

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: Dec 20, 2016

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 16-0062. 7116-7140 Collins Avenue and 7117-7145 Harding Avenue.**

The applicants, Collins and 72nd Developers, LLC, Casa Grande Shopping Center, LLC, and AHM Advisors, LLC, are requesting Conditional Use Approval for the construction of a new 10-story mixed-use development exceeding 50,000 square feet including a mechanical parking garage pursuant to Section 118, Article IV and Section 130, Article II of the City Code.

RECOMMENDATION

Continuance to a future date

ZONING / SITE DATA

Future Land Use: TC-1 – North Beach Town Center

Zoning: TC-1 – North Beach Town Center

Legal Description: Lots 1, 2, 3, 4, 9, 10, 11 and 12 in Block 8 of Normandy Beach South, according to the Plat thereof, as recorded in Plat Book 21, Page 54, of the Public Records of Miami- Dade County, Florida.

Land Uses: See Zoning/Site map at the end of this report.

North: Parking Lot

South: Commercial uses

East: Multifamily building

West: Commercial uses

Lot Size: 49,890 SF

Maximum FAR: 2.75 = 137,198 SF
-5,075 SF area used by lot 7118/7122
-2,695 SF area used by lot 7140
Total = 129,428 SF

Proposed FAR: 129,337 SF as represented by the applicant

Maximum Height: 125'-0" / 12 stories

Proposed Height: 124'-8" / 10 stories

Proposed Uses:

Hotel:	179 units
Retail:	9,415 square feet, new commercial space (spaces 3, 4, 5 & 6) 6,168 square feet, new commercial space on existing commercial space (spaces 1 & 2) 2,695 square feet of Existing Commercial space 1
Parking:	141 spaces

THE PROJECT

The applicant has submitted revised plans entitled "72 +Collins Avenue", as prepared by Revuelta Architecture International, Luis O. Revuelta as registered Architect, dated November 02, 2016. The proposal consists of a new 10-story, mixed-use building with 179 hotel units and a 134 seat bar/lounge, 23,754 SF of ground floor commercial space, the partial retention of the two existing 1-story commercial buildings which are part of the development site and a mechanical parking garage on the second level.

The proposal is scheduled to be considered by the Design Review Board on January 03, 2017 (File No. DRB16-0054).

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application, as proposed, is not consistent with the following City Code sections:

Section 142-737 (f):

[Alleys.] Alleys shall be provided to benefit property owners and the general public by providing parking, service and delivery access to the rear of all lots, thereby improving traffic flow and eliminating driveways that create vehicle/pedestrian conflicts on public sidewalks. Motor vehicle parking, service and delivery access shall be from an alley wherever one exists, or where a new alley or service corridor can be created by dedication or easement. The location of new alleys shall be determined by the design review process with the intent to ensure that all properties within a block will have existing or future service access from the rear. Generally, the alley will be located in the required setback area along the rear or interior side lot line; however, this may be adjusted to optimize vehicular and pedestrian access to the subject property as well as to the surrounding properties. Where an alley does not exist, the property owner shall dedicate sufficient width (the area within the required setback) to provide the alley abutting his property. Where it is not feasible to construct an alley at the time of redevelopment of any property, as determined by the planning director, the developer shall execute and record a covenant effecting such dedication upon certification by the planning director that the construction of an alley has become feasible. The planning director may accept a perpetual access easement for an alley in lieu of dedication of an alley if he determines such would be appropriate under the circumstances of any particular property. The developer shall maintain the area until the city builds the alley.

Subject to approval by the Design Review Board, the applicant could dedicate sufficient width along the south property line (10 feet), which in the future could provide the northern half of an east-west oriented alley connected to a future north south alley, south of the applicants property on the same block.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

- 1. The use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

Consistent – The request is consistent with the Comprehensive Plan, as the TC-1 Category permits the following:

Commercial uses; alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6; apartments; apartments/hotels; hotels.

