this condition. The owner shall diligently pursue the issuance of the permits and shall install the system within 60 days of the issuance of all necessary permits. During the interim period the owners shall be allowed to utilize temporary lighting so long as said Lighting does shall not shine on or into any neighboring residential units and all lights shall be appropriately shielded to minimize spillover onto neighboring residential areas. and subject to any other regulatory agency review and approval or condition contained herein. There shall be no flashing or spinning lights.~~
12. ~~Fireworks shall be prohibited on the Rooftop Operation. Fireworks shall be permitted only on the ground level east of the building.~~
13. Special "teen night," "all-ages" events, "wet T-shirt," "thong" or "bikini" contests or games shall be prohibited in all the venues proposed in this application. This shall include, but not be limited to events such as Jell-O wrestling, best-tan contests, and similar type of activities.
14. Enforcement of age restriction of 21 years and over, as provided in Section 6-5 of the City Code shall be the responsibility of the applicant. A violation of 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.
15. Street flyers and handouts shall be prohibited, including handbills from third-party promotions.
16. The Rooftop Operation shall be subject to the conditions proffered by the applicant, which are hereby enumerated:
 - a. The maximum number of guests that may be permitted shall not exceed 425 persons.
 - b. Closing time shall be 3:00 a.m. every day Thursday, Friday and Saturday nights, as well as for citywide special events and on national holidays, and 12:00 midnight all other nights.

c. The following sound conditions shall govern the Rooftop Operation:

- (i) Compliance in all respects with the following noise studies: Cerami & Associates, Inc., dated June 9, 2006, and The Audio Bug, Inc., all as submitted by Applicant under Tab 16 of its "Hearing Notebook" filed with the Planning Board at the Board's July 29, 2008 meeting, as amended by The Audio Bug, Inc. report dated September 17, 2008; and under second amendment by The Audio Bug, Inc. November 16, 2010; and the following ten additional sound conditions (ii – xi) shall govern to the extent that they are not inconsistent with said studies and report:
- (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.
- (iii) The applicant will notify the Riviera Condominium Association and Roney Condominium Association when The Audio Bug, Inc., or other sound engineer acceptable to City staff, will be performing his inspections. The Condominium associations, at their discretion have the right to send board members and/ or their own sound engineers to be present and participate while Audio Bug, Inc. (or another qualified engineer acceptable to City staff) conducts inspections of the sound system.
- (iv) Deployment of many small, closely spaced speakers, each of which is unable to operate above the maximum sound levels specified above in 16 c (i); No speaker shall exceed 8 inches in diameter.
- (v) A distributed sound system which distributes sound uniformly within the Rooftop Operation and which operates in a manner that does not interfere with normal conversation;
- (vi) A sound system which is locked and which will not permit sound above the maximum levels specified above;
- (vii) A sound system for which only the hotel ~~general~~-manager will have full responsibility and to which disc jockeys and other individuals, whether employed by the hotel or not, will not have access;
- (viii) A sound system which has a centralized computer control and digital processor which will allow only limited access via password security among other security options;
- (ix) Speakers, each of which is equipped with small woofers incapable of producing appreciable levels of low frequency energy;

KMH

- (x) Speakers, each of which will be aimed in a manner which will minimize sound propagation to other properties; and
 - (xi) A prohibition upon the introduction or use of any other sound-generating equipment of any kind, whether from an outside source or from within the Applicant's property.
17. Regular valet protocol, other than for unit owners of the Paradiso Condominium shall be as follows:
- a. Cars returned via the garage exit on 23rd Street and make only right turns. However, at times of excessive demand, the valet manager may use his reasonable discretion in using the 24th Street out ramp for all customers who parked at the valet station on 24th Street in order to maintain appropriate car return times. This valet station, Valet Station #4, shall be located at the westernmost corner of 24th Street and the porte-cochere and no awning shall be permitted on this station.
 - b. All of the valet spots on Valet Station #4 will be for transient valet use only; no parking shall be permitted on this valet station ramp.
 - c. There shall not be any drop off/pick up at valet stations 3 and 4, for customers of the commercial uses past the hours of 11:00 p.m. on Sunday through Thursday and 12:00 a.m. on Friday and Saturday.
 - d. Unit owners of Paradiso Condominium shall have full access at all times to the 24th Street porte cochere for drop-off/pick up.
 - e. Valet Station No. 2 shall have signs posted indicating that this is the location for drop-off/pick-up area for the Rooftop bar and restaurants.
 - f. Senior hotel manager and food and beverage manager shall meet on a monthly basis with the Boards of 2401 Collins Avenue (Riviera Condominium) and the Roney Palace Condominium to maintain an open dialogue to air concerns, answer questions and respond to issues that may come up.
17. ~~The applicant shall apply for a staff review and approval of a removable canvas and aluminum awning to cover the loading bay at 24th Street.~~
18. Loading bays located on 23rd and 24th Streets shall be used only in accordance with the following conditions:
- a. 23rd Street – The applicant shall continue to use this loading bay for the disposal of garbage. The existing 34 yard compactor shall remain in use at this location. The applicant shall annually submit to the Planning Director documentation that Applicant has informed its tenants where to dispose of the garbage. This shall insure that no more than approximately sixty percent (60%) of the building's total garbage disposal shall be through 23rd Street. Garbage shall be picked up no more than two (4) times per week on weekdays. Best efforts shall be used so the compactor is only picked up between 10 a.m. and 5 p.m., and shall not be picked up on weekends or federal holidays. If, in the future, the applicant can clearly

demonstrate the need to increase garbage pickup to five (5) times per week, that request can be brought to the Planning Director upon notice to the Riviera and Roney for consideration and approval.

- b. 24th Street – The applicant shall install the awning for the loading bay at 24th Street, as depicted on the design dated November 22, 2010, entitled “24th Street Loading Bay Plan” within 90 days of this Modified Conditional Use Permit being rendered. The applicant shall maintain a retractable gate, approved by staff, that fully encloses the loading bay fronting 24th Street, which shall remain closed at all times when the loading bay is not in use, i.e. garbage pickup or deliveries. The Applicant within 30 days of the order being rendered shall apply to the Board of Adjustment for a variance to permit the height of the gates to be 8’. After the awning and gate are installed, the applicant shall install a 34 yard trash compactor within the enclosed and covered bay. The applicant shall annually submit to the Planning Director documentation that Applicant has informed its tenants where to dispose of the garbage. This shall insure that no more than approximately forty percent (40%) of the building’s total garbage disposal shall be through 24th Street. Garbage shall be picked up no more than two (2) times per week on weekdays. Best efforts shall be used so the compactor is only picked up between 10 a.m. and 5 p.m. and shall not be picked up on weekends or federal holidays. If, in the future, the applicant can clearly demonstrate the need to increase garbage pickup to three (3) times per week, that request can be brought to the Planning Director upon notice to the Riviera and Roney for consideration and approval.
 - c. If requested by the City, including the Planning Board, the Applicant shall provide data illustrating the utilization of the loading bays for garbage as the building becomes fully operational. Repeated violation of the garbage pickup times and gate closure rules as provided above shall result in reconsideration of this issue by the Board. The Applicant shall put all tenants and other garbage producing entities on notice of these conditions, with a copy of such notice submitted to the Planning Department.
 - d. Regarding the loading of trucks and vehicles at the loading docks on the 23rd and 24th 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.
- ~~19. The applicant shall contract with Waste Management or another equivalent garbage disposal service for daily pickups or more often, as necessary. Hotel room garbage shall be compacted and picked up at the 23rd Street loading bay.~~
19. 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.
20. 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

KMH

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.

21. Fireworks shall be permitted on July 4 and New Years Eve without notice to the Roney or Riviera if approved by appropriate city officials in advance and in writing. At all other times notice shall be given by the Applicant to both the Riviera and Roney 30 days in advance of the proposed fireworks in order to file any objections. However, notice is not required if written permission is granted by the Association Boards of each Condominium. Compliance with all other requirements of applicable law is required for any fireworks display.
22. ~~The Planning Board shall retain the right to call the operators back before them and modify parking and valet operation should there be complaints about loud, excessive, unnecessary or unusual late-night noise.~~
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.
23. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue and 24th Street, in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times during the hours of operation.
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.
25. The approval of this Conditional Use Permit shall be based upon the Operational Plan submitted as part of this application for Neighborhood Impact Establishment and other conditions and restrictions as articulated herein.
26. 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.
27. Mitigation measures to improve level of service standards and traffic conditions, especially on 24th Street shall be the sole responsibility of the applicant. The applicant shall coordinate these mitigation measures with the City's Transportation Manager, including but not limited to traffic light timing, left-hand turn signal for westbound traffic, and similar.
28. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a modified certificate of use.

- 28 This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a modified certificate of use.
- 29 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.
- 30 Nothing in this order authorizes a violation of the City Code or other applicable law, nor supersedes any requirement or standard set forth in the City Code (or City's Noise Ordinance, etc).
- 31 References to third parties in this Order are at the request of and by agreement of the Applicant, and shall not be considered an unlawful delegation of legislative authority.

Dated this 29th day of March, 2011.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]

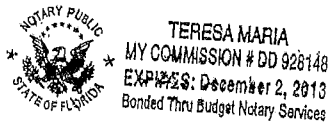
Richard G. Lorber, Acting Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 29th day of March, 2011, by Richard G. Lorber, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[Signature]
Notary:
Print Name:
Notary Public, State of Florida
My Commission Expires:
Commission Number:

[NOTARIAL SEAL]



Approved As To Form:
Legal Department (Held 3-29-11)

KMH

EXHIBIT "A"

LEGAL DESCRIPTION:

A Block of land shown on the Record Plat as Hotel Site, and the Northerly 25.00 feet of Atlantic Avenue, later known as 23rd Street (now closed), and all of Miami Beach Drive, as said drive is bounded on the North by the Northerly line of said Hotel Site; bounded on the South by the Southerly line of the Northerly 25.00 feet of said 23rd Street (now closed) and that area East of Miami Beach Drive: bounded on the West by Easterly line of Miami Beach Drive; bounded on the East by the Erosion Control Line of the Atlantic Ocean, said Line recorded in Plat Book 105, at page 62 of the Public Records of Miami-Dade County, Florida; bounded on the North and South by the above mentioned Northerly and Southerly boundaries extended Easterly. The above mentioned Hotel Site, Miami Beach Drive, and Atlantic Avenue, are all shown on the Amended Map or Plat of the Ocean Front Property of the Miami Beach Improvement Company, a subdivision recorded in Plat Book 5, of pages 7 and 8 of the Public Records of Miami-Dade County, Florida, All as described by Metes and Bounds as follows:

From a Point of Beginning, start at the Southeast corner of the intersection of Collins Avenue and Hotel Place (now known as Twenty-Fourth Street); thence South along the East boundary line of Collins Avenue, and Collins Avenue produced across formerly Atlantic Avenue (and also formerly known as Twenty-Third Street), a distance of 625.00 feet; thence east parallel to the South boundary of formerly Atlantic Avenue (and also formerly Twenty-Third Street) to the Erosion Control Line of the Atlantic Ocean, said Line recorded in Plat Book 105, at page 62 of the public records of Miami-Dade County, Florida; thence North along the Erosion Control Line of the Atlantic Ocean to a point where it intersects the South boundary line of Hotel Place (now known as Twenty-Fourth Street) extended Easterly; thence West along the South boundary line and projection of Hotel Place (now known as Twenty-Fourth Street) to the Point of Beginning (P.O.B.), all as shown by an Amended Map of Plat of The Ocean Front Property of the Miami Branch Improvement Company, a subdivision recorded in Plat Book 5, at pages 7 and 8 of the Public Records of Miami-Dade County, Florida.

MIA 101,121,969v1

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that this is a true copy of the
original filed in this office on 30th day of
July A.D. 2010
WITNESS my hand and Official Seal
HARVEY DUNN, CLERK, of Circuit and County Courts
By Cheryl Whitfield C.C.



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

PROPERTY: 2301 Collins Avenue

FILE NO. 1840

IN RE: The application by 2377 Collins Resort, L.P., a Delaware limited partnership, 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.

LEGAL DESCRIPTION: See Attached Exhibit "A"

MEETING DATE: ~~December 14, 2010~~ April 24, 2012

MODIFIED CONDITIONAL USE PERMIT

The applicant, ~~Sandy Lane Residential LLC, Sandy Lane Retail LLC and Sandy Lane Beach Front LLC, and related entities,~~ 2377 Collins Resort, L.P., filed an application with the Planning Director for a Modified Conditional Use Permit to change the name of the owner and operator of a Neighborhood Impact Establishment at the property now operating as The Perry South Beach (f.k.a. Gansevoort). Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the 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 Land Development Regulations;

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 and the staff report and analysis, which are adopted herein, including the staff recommendations, that the Conditional Use Permit be Granted subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction over this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board before the time stipulated herein. 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). This condition does not limit any other remedies available to the Board or the City with respect to this Conditional Use.
2. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.
3. 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.
4. This Conditional Use Permit includes the rooftop area (n/k/a "Rooftop Operation") and the commercial uses within the building - two restaurants: on the southwest and northwest corners; the VIP Lounge; the ballroom; the Gym and spa; and the commercial/retail spaces are hereby approved as part of this request for Conditional Use approval.
5. The applicant shall continue to pay a fee in lieu of providing required parking as determined by staff in accordance with applicable law and any newly provided spaces.
6. Live music outdoors shall be prohibited. This condition is applicable to the entirety of Applicants' property, as set forth in Item 3 of their 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.
7. Only the permanently installed, hotel management-controlled sound system shall be permitted in the Rooftop Operation, which shall be under the strict and complete control of management subject to all other terms and conditions of this Conditional Use Permit. No other sound system shall be permitted. 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.