- 2. 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**

Partially Consistent – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan; however, a concurrency analysis will be performed at the time of building permit application. David Plumber & Associates was retained by the applicant to conduct a traffic study. FTE, Inc. was selected by the City and paid by the applicant to conduct a peer review. See the Memorandum from the Transportation Department.

- 3. Structures and uses associated with the request are consistent with this Ordinance.**

Partially Consistent – The proposed project appears to comply with most zoning regulations; however, any inconsistencies must be corrected prior to obtaining a building permit. In addition, the project is seeking a variance for the FPL overhead high voltage utility setback and the approval of this Conditional Use Permit is subject to Design Review Board approval of the required variance. Staff is recommending that the transmission lines be placed underground. FPL has been contacted by the City of Miami Beach to verify the cost of this work.

These comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a Building Permit.

- 4. Public health, safety, morals and general welfare will not be adversely affected.**

Consistent – The proposed project should not adversely affect the general welfare of nearby residents and businesses, the proposed uses are compatible with the surrounding area.

- 5. Adequate off-street parking facilities will be provided.**

Consistent – The proposed uses require 141 parking spaces. Per the plans submitted by the applicant the proposed project will provide 141 spaces, which is consistent with the minimum parking requirements.

- 6. Necessary safeguards will be provided for the protection of surrounding property,**

persons, and neighborhood values.

Consistent - The proposed project is not expected to adversely affect surrounding values; however, staff is recommending conditions to provide further safeguards.

7. **The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.**

Consistent – The proposed uses for the project are permitted in the TC-1 zoning district. While there are other buildings over 50,000 SF, in the vicinity, adverse impacts are not expected from the geographic concentration of such uses if the impacts are properly controlled.

COMPLIANCE WITH REVIEW GUIDELINES CRITERIA FOR NEW STRUCTURES 50,000 SQUARE FEET AND OVER

Pursuant to Section 118-192(b), in reviewing an application for conditional use for new structures 50,000 square feet and over, the Planning Board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines:

1. **Whether the proposed business operations plan has been provided, including hours of operation, number of employees, goals of business, and other operational characteristics pertinent to the application, and that such plan is compatible with the neighborhood in which it is located.**

Partially Consistent – The applicant's letter of intent provides operations characteristics of the proposed project except number of employees. The project is generally compatible with the surrounding neighborhood.

2. **Whether a plan for the mass delivery of merchandise has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan shall mitigate any adverse impacts to adjoining and nearby properties, and neighborhood.**

Partially Consistent – The plans indicate that loading and trash collection will take place from a loading area that will be contained within the building. Plans will have to be revised to demonstrate compliance with the loading requirements prior to obtaining a building permit. Per Applicant's Letter of Intent, there are no details regarding loading hours of operation.

3. **Whether the scale of the proposed use is compatible with the urban character of the surrounding area and creates adverse impacts on the surrounding area, and how the adverse impacts are proposed to be addressed.**

Consistent – The scale of the proposed project is compatible with nearby buildings and the TC-1 zoning district's allowable development and consistent with the North Beach Master Plan. However the scale, massing, architecture and compatibility issues will be further discussed by the Design Review Board meeting. Staff is recommending conditions to minimize potential adverse impacts.

4. **Whether the proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking and operational needs of the structure and proposed uses.**

Consistent – The proposed 141 spaces satisfies the parking requirements for the existing and proposed development. The first floor provides the drop-off and pick up locations and circulation for the valet operations. The first floor also provides access to the loading spaces, trash pick-up locations as well as access to the car elevators and three accessible spaces. The second floor is where all the remaining 138 spaces are located. See Parking Analysis.

5. **Whether an indoor and outdoor customer circulation plan has been provided that facilitates ingress and egress to the site and structure.**

Consistent – Access to the garage is by valet only, as the garage uses car elevators and mechanical parking. The parking is primarily for use by hotel patrons. Patrons of the ground floor will also be able to use the valet. Patrons from the Hotel can access the valet stand in front of the lobby on the first floor. Patrons going to the retail stores will walk around the property on the sidewalk. There is additional public parking across from 72nd street and a crosswalk located at the intersection of 72nd Street and Collins Avenue.

6. **Whether a security plan for the establishment and supporting parking facility has been provided that addresses the safety of the business and its users and minimizes impacts on the neighborhood.**

Not Consistent – Per Applicants Letter of Intent specifics regarding security operations, have not been detailed at this time.

7. **Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.**

David Plumber & Associates was retained by the applicant to conduct a traffic study. FTE, Inc. was selected by the City and paid by the applicant to conduct a peer review. See the Memorandum from the Transportation Department.

8. **Whether a noise attenuation plan has been provided that addresses how noise shall be controlled in the loading zone, parking structures and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.**

Partially Consistent – The parking garage on the second floor has minimal openings to the residential building to the east. Therefore, the applicant does not anticipate any significant noise from the operation. The trash pick-up and loading location are internal on the first floor. The trash room is enclosed and air-conditioned. The Letter of Intent (LOI) does not indicate hours during which deliveries and trash pick-up will take place. Staff is recommending conditions to minimize potential adverse impacts.

9. **Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.**

Partially Consistent – Trash pick-up is proposed to occur via the trash and loading area contained within the proposed building with access to Harding Avenue. The Letter of Intent (LOI) does not indicate hours for trash pick-up operations. Staff is recommending conditions to minimize potential adverse impacts. See the Delivery and Sanitation analysis.

10. Whether the proximity of the proposed structure to similar size structures and to residential uses create adverse impacts and how such impacts are mitigated.

Consistent – The project, as a 125-foot tall, ten (10) story building, would serve as an appropriate transition from the taller multifamily uses (200 feet) on the east side of Collins Avenue to the rest of the Town Center district that is currently developed at varying heights between one and five stories. Therefore, adverse impacts are not expected from the proposed project due to proximity to similarly sized structures.

11. Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect shall be addressed.

Consistent – The TC-1 zoning district allows the scale of development proposed. While there are other buildings of this scale in the surrounding vicinity, negative impacts from a cumulative effect are not expected.

SECTION 130-38–MECHANICAL AND ROBOTIC PARKING SYSTEMS

Projects proposing to use mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory off-street parking requirements shall prepare schematic floor plans prior to site plan review by the applicable land use board. Two sets of schematic floor plans shall be required:

1. One set of schematic plans sufficient to show the proposed development project with accessory off-street parking requirements satisfied by traditional, non-mechanical means, meeting all aspects of the design standards for parking spaces required in Article III of Chapter 130, and other provisions of these land development regulations, and requiring no variances from these provisions.

Consistent – A schematic drawing showing the required parking in a traditional, non-mechanical means was submitted showing the 141 required parking spaces for the project on-site.

2. A second set of schematic plans, sufficient to show the same proposed development project, utilizing mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory off-street parking requirements.

Consistent – A schematic drawing showing the required parking for the project by traditional and mechanical means was submitted showing 141 spaces. The mechanical parking version does not increase the amount of spaces and is located on the 2nd level of the building.

The non-mechanical schematic drawings have been reviewed by Planning Department staff and they appear to meet the requirements of the design standards of the City Code. Subject to this data being provided, the project may proceed to site plan approval based on the set of plans using mechanical parking.

The Planning Board shall also consider the following review criteria when considering each application for the use of mechanical parking systems:

- (a) **Whether the scale of the proposed structure is compatible with the existing urban character of the surrounding neighborhood.**

Consistent – The scale of the project is compatible with the surrounding area. The proposed height of approximately 125 feet which is compliant with the maximum permitted height of the TC-1 zoning district. When the project is reviewed by the DRB, the scale, massing, architecture and compatibility issues of the project will be further scrutinized.