8. Entertainment, as defined in the City Code shall be prohibited in the Rooftop Operation. 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.
9. Any stage structure as well as smoke machines shall be prohibited in the Rooftop Operation, except that a temporary stage may be approved through the normal City of Miami Beach Special Events permitting process, except that the restriction on temporary stage structure is not applicable to the existing management-owned bridge used to bridge the pool. However, at no time during any Special Event shall the provisions of Conditions number 6, 13, 14, 16, 19 and 20 herein be contravened.
10. No temporary lighting equipment on the rooftop shall be permitted other than that associated with a City approved Film and Print Permit. However no temporary lighting equipment shall be set up during the hours of midnight and 7:00 a.m.
11. Lighting shall not shine on or into any neighboring residential units and all lights shall be appropriately shielded to minimize spillover onto neighboring residential areas. There shall be no flashing or spinning lights.
12. Fireworks shall be permitted only on the ground level east of the building.
13. Special "teen night," "all-ages" events, "wet T-shirt," "thong" or "bikini" contests or games shall be prohibited in all the venues proposed in this application. This shall include, but not be limited to events such as Jell-O wrestling, best-tan contests, and similar type of activities.
14. Enforcement of age restriction of 21 years and over, as provided in Section 6-5 of the City Code shall be the responsibility of the applicant. A violation of 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.
15. Street flyers and handouts shall be prohibited, including handbills from third-party promotions.
16. The Rooftop Operation shall be subject to the conditions proffered by the applicant, which are hereby enumerated:
 - a. The maximum number of guests that may be permitted shall not exceed 425 persons.
 - b. Closing time shall be 3:00 a.m. Thursday, Friday and Saturday nights, as well as for citywide special events and on national holidays, and 12:00 midnight all other nights.
 - c. The following sound conditions shall govern the Rooftop Operation:
 - (i) Compliance in all respects with the following noise studies: Cerami & Associates, Inc., dated June 9, 2006, and The Audio Bug, Inc., all as submitted by Applicant under Tab 16 of its "Hearing Notebook" filed with the Planning Board at the Board's July 29, 2008 meeting, as amended by The Audio Bug, Inc. report dated September 17, 2008; and under second amendment by The Audio Bug, Inc. November 16, 2010; and the following ten additional sound conditions (ii - xi) shall govern to the extent that they are not inconsistent with said studies and report:

- (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.
 - (iii) The applicant will notify the Riviera Condominium Association and Roney Condominium Association when The Audio Bug, Inc., or other sound engineer acceptable to City staff, will be performing his inspections. The Condominium associations, at their discretion have the right to send board members and/ or their own sound engineers to be present and participate while Audio Bug, Inc. (or another qualified engineer acceptable to City staff) conducts inspections of the sound system.
 - (iv) Deployment of many small, closely spaced speakers, each of which is unable to operate above the maximum sound levels specified above in 16 c (i); No speaker shall exceed 8 inches in diameter.
 - (v) A distributed sound system which distributes sound uniformly within the Rooftop Operation and which operates in a manner that does not interfere with normal conversation;
 - (vi) A sound system which is locked and which will not permit sound above the maximum levels specified above;
 - (vii) A sound system for which only the hotel general manager will have full responsibility and to which disc jockeys and other individuals, whether employed by the hotel or not, will not have access;
 - (viii) A sound system which has a centralized computer control and digital processor which will allow only limited access via password security among other security options;
 - (ix) Speakers, each of which is equipped with small woofers incapable of producing appreciable levels of low frequency energy;
 - (x) Speakers, each of which will be aimed in a manner which will minimize sound propagation to other properties; and
 - (xi) A prohibition upon the introduction or use of any other sound-generating equipment of any kind, whether from an outside source or from within the Applicant's property.
17. Regular valet protocol, other than for unit owners of the Paradiso Condominium shall be as follows:

- a. Cars returned via the garage exit on 23rd Street and make only right turns. However, at times of excessive demand, the valet manager may use his reasonable discretion in using the 24th Street out ramp for all customers who parked at the valet station on 24th Street in order to maintain appropriate car return times. This valet station, Valet Station #4, shall be located at the westernmost corner of 24th Street and the porte-cochere and no awning shall be permitted on this station.
 - b. All of the valet spots on Valet Station #4 will be for transient valet use only; no parking shall be permitted on this valet station ramp.
 - c. There shall not be any drop off/pick up at valet stations 3 and 4, for customers of the commercial uses past the hours of 11:00 p.m. on Sunday through Thursday and 12:00 a.m. on Friday and Saturday.
 - d. Unit owners of Paradiso Condominium shall have full access at all times to the 24th Street porte cochere for drop-off/pick up.
 - e. Valet Station No. 2 shall have signs posted indicating that this is the location for drop-off/pick-up area for the Rooftop bar and restaurants.
 - f. Senior hotel manager and food and beverage manager shall meet on a monthly basis with the Boards of 2401 Collins Avenue (Riviera Condominium) and the Roney Palace Condominium to maintain an open dialogue to air concerns, answer questions and respond to issues that may come up.
17. Loading bays located on 23rd and 24th Streets shall be used only in accordance with the following conditions:
- a. 23rd Street – The applicant shall continue to use this loading bay for the disposal of garbage. The existing 34 yard compactor shall remain in use at this location. The applicant shall annually submit to the Planning Director documentation that Applicant has informed its tenants where to dispose of the garbage. This shall insure that no more than approximately sixty percent (60%) of the building's total garbage disposal shall be through 23rd Street. Garbage shall be picked up no more than two (4) times per week on weekdays. Best efforts shall be used so the compactor is only picked up between 10 a.m. and 5 p.m., and shall not be picked up on weekends or federal holidays. If, in the future, the applicant can clearly demonstrate the need to increase garbage pickup to five (5) times per week, that request can be brought to the Planning Director upon notice to the Riviera and Roney for consideration and approval.
 - b. 24th Street – The applicant shall install the awning for the loading bay at 24th Street, as depicted on the design dated November 22, 2010, entitled "24th Street Loading Bay Plan" within 90 days of this Modified Conditional Use Permit being rendered. The applicant shall maintain a retractable gate, approved by staff, that fully encloses the loading bay fronting 24th Street, which shall remain closed at all times when the loading bay is not in use, i.e. garbage pickup or deliveries. The Applicant within 30 days of the order being rendered shall apply to the Board of Adjustment for a variance to permit the height of the gates to be 8'. After the awning and gate are installed, the applicant shall install a 34 yard trash compactor within the enclosed and covered bay. The applicant shall annually submit to the Planning Director documentation that Applicant has informed its tenants where to dispose of the

garbage. This shall insure that no more than approximately forty percent (40%) of the building's total garbage disposal shall be through 24th Street. Garbage shall be picked up no more than two (2) times per week on weekdays. Best efforts shall be used so the compactor is only picked up between 10 a.m. and 5 p.m. and shall not be picked up on weekends or federal holidays. If, in the future, the applicant can clearly demonstrate the need to increase garbage pickup to three (3) times per week, that request can be brought to the Planning Director upon notice to the Riviera and Roney for consideration and approval.

- c. If requested by the City, including the Planning Board, the Applicant shall provide data illustrating the utilization of the loading bays for garbage as the building becomes fully operational. Repeated violation of the garbage pickup times and gate closure rules as provided above shall result in reconsideration of this issue by the Board. The Applicant shall put all tenants and other garbage producing entities on notice of these conditions, with a copy of such notice submitted to the Planning Department.
 - d. Regarding the loading of trucks and vehicles at the loading docks on the 23rd and 24th 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.
19. 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 noise.
 20. 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.
 21. Fireworks shall be permitted on July 4 and New Years Eve without notice to the Roney or Riviera if approved by appropriate city officials in advance and in writing. At all other times notice shall be given by the Applicant to both the Riviera and Roney 30 days in advance of the proposed fireworks in order to file any objections. However, notice is not required if written permission is granted by the Association Boards of each Condominium. Compliance with all other requirements of applicable law is required for any fireworks display.
 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.

- 23 The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue and 24th Street, in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times during the hours of operation.
- 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.
- 25 The approval of this Conditional Use Permit shall be based upon the Operational Plan submitted as part of this application for Neighborhood Impact Establishment and other conditions and restrictions as articulated herein.
- 26 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.
- 27 Mitigation measures to improve level of service standards and traffic conditions, especially on 24th Street shall be the sole responsibility of the applicant. The applicant shall coordinate these mitigation measures with the City's Transportation Manager, including but not limited to traffic light timing, left-hand turn signal for westbound traffic, and similar.
- 28 This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a modified certificate of use.
- 29 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.
- 30 Nothing in this order authorizes a violation of the City Code or other applicable law, nor supersedes any requirement or standard set forth in the City Code (or City's Noise Ordinance, etc).
- 31 References to third parties in this Order are at the request of and by agreement of the Applicant, and shall not be considered an unlawful delegation of legislative authority.

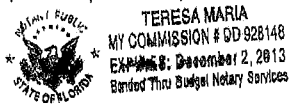
Dated this 4th day of June, 2012.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
Richard G. Lorber, Acting Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 4th day of June, 2012, by Richard G. Lorber, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



[NOTARIAL SEAL]

[Signature]
Notary:
Print Name: TERESA MARIA
Notary Public, State of Florida
My Commission Expires: 12-2-13
Commission Number: DD928148

Approved As To Form:
Legal Department (9/22/12)

F:\PLAN\SPLB\2012\4-24-2012\1840 - 2301 2377 Collins fka Gansevoort\MCUP Perry 4.24.12.docx

EXHIBIT "A"

LEGAL DESCRIPTION:

A Block of land shown on the Record Plat as Hotel Site, and the Northerly 25.00 feet of Atlantic Avenue, later known as 23rd Street (now closed), and all of Miami Beach Drive, as said drive is bounded on the North by the Northerly line of said Hotel Site; bounded on the South by the Southerly line of the Northerly 25.00 feet of said 23rd Street (now closed) and that area East of Miami Beach Drive; bounded on the West by Easterly line of Miami Beach Drive; bounded on the East by the Erosion Control Line of the Atlantic Ocean, said Line recorded in Plat Book 105, at page 62 of the Public Records of Miami-Dade County, Florida; bounded on the North and South by the above mentioned Northerly and Southerly boundaries extended Easterly. The above mentioned Hotel Site, Miami Beach Drive, and Atlantic Avenue, are all shown on the Amended Map or Plat of the Ocean Front Property of the Miami Beach Improvement Company, a subdivision recorded in Plat Book 5, of pages 7 and 8 of the Public Records of Miami-Dade County, Florida, All as described by Metes and Bounds as follows:

From a Point of Beginning, start at the Southeast corner of the intersection of Collins Avenue and Hotel Place (now known as Twenty-Fourth Street); thence South along the East boundary line of Collins Avenue, and Collins Avenue produced across formerly Atlantic Avenue (and also formerly known as Twenty-Third Street), a distance of 625.00 feet; thence east parallel to the South boundary of formerly Atlantic Avenue (and also formerly Twenty-Third Street) to the Erosion Control Line of the Atlantic Ocean, said Line recorded in Plat Book 105, at page 62 of the public records of Miami-Dade County, Florida; thence North along the Erosion Control Line of the Atlantic Ocean to a point where it intersects the South boundary line of Hotel Place (now known as Twenty-Fourth Street), extended Easterly; thence West along the South boundary line and projection of Hotel Place (now known as Twenty-Fourth Street) to the Point of Beginning (P.O.B.), all as shown by an Amended Map of Plat of The Ocean Front Property of the Miami Branch Improvement Company, a subdivision recorded in Plat Book 5, at pages 7 and 8 of the Public Records of Miami-Dade County, Florida.

MIA 181,121,889v1

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that this is a true copy of the
original filed in this office on 20th day of
July, A.D. 2010
WITNESS my hand and Official Seal
HARVEY RAVIN, CLERK of Dade County Courts
By Harvey Ravin



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

PROPERTY: 2301 Collins Avenue

FILE NO. 1840

IN RE: The applicant, 2377 Collins Resort, LP, is requesting a Modification to a Conditional Use Permit, pursuant to Article IV, Section 118 of the Miami Beach City Code, in order to relocate a portion of the hotel kitchen serving the rooftop level from the ground floor to just below the rooftop level.

LEGAL DESCRIPTION: See Attached Exhibit "A"

MEETING DATE: June 24, 2014

MODIFIED CONDITIONAL USE PERMIT

The applicant, 2377 Collins Resort, L.P., filed an application with the Planning Director for a Modified Conditional Use Permit pursuant to Article IV, Section 118 of the Miami Beach City Code, in order to relocate a portion of the hotel kitchen serving the rooftop level from the ground floor to just below the rooftop level. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

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 Land Development Regulations;

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 and the staff report and analysis, which are adopted herein, including the staff recommendations, that the Conditional Use Permit be Granted subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction over this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board before the time stipulated herein. 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). This condition does not limit any other remedies available to the Board or the City with respect to this Conditional Use.
2. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.
3. This Conditional Use Permit is issued to 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.
4. This Conditional Use Permit includes the rooftop area (n/k/a "Rooftop Operation") and the commercial uses within the building - two restaurants: on the southwest and northwest corners; the VIP Lounge; the ballroom; the Gym and spa; and the commercial/retail spaces are hereby approved as part of this request for Conditional Use approval.
5. The relocation of the kitchen servicing the rooftop area from the ground floor to the rooftop level shall be subject to verification that the former mechanical area was previously included in the floor area calculations for the entire building, as determined by the Planning Director, and with the requirement that the floor slab of the existing mechanical room shall remain at its current height.
6. The applicant shall continue to pay a fee in lieu of providing required parking as determined by staff in accordance with applicable law and any newly provided spaces.
7. Live music outdoors shall be prohibited. This condition is applicable to the entirety of Applicants' property, as set forth in Item 3 of their Application dated July 17, 2007. Music played outdoors shall be background music only, played at a level that does not interfere with normal conversation. 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.
8. Only the permanently installed, hotel management-controlled sound system shall be permitted in the Rooftop Operation, which shall be under the strict and complete control of management subject to all other terms and conditions of this Conditional Use Permit. No other sound system shall be permitted. 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.