- (b) **Whether the proposed use of mechanical parking results in an improvement of design characteristics and compatibility with the surrounding neighborhood.**

Consistent – The proposed garage and the mixed- use building is an improvement over the existing vacant lots and one story structures on the current site. The proposed use of mechanical parking appears to be compatible with design characteristics and with the surrounding neighborhood allowing the building to have one story less of parking than what would otherwise be required without the use of mechanical parking. Subsequent to approval by the Planning Board, the project will be reviewed by the DRB, where this aspect of the project would be further scrutinized.

- (c) **Whether the proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed with conventional parking.**

Consistent – The proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed with conventional parking.

- (d) **Whether parking lifts or mechanisms are located inside, within a fully enclosed building, and not visible from exterior view.**

Consistent – The proposed lifts would be located on the second floor and are screened from view from the exterior by decorative screening.

- (e) **In cases where mechanical parking lifts are used for self-parking in multifamily residential buildings; whether approval is conditioned upon the proper restrictive covenant being provided limiting the use of each lift to the same unit applicant.**

Not Applicable – The project is not a multifamily building and no self-parking will be allowed.

- (f) **In cases where mechanical parking lifts are used for valet parking; whether approval is conditioned upon the proper restrictive covenant being provided stipulating that a valet service or operator must be provided for such parking for so long as the use continues.**

Consistent – The proper restricted covenant shall be provided prior to the issuance of building permit.

- (g) **Whether a traffic study has been provided that details the ingress, egress and circulation within the mechanical parking facility, and the technical and staffing requirements necessary to ensure that the proposed mechanical parking system does not cause excessive stacking, waiting, or backups onto the public right-of-way.**

The proposed ingress and egress for all vehicles will be from Harding Avenue. The traffic study, prepared by David Plumber & Associates and FTE, Inc. was selected by the City and paid by the applicant to conduct a peer review. See the attached Memorandum from the Transportation Department.

- (h) **Whether a proposed operations plan, including hours of operation, number of employees, maintenance requirements, noise specifications, and emergency procedures, has been provided.**

Partially Consistent – The LOI indicates the schedules for all operations, except number of employees, security and emergency procedures. Exhibit A on the LOI provides specifications on the mechanical parking systems.

- (i) **In cases where the proposed facility includes accessory uses in addition to the parking garage, whether the accessory uses are in proportion to the facility as a whole, and delivery of merchandise and removal of refuse, and any additional impacts upon the surrounding neighborhood created by the scale and intensity of the proposed accessory uses, are adequately addressed.**

Consistent – The main use of the project is a hotel and ground floor retail. The accessory include meeting rooms and a bar lounge that are in proportion to the scale of the hotel. The deliveries of merchandise and trash removal for all components of the project will be handled via loading docks and trash rooms that are internal to the building.

- (j) **Whether the proximity of the proposed facility to similar size structures and to residential uses creates adverse impacts and how such impacts are mitigated.**

Consistent – The proposed project appears to be compatible with the surrounding neighborhood and it appears that it would not create any significant adverse impacts to the residential uses. Notwithstanding, staff is recommending conditions to minimize any potential negative impacts.

- (k) **Whether a cumulative effect from the proposed facility with adjacent and nearby structures arises, and how such cumulative effect shall be addressed.**

Consistent – No negative impact is anticipated from the cumulative effect from the proposed facility and nearby structures.

ANALYSIS

The proposal consists of a new ten (10) story, mixed-use building with 179 hotel units, a parking garage with 141 spaces that provides the required parking for the proposed uses and the retention of the two existing 1-story commercial buildings located on Collins Avenue, which are part of the development site.

The square footage of the proposed project is approximately 129,337 SF as represented by the applicant. The proposed uses are permissible in the TC-1 zoning district and are compatible with the surrounding neighborhood. However, staff is recommending conditions to further minimize the impacts as outlined in the recommendation.

No outdoor entertainment establishment, or neighborhood impact establishment as defined by the City Code is part of this application.

The outdoor bar and outdoor areas located on the third level are required to comply with the requirements of Section 142-736 (a) (3)&(4) of the City Code:

(3) The accessory uses in the TC-1 district are those uses permitted in Article IV, Division 2 of this Chapter; alcoholic beverage establishments and accessory outdoor bar counters pursuant to the regulations set forth in Chapter 6; provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, accessory outdoor bar counters located within 100 feet of an apartment unit may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

Traffic, Parking and Access

The proposed ingress and egress for all vehicles is from Harding Avenue, including the valet station, passenger drop-off/pick-up areas, three accessible parking spaces and two car elevators which provides access to the parking spaces on the second floor where the mechanical parking lifts are located. No self-parking will be allowed. The proposed project will provide 141 spaces, which is consistent with the minimum parking requirements.

Based upon the traffic study submitted, the proposed project will create an additional 201 peak hour vehicle trips. The project includes two vehicular elevators and a combination of double and triple stacked vehicle lifts on the second level. The traffic study indicates that the average weighted time to park or retrieve each vehicle is about 3 minutes and 30 seconds, and 19 valet attendants would be able to handle the peak hour trips. As of the writing of this report, concerns have been expressed by the peer reviewer, FTE, and the Transportation Department regarding the traffic delays that will be caused at the intersection of Harding Avenue and 72nd Street. This concern, as well as others, as noted in the memos from both FTE and the Transportation Department (attached), have not yet been adequately addressed.

Delivery and Sanitation

A loading and trash area that is fully contained inside of the building is proposed at the ground level on the south west side of the property with access from Harding Avenue. The applicant did not propose specific hours for deliveries and trash pick-up. Staff is recommending conditions to limit the impact of deliveries to surrounding properties.

Easements

There is a 10 foot wide platted public utility easement in the middle of the property running north-south which contains overhead high voltage electric transmission and distribution lines. Such lines continue northward and southward down the middle of the adjacent blocks. The applicant is proposing to relocate these lines to the Harding Avenue side of the property, running south to the terminus of the property, then heading eastward within a new 10 foot easement to the middle of the property, which will then continue southward in the existing configuration. The applicant has indicated that they have explored the possibility of placing these lines underground but that the cost is too expensive. Staff is concerned with the visual impact that these high voltage lines will have on the street and would recommend that they be placed underground. The applicant has contacted FP&L to provide a cost estimate for the undergrounding of these lines; as of the writing of this report, such cost estimation has not yet been provided to the City. Additionally, the vacation of the easement shall require the review of the Public Works Department.

Security

The applicant did not provide any specifics in terms of security.

RECOMMENDATION

In view of the foregoing analysis and inconsistencies in the aforementioned Conditional Use Review Criteria, as well as the outstanding issues related to the traffic study and utility easement, staff recommends that the application be continued to a future date. However, should the Board grant approval of the application, staff would recommend any approval be subject to the conditions in the attached draft order.

TRM/MAB/AG

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ZONING/SITE MAP



City of Miami Beach Planning Board
PB16-002 7116-7140 Collins Avenue
and 7117-7145 Harding Avenue



The applicants, Collins and 72nd Developers, LLC, Casa Grande Shopping Center, LLC, and AHM Advisors, LLC, are requesting Conditional Use Approval for the construction of a new 10-story mixed-use development exceeding 50,000 square feet including a mechanical parking garage pursuant to Section 118, Article IV and Section 130, Article II of the City Code.

MIAMI BEACH
PLANNING DEPARTMENT

1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 P 305.673.7550 www.miamibeachfl.gov



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

PROPERTY: 7116-7140 Collins Avenue and 7117-7145 Harding Avenue.

FILE NO. PB16-0062

IN RE: The applicants, Collins and 72nd Developers, LLC, Casa Grande Shopping Center, LLC, and AHM Advisors, LLC, requested Conditional Use Approval for the construction of a new 10-story mixed-use development exceeding 50,000 square feet including a mechanical parking garage pursuant to Section 118, Article IV and Section 130, Article II of the City Code.