9. Entertainment, as defined in the City Code shall be prohibited in the Rooftop Operation. 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.
10. Any stage structure as well as smoke machines shall be prohibited in the Rooftop Operation, except that a temporary stage may be approved through the normal City of Miami Beach Special Events permitting process, except that the restriction on temporary stage structure is not applicable to the existing management-owned bridge used to bridge the pool. However, at no time during any Special Event shall the provisions of Conditions number **6, 13, 14, 16, 19 and 20** herein be contravened.
11. No temporary lighting equipment on the rooftop shall be permitted other than that associated with a City approved Film and Print Permit. However no temporary lighting equipment shall be set up during the hours of midnight and 7:00 a.m.
12. Lighting shall not shine on or into any neighboring residential units and all lights shall be appropriately shielded to minimize spillover onto neighboring residential areas. There shall be no flashing or spinning lights.
13. Fireworks shall be permitted only on the ground level east of the building.
14. Special "teen night," "all-ages" events, "wet T-shirt," "thong" or "bikini" contests or games shall be prohibited in all the venues proposed in this application. This shall include, but not be limited to events such as Jell-O wrestling, best-tan contests, and similar type of activities.
15. Enforcement of age restriction of 21 years and over, as provided in Section 6-5 of the City Code shall be the responsibility of the applicant. A violation of 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.
16. Street flyers and handouts shall be prohibited, including handbills from third-party promotions.
17. The Rooftop Operation shall be subject to the conditions proffered by the applicant, which are hereby enumerated:
 - a. The maximum number of guests that may be permitted shall not exceed 425 persons.
 - b. Closing time shall be 3:00 a.m. Thursday, Friday and Saturday nights, as well as for citywide special events and on national holidays, and 12:00 midnight all other nights.
 - c. The following sound conditions shall govern the Rooftop Operation:
 - (i) Compliance in all respects with the following noise studies: Cerami & Associates, Inc., dated June 9, 2006, and The Audio Bug, Inc., all as submitted by Applicant under Tab 16 of its "Hearing Notebook" filed with the Planning Board at the Board's July 29, 2008 meeting, as amended by The Audio Bug, Inc. report dated September 17, 2008; and under second amendment by The Audio Bug, Inc.

November 16, 2010; and the following ten additional sound conditions (ii – xi) shall govern to the extent that they are not inconsistent with said studies and report:

- (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.
- (iii) The applicant shall notify the Riviera Condominium Association and Roney Condominium Association when The Audio Bug, Inc., or other sound engineer acceptable to City staff, will be performing his inspections. The Condominium associations, at their discretion have the right to send board members and/ or their own sound engineers to be present and participate while Audio Bug, Inc. (or another qualified engineer acceptable to City staff) conducts inspections of the sound system.
- (iv) Deployment of many small, closely spaced speakers, each of which is unable to operate above the maximum sound levels specified above in 17 c (i); No speaker shall exceed 8 inches in diameter.
- (v) A distributed sound system which distributes sound uniformly within the Rooftop Operation and which operates in a manner that does not interfere with normal conversation;
- (vi) A sound system which is locked and which will not permit sound above the maximum levels specified above;
- (vii) A sound system for which only the hotel general manager will have full responsibility and to which disc jockeys and other individuals, whether employed by the hotel or not, will not have access;
- (viii) A sound system which has a centralized computer control and digital processor which will allow only limited access via password security among other security options;
- (ix) Speakers, each of which is equipped with small woofers incapable of producing appreciable levels of low frequency energy;
- (x) Speakers, each of which will be aimed in a manner which will minimize sound propagation to other properties; and
- (xi) A prohibition upon the introduction or use of any other sound-generating equipment of any kind, whether from an outside source or from within the Applicant's property.

18. Regular valet protocol, other than for unit owners of the Paradiso Condominium shall be as follows:
- a. Cars returned via the garage exit on 23rd Street and make only right turns. However, at times of excessive demand, the valet manager may use his reasonable discretion in using the 24th Street out ramp for all customers who parked at the valet station on 24th Street in order to maintain appropriate car return times. This valet station, Valet Station #4, shall be located at the westernmost corner of 24th Street and the porte-cochere and no awning shall be permitted on this station.
 - b. All of the valet spots on Valet Station #4 will be for transient valet use only; no parking shall be permitted on this valet station ramp.
 - c. There shall not be any drop off/pick up at valet stations 3 and 4, for customers of the commercial uses past the hours of 11:00 p.m. on Sunday through Thursday and 12:00 a.m. on Friday and Saturday.
 - d. Unit owners of Paradiso Condominium shall have full access at all times to the 24th Street porte cochere for drop-off/pick up.
 - e. Valet Station No. 2 shall have signs posted indicating that this is the location for drop-off/pick-up area for the Rooftop bar and restaurants.
 - f. Senior hotel manager and food and beverage manager shall meet on a monthly basis with the Boards of 2401 Collins Avenue (Riviera Condominium) and the Roney Palace Condominium to maintain an open dialogue to air concerns, answer questions and respond to issues that may come up.
19. Loading bays located on 23rd and 24th Streets shall be used only in accordance with the following conditions:
- a. 23rd Street – The applicant shall continue to use this loading bay for the disposal of garbage. The existing 34 yard compactor shall remain in use at this location. The applicant shall annually submit to the Planning Director documentation that Applicant has informed its tenants where to dispose of the garbage. This shall insure that no more than approximately sixty percent (60%) of the building's total garbage disposal shall be through 23rd Street. Garbage shall be picked up no more than two (4) times per week on weekdays. Best efforts shall be used so the compactor is only picked up between 10 a.m. and 5 p.m., and shall not be picked up on weekends or federal holidays. If, in the future, the applicant can clearly demonstrate the need to increase garbage pickup to five (5) times per week, that request can be brought to the Planning Director upon notice to the Riviera and Roney for consideration and approval.
 - b. 24th Street – The applicant shall install the awning for the loading bay at 24th Street, as depicted on the design dated November 22, 2010, entitled "24th Street Loading Bay Plan" within 90 days of this Modified Conditional Use Permit being rendered. The applicant shall maintain a retractable gate, approved by staff, that fully encloses the loading bay fronting 24th Street, which shall remain closed at all times when the loading bay is not in use, i.e.

garbage pickup or deliveries. The Applicant within 30 days of the order being rendered shall apply to the Board of Adjustment for a variance to permit the height of the gates to be 8'. After the awning and gate are installed, the applicant shall install a 34 yard trash compactor within the enclosed and covered bay. The applicant shall annually submit to the Planning Director documentation that Applicant has informed its tenants where to dispose of the garbage. This shall insure that no more than approximately forty percent (40%) of the building's total garbage disposal shall be through 24th Street. Garbage shall be picked up no more than two (2) times per week on weekdays. Best efforts shall be used so the compactor is only picked up between 10 a.m. and 5 p.m. and shall not be picked up on weekends or federal holidays. If, in the future, the applicant can clearly demonstrate the need to increase garbage pickup to three (3) times per week, that request can be brought to the Planning Director upon notice to the Riviera and Roney for consideration and approval.

- c. If requested by the City, including the Planning Board, the Applicant shall provide data illustrating the utilization of the loading bays for garbage as the building becomes fully operational. Repeated violation of the garbage pickup times and gate closure rules as provided above shall result in reconsideration of this issue by the Board. The Applicant shall put all tenants and other garbage producing entities on notice of these conditions, with a copy of such notice submitted to the Planning Department.
 - d. Regarding the loading of trucks and vehicles at the loading docks on the 23rd and 24th 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.
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 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.
 22. Fireworks shall be permitted on July 4 and New Years Eve without notice to the Roney or Riviera if approved by appropriate city officials in advance and in writing. At all other times notice shall be given by the Applicant to both the Riviera and Roney 30 days in advance of the proposed fireworks in order to file any objections. However, notice is not required if written permission is granted by the Association Boards of each Condominium. Compliance with all other requirements of applicable law is required for any fireworks display.
 23. 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.

24. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue and 24th Street, in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times during the hours of operation.
25. 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.
26. The approval of this Conditional Use Permit shall be based upon the Operational Plan submitted as part of this application for Neighborhood Impact Establishment and other conditions and restrictions as articulated herein.
27. 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.
28. Mitigation measures to improve level of service standards and traffic conditions, especially on 24th Street shall be the sole responsibility of the applicant. The applicant shall coordinate these mitigation measures with the City's Transportation Manager, including but not limited to traffic light timing, left-hand turn signal for westbound traffic, and similar.
29. ~~This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a modified certificate of use. The executed 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.~~
30. 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.
31. Nothing in this order authorizes a violation of the City Code or other applicable law, nor supersedes any requirement or standard set forth in the City Code (or City's Noise Ordinance, etc).

32. References to third parties in this Order are at the request of and by agreement of the Applicant, and shall not be considered an unlawful delegation of legislative authority.

Dated this 2nd day of JULY, 2014.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

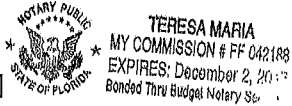
BY: Thomas R. Mooney
Thomas R. Mooney, AICP
Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 2nd day of July, 2014, by Thomas R. Mooney, ACIP, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

Teresa Maria

Notary:
Print Name: TERESA MARIA
Notary Public, State of Florida
My Commission Expires: 12-2-17
Commission Number: FF 042188



[NOTARIAL SEAL]

Approved As To Form:
Legal Department J. Heed (7-1-14)

Filed with the Clerk of the Planning Board 07/03/2014 (JH)

JH

EXHIBIT "A"
LEGAL DESCRIPTION

Page 1 of 2

Parcel I:
From a POINT OF BEGINNING, start at the Southeast corner of the Intersection of Collins Avenue and Hotel Place (now known as Twenty Fourth Street); thence South along the East boundary line of Collins Avenue, and Collins Avenue produced across formerly Atlantic Avenue (and also formerly known as Twenty Third Street); a distance of six hundred twenty-five feet; thence East parallel to the South boundary of formerly Atlantic Avenue (and formerly Twenty Third Street) to the low water mark of the Atlantic Ocean; thence North along the low water mark of the Atlantic Ocean to a point where it intersects the South boundary line of Hotel Place (now known as Twenty Fourth Street) extended Eastwardly; thence West along the South boundary line and projection of Hotel Place (now known as Twenty Fourth Street) to the POINT OF BEGINNING, all as shown by an amended map or Plot of OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, recorded in Plot Book 5, Pages 7 and 8, of the Public Records of Miami-Dade County, Florida.

AND TOGETHER WITH
Easements and other rights, to the extent such rights constitute real property rights under Florida laws, as granted and reserved by that certain Declaration of Protective Covenants recorded in Official Records Book 17787, Page 1692, and as amended by the First Amendment recorded in Official Records Book 20545, Page 3905, both of the Public Records of Miami-Dade County, Florida.

LESS AND EXCEPT THEREFROM:

All of the RONEY PALACE, A CONDOMINIUM, according to the Declaration of Condominium thereof, as recorded in Official Records Book 17787, at Page 1644; and as amended by the First Amendment of Declaration of Condominium of the RONEY PALACE, a Condominium, made by the RONEY PALACE Condominium Association, Inc., a Florida Corporation not for profit (the "Association"), adopted as of December 29, 1998, (but not executed or recorded) and dated May 2, 2001, and recorded on May 9, 2001, in Official Records Book 19650, at Page 1529; as further amended by the Second Amendment to Declaration of Condominium of the RONEY PALACE, a Condominium, made by the Association, dated May 5, 1999, and recorded on June 2, 1999, in Official Records Book 18831, at Page 2583; as further amended by the Third Amendment to Declaration of Condominium, made by the Association, dated February 20, 2002, and recorded on February 28, 2002, in Official Records Book 20231, at Page 3400; said Amendment being re-recorded on March 18, 2002, in Official Records Book 20297, at Page 579; as further amended by the Fourth Amendment to Declaration of Condominium, made by the Association, dated February 20, 2003, and recorded on March 31, 2003, in Official Records Book 21135, at Page 1163; as further amended by the Fifth Amendment to Declaration of Condominium, made by the Association, dated July 14, 2003, and recorded on July 17, 2003, in Official Records Book 21434, at Page 4207, all of the Public Records of Miami-Dade County, Florida.

FURTHER LESS AND EXCEPT THEREFROM:

All of RONEY PALACE COMMERCIAL CONDOMINIUM, according to the Declaration of Condominium thereof, as recorded in Official Records Book 21816, at Page 4377; and as amended by First Amendment of Declaration of Condominium, dated August 9, 2004, and recorded on September 16, 2004, in Official Records Book 22662, at Page 647; as further amended by the Second Amendment to the Declaration of Condominium, dated September 10, 2004, and recorded on September 16, 2004, in Official Records Book 22662, at Page 694; said Second Amendment having been re-recorded on October 19, 2004, in Official Records Book 22744, at Page 2136, all of the Public Records of Miami-Dade County, Florida.

FURTHER LESS AND EXCEPT THEREFROM:

All of PARADISO, a Condominium according to the Declaration of Condominium thereof, as recorded in Official Records Book 26402, Page 2451, in the Public Records of Miami-Dade County, Florida.

Parcel II: (Lot on West side of Collins Avenue)

Beginning at the Northeast corner of Lot 12, Block 3 of the AMENDED PLAT OF THE OCEAN FRONT PROPERTY OF THE MIAMI-BEACH IMPROVEMENT COMPANY, according to the Plat thereof, as recorded in Plot Book 5, Pages 7 and 8, of the Public Records of Miami-Dade County, Florida; Thence Southerly along the Westerly line of Collins Avenue a distance of 45 feet to a point; Thence Westerly, parallel to the North line of Atlantic Avenue (now known as 23rd Street) for a distance of 285 feet to a point on the Easterly line of Palm Avenue (now known as Liberty Avenue); Thence Northerly along the said Easterly line of Palm Avenue (now known as Liberty Avenue) a distance of 145 feet to a point; Thence run Easterly, parallel to said 23rd St. a distance of 285 feet; Thence Southerly along the Westerly line of Collins Avenue a distance of 100 feet to the Point of Beginning.

Parcel III: (Strip of Land on the West Side of Collins Avenue)

A strip of land described as follows: For a Point of Beginning, extend the South line of Hotel Place (now known as 24th St.) Westerly until it intersects with the West line of Collins Avenue; Thence South along the West line of Collins Avenue a distance of 217 feet; Thence West to the low water mark or bulkhead of that body of water designated as a "Lake", Thence Northerly along the low water mark or bulkhead of said lake to a point where the South line of Hotel Place (now known as 24th St.) extended Westerly intersects said low water mark or bulkhead; Thence Easterly to the Point of Beginning; All as shown by AMENDED MAP (PLAT) OF MIAMI BEACH OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, recorded in Plot Book 5, Pages 7 and 8, of the Public records of Miami-Dade County, Florida.

LEGAL DESCRIPTION

Page 2 of 2

Parcel IV: (Submerged Land - Easterly 1/2 of Lagoon):

(Surveyor's Revised Legal Description)

Commence at the concrete monument situated at the Northwest corner of Block 2, as said Block 2 is shown on a plat entitled "Amended Map of the Ocean Front Property of the Miami Beach Improvement Company", recorded in Plat Book 5 at Pages 7 and 8, of the Public Records of Miami-Dade County, Florida; Thence run Northerly along the East Right-of-Way line of Palm Avenue (now Liberty Avenue), for 493.25 feet to point of curvature of a circular curve to the left; Thence continue along the arc of said curve having for its elements a central angle of 01°58'23", a radius of 484.0 feet, for an arc distance of 17.01 feet to the point of intersection of the East right-of-way line of Palm Avenue (now Liberty Avenue) and the Northerly face of concrete bulkhead on the Southerly shore of the Collins Canal; Thence run Northeasterly and Southeasterly meandering said Northerly face of concrete bulkhead for 204.6 feet to a point; Thence along a line from last described point, to a point where the South right-of-way line of Hotel Place (now 24th Street) extended to West, intersects the concrete bulkhead on the Easterly shore of Lake Pancoast, for 80.0 feet to the Point of Beginning of the Easterly one-half of the lagoon (Lake Pancoast); From said Point of Beginning, thence in a Southeasterly direction, along the Westerly line of the Easterly one-half of said lagoon, for 215.0 feet, more or less to a point on the Northerly face of concrete bulkhead at the South end of said lagoon, this point being 33.0 feet West of the Westerly right-of-way of Collins Avenue; Thence run Easterly along face of concrete bulkhead or low water mark of said lagoon, to point on a line 217.0 feet South of and parallel to the South line of Hotel Place (now 24th Street); Thence run Northwesterly, meandering along Westerly face of concrete bulkhead on Easterly shoreline of said lagoon or the low water mark of said lagoon, to a point of intersection with South right-of-way line Hotel Place (now 24th Street) extended Westerly; Thence across Northerly portion of said lagoon, to the Point of Beginning.

Parcel V:

Condominium Units 838, 1436, 1634, 1635, 1637, PH-11 and Condominium Units CU-1 through CU-14, inclusive of THE RONEY PALACE, A CONDOMINIUM, according to the Declaration of Condominium thereof, as recorded in Official Records Book 17787, Page 1644, of the Public Records of Miami-Dade County, Florida; as amended by the First Amendment to Declaration of Condominium recorded in Official Records Book 1529; as further amended by Second Amendment to Declaration of Condominium recorded in Official Records Book 18631, Page 2583; as further amended by Third Amendment to Declaration of Condominium recorded in Official Records Book 20231, Page 3400, said amendment was re-recorded in Official Records Book 20297, Page 579; as further amended by that Fourth Amendment to Declaration of Condominium recorded in Official Records Book 21135, Page 1163; as further amended by Fifth Amendment to Declaration of Condominium recorded in Official Records Book 21434, Page 4207, all of the Public Records of Miami-Dade County, Florida, and any subsequent amendments thereto, together with an undivided share in the common elements.

AND TOGETHER WITH:
Easements and other rights to the extent such rights constitute real property rights under Florida law, as granted and reserved by that certain Declaration of Protective Covenants recorded in Official Records Book 17787, Page 1592 and as amended by First Amendment recorded in Official Records Book 20545, Page 3805, both in the Public Records of Miami-Dade County, Florida.

Parcel VI:

All of RONEY PALACE COMMERCIAL CONDOMINIUM, according to the Declaration of Condominium thereof, as recorded in Official Records Book 21816, Page 4877; and as amended by First Amendment to Declaration of Condominium recorded in Official Records Book 22662, Page 647; as further amended by Second Amendment to Declaration of Condominium recorded in Official Records Book 22662, Page 694; said Second Amendment was re-recorded in Official Records Book 22744, Page 2136, all of the Public Records of Miami-Dade County, Florida, and any subsequent amendments thereto.

AND TOGETHER WITH

Easements and other rights to the extent such rights constitute real property rights under Florida law, as granted and reserved by that certain Declaration of Protective Covenants recorded in Official Records Book 17787, Page 1592 and as amended by First Amendment recorded in Official Records Book 20545, Page 3905, both in the Public Records of Miami-Dade County, Florida.

Parcel VII:

All of PARADISO, according to the Declaration of Condominium thereof, as recorded in Official Records Book 26402, Page 2451, in the Public Records of Miami-Dade County, Florida, and any amendments thereto, less: Unit Numbers 934, 1022, 1106 and 1411

AND TOGETHER WITH

Easements and other rights to the extent such rights constitute real property rights under Florida law, as granted and reserved by that certain Declaration of Protective Covenants recorded in Official Records Book 17787, Page 1592 and as amended by First Amendment recorded in Official Records Book 20545, Page 3905, both in the Public Records of Miami-Dade County, Florida.

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

PROPERTY: 2301-2395 Collins Avenue

FILE NO. 1840

IN RE: The applicant SB Hotel Owner, L.P, a Delaware Limited Partnership, requested a modification to a previously issued Conditional Use Permit for a Neighborhood Impact Establishment, to change the name of the owner/operator from 2377 Collins Resort, L.P., a Delaware Limited Partnership., to SB Hotel Owner, L.P, a Delaware Limited Partnership., pursuant to Chapter 118, Article IV of the City Code.

LEGAL DESCRIPTION: See Exhibit "A" attached

MEETING DATE: December 15, 2015

MODIFIED CONDITIONAL USE PERMIT

The applicant, SB Hotel Owner, L.P., a Delaware Limited Partnership, requested a modification to a previously issued Conditional Use Permit for a Neighborhood Impact Establishment, to change the name of the owner/operator from 2377 Collins Resort, L.P., a Delaware Limited Partnership., to SB Hotel Owner, L.P., a Delaware Limited Partnership., pursuant to Chapter 118, Article IV of the City Code. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

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 Land Development Regulations;

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

8. Only the permanently installed, hotel management-controlled sound system shall be permitted in the Rooftop Operation, which shall be under the strict and complete control of management subject to all other terms and conditions of this Conditional Use Permit. No other sound system shall be permitted. 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.
9. Entertainment, as defined in the City Code shall be prohibited in the Rooftop Operation. 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.
10. Any stage structure as well as smoke machines shall be prohibited in the Rooftop Operation, except that a temporary stage may be approved through the normal City of Miami Beach Special Events permitting process, except that the restriction on temporary stage structure is not applicable to the existing management-owned bridge used to bridge the pool. However, at no time during any Special Event shall the provisions of Conditions number **6, 13, 14, 16, 19 and 20** herein be contravened.
11. No temporary lighting equipment on the rooftop shall be permitted other than that associated with a City approved Film and Print Permit. However no temporary lighting equipment shall be set up during the hours of midnight and 7:00 a.m.
12. Lighting shall not shine on or into any neighboring residential units and all lights shall be appropriately shielded to minimize spillover onto neighboring residential areas. There shall be no flashing or spinning lights.
13. Fireworks shall be permitted only on the ground level east of the building.
14. Special "teen night," "all-ages" events, "wet T-shirt," "thong" or "bikini" contests or games shall be prohibited in all the venues proposed in this application. This shall include, but not be limited to events such as Jell-O wrestling, best-tan contests, and similar type of activities.
15. Enforcement of age restriction of 21 years and over, as provided in Section 6-5 of the City Code shall be the responsibility of the applicant. A violation of 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.
16. Street flyers and handouts shall be prohibited, including handbills from third-party promotions.
17. The Rooftop Operation shall be subject to the conditions proffered by the applicant, which are hereby enumerated:
 - a. The maximum number of guests that may be permitted shall not exceed 425 persons.
 - b. Closing time shall be 3:00 a.m. Thursday, Friday and Saturday nights, as well as for citywide special events and on national holidays, and 12:00 midnight all other nights.
 - c. The following sound conditions shall govern the Rooftop Operation:

- (i) Compliance in all respects with the following noise studies: Cerami & Associates, Inc., dated June 9, 2006, and The Audio Bug, Inc., all as submitted by Applicant under Tab 16 of its "Hearing Notebook" filed with the Planning Board at the Board's July 29, 2008 meeting, as amended by The Audio Bug, Inc. report dated September 17, 2008; and under second amendment by The Audio Bug, Inc. November 16, 2010; and the following ten additional sound conditions (ii – xi) shall govern to the extent that they are not inconsistent with said studies and report:
- (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.
- (iii) The applicant shall notify the Riviera Condominium Association and Roney Condominium Association when The Audio Bug, Inc., or other sound engineer acceptable to City staff, will be performing his inspections. The Condominium associations, at their discretion have the right to send board members and/ or their own sound engineers to be present and participate while Audio Bug, Inc. (or another qualified engineer acceptable to City staff) conducts inspections of the sound system.
- (iv) Deployment of many small, closely spaced speakers, each of which is unable to operate above the maximum sound levels specified above in 17 c (i); No speaker shall exceed 8 inches in diameter.
- (v) A distributed sound system which distributes sound uniformly within the Rooftop Operation and which operates in a manner that does not interfere with normal conversation;
- (vi) A sound system which is locked and which will not permit sound above the maximum levels specified above;
- (vii) A sound system for which only the hotel general manager will have full responsibility and to which disc jockeys and other individuals, whether employed by the hotel or not, will not have access;
- (viii) A sound system which has a centralized computer control and digital processor which will allow only limited access via password security among other security options;
- (ix) Speakers, each of which is equipped with small woofers incapable of producing appreciable levels of low frequency energy;

- (x) Speakers, each of which will be aimed in a manner which will minimize sound propagation to other properties; and
 - (xi) A prohibition upon the introduction or use of any other sound-generating equipment of any kind, whether from an outside source or from within the Applicant's property.
18. Regular valet protocol, other than for unit owners of the Paradiso Condominium shall be as follows:
- a. Cars returned via the garage exit on 23rd Street and make only right turns. However, at times of excessive demand, the valet manager may use his reasonable discretion in using the 24th Street out ramp for all customers who parked at the valet station on 24th Street in order to maintain appropriate car return times. This valet station, Valet Station #4, shall be located at the westernmost corner of 24th Street and the porte-cochere and no awning shall be permitted on this station.
 - b. All of the valet spots on Valet Station #4 will be for transient valet use only; no parking shall be permitted on this valet station ramp.
 - c. There shall not be any drop off/pick up at valet stations 3 and 4, for customers of the commercial uses past the hours of 11:00 p.m. on Sunday through Thursday and 12:00 a.m. on Friday and Saturday.
 - d. Unit owners of Paradiso Condominium shall have full access at all times to the 24th Street porte cochere for drop-off/pick up.
 - e. Valet Station No. 2 shall have signs posted indicating that this is the location for drop-off/pick-up area for the Rooftop bar and restaurants.
 - f. Senior hotel manager and food and beverage manager shall meet on a monthly basis with the Boards of 2401 Collins Avenue (Riviera Condominium) and the Roney Palace Condominium to maintain an open dialogue to air concerns, answer questions and respond to issues that may come up.
19. Loading bays located on 23rd and 24th Streets shall be used only in accordance with the following conditions:
- a. 23rd Street – The applicant shall continue to use this loading bay for the disposal of garbage. The existing 34 yard compactor shall remain in use at this location. The applicant shall annually submit to the Planning Director documentation that Applicant has informed its tenants where to dispose of the garbage. This shall insure that no more than approximately sixty percent (60%) of the building's total garbage disposal shall be through 23rd Street. Garbage shall be picked up no more than four (4) times per week on weekdays. Best efforts shall be used so the compactor is only picked up between 10 a.m. and 5 p.m., and shall not be picked up on weekends or federal holidays. If, in the future, the applicant can clearly

demonstrate the need to increase garbage pickup to five (5) times per week, that request can be brought to the Planning Director upon notice to the Riviera and Roney for consideration and approval.

- b. 24th Street – The applicant shall install the awning for the loading bay at 24th Street, as depicted on the design dated November 22, 2010, entitled “24th Street Loading Bay Plan” within 90 days of this Modified Conditional Use Permit being rendered. The applicant shall maintain a retractable gate, approved by staff, that fully encloses the loading bay fronting 24th Street, which shall remain closed at all times when the loading bay is not in use, i.e. garbage pickup or deliveries. The Applicant within 30 days of the order being rendered shall apply to the Board of Adjustment for a variance to permit the height of the gates to be 8’. After the awning and gate are installed, the applicant shall install a 34 yard trash compactor within the enclosed and covered bay. The applicant shall annually submit to the Planning Director documentation that Applicant has informed its tenants where to dispose of the garbage. This shall insure that no more than approximately forty percent (40%) of the building’s total garbage disposal shall be through 24th Street. Garbage shall be picked up no more than two (2) times per week on weekdays. Best efforts shall be used so the compactor is only picked up between 10 a.m. and 5 p.m. and shall not be picked up on weekends or federal holidays. If, in the future, the applicant can clearly demonstrate the need to increase garbage pickup to three (3) times per week, that request can be brought to the Planning Director upon notice to the Riviera and Roney for consideration and approval.
 - c. If requested by the City, including the Planning Board, the Applicant shall provide data illustrating the utilization of the loading bays for garbage as the building becomes fully operational. Repeated violation of the garbage pickup times and gate closure rules as provided above shall result in reconsideration of this issue by the Board. The Applicant shall put all tenants and other garbage producing entities on notice of these conditions, with a copy of such notice submitted to the Planning Department.
 - d. Regarding the loading of trucks and vehicles at the loading docks on the 23rd and 24th 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.
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 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.

22. Fireworks shall be permitted on July 4 and New Years Eve without notice to the Roney or Riviera if approved by appropriate city officials in advance and in writing. At all other times notice shall be given by the Applicant to both the Riviera and Roney 30 days in advance of the proposed fireworks in order to file any objections. However, notice is not required if written permission is granted by the Association Boards of each Condominium. Compliance with all other requirements of applicable law is required for any fireworks display.
23. 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.
24. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue and 24th Street, in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times during the hours of operation.
25. 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.
26. The approval of this Conditional Use Permit shall be based upon the Operational Plan submitted as part of this application for Neighborhood Impact Establishment and other conditions and restrictions as articulated herein.
27. 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.
28. Mitigation measures to improve level of service standards and traffic conditions, especially on 24th Street shall be the sole responsibility of the applicant. The applicant shall coordinate these mitigation measures with the City's Transportation Manager, including but not limited to traffic light timing, left-hand turn signal for westbound traffic, and similar.
29. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a modified certificate of use. The executed 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.

- 30. 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.

- 31. Nothing in this order authorizes a violation of the City Code or other applicable law, nor supersedes any requirement or standard set forth in the City Code (or City’s Noise Ordinance, etc).

- 32. References to third parties in this Order are at the request of and by agreement of the Applicant, and shall not be considered an unlawful delegation of legislative authority.

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.

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

{NOTARIAL SEAL}

Approved As To Form:
Legal Department ()

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