LEGAL DESCRIPTION: Lots 1, 2, 3, 4, 9, 10, 11 and 12 in Block 8 of Normandy Beach South, according to the Plat thereof, as recorded in Plat Book 21, Page 54, of the Public Records of Miami- Dade County, Florida.

MEETING DATE: December 20, 2016

DRAFT CONDITIONAL USE PERMIT

The applicant, Collins and 72nd Developers, LLC, Casa Grande Shopping Center, LLC, and AHM Advisors, LLC, requested a Conditional Use approval for the construction of a new ten story hotel development exceeding 50,000 square feet including a mechanical parking garage, pursuant to Section 118, Article IV, and 130, Article II 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:

The property in question is located in the TC-1 – Commercial, Medium Intensity Zoning District.

The use is consistent with the Comprehensive Plan for the area in which the property is located;

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;

The structures and uses associated with the request are consistent with the Land Development Regulations;

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

Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record

for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

1. This Conditional Use Permit is issued to Collins and 72nd Developers, LLC, Casa Grande Shopping Center, LLC, and AHM Advisors, LLC, to construct a ten (10) story mixed-use hotel project, with retail space on the first floor, parking on the 2nd floor, and food and beverage areas located on the roof of the second floor (3rd level). Any proposed change to the uses approved in this Conditional Use shall require the review and approval of the Planning Board.
2. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 180 days from the issuance of the business tax receipt (BTR) for the hotel. When BTR's are issued for at least 75% of the building area, but no later than one (1) year from the issuance of the BTR for the proposed hotel use, the applicant shall appear before the Planning Board for a progress report specific to traffic, including providing a full revised traffic study outlining the actual transportation operations on-site and in the surrounding initial study area, and including valet operations and loading/servicing of the building.

The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).

3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property applicants, operators, and all successors in interest and assigns. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, shall require review and approval 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. The Planning Board shall retain the right to call the owner or operator back before them and make modifications to this Conditional Use Permit should there be valid complaints about loud, excessive, unnecessary, or unusual noise. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.
5. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.
6. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
7. All existing overhead utilities, including the high voltage transmission line, shall be placed underground at the sole expense of the applicant.

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8. The following shall apply to the operation of the proposed parking garage:
- a. There shall be security personnel of at least one person, on-site, monitoring the garage during all hours of operation.
 - b. Signs prohibiting tire-screeching and unnecessary horn-honking shall be posted at the garage entrance.
 - c. Signs to minimize vehicle conflict in the driveways in and out of the property shall be posted in appropriate locations.
 - d. The parking lift platforms must be fully load bearing, and must be sealed and of a sufficient width and length to prevent dripping liquids or debris onto the vehicle below.
 - e. All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage.
 - f. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift.
 - g. The ceiling heights of any parking level with parking lifts within the parking garage shall be a minimum of 11 feet by six inches.
 - h. All mechanical parking lifts must be inspected and certified as safe and in good working order by a licensed mechanical engineer at least once per year and the findings of the inspection shall be summarized in a report signed by the same licensed mechanical engineer or firm. Such report shall be furnished to the Planning Director and the Building Official.
 - i. All parking lifts shall be maintained and kept in good working order.
 - j. Parking operation shall be by valet attendants only. A contract with a valet operator shall be submitted to staff for review and approval prior to a final Certificate of Occupancy or Business Tax Receipt, whichever occurs first.
 - k. A permanent generator sufficient to power the vehicular elevators shall be required, in a manner to be reviewed and approved by staff.
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9. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:

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- a. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed outdoor bar and pool areas located on the roof of the second floor (3rd level) with the criteria listed below:
 - i. The outdoor rooftop venue shall close by 10:00 pm Sunday through Thursday and 12:00 am Friday and Saturday nights. The outdoor bar counter shall close by 8:00pm daily.
 - ii. Ground floor restaurants and cafes shall close by 2:00 am daily.
 - b. Delivery trucks shall only be permitted to make deliveries from the designated loading spaces contained within the property.
 - c. Delivery trucks shall not be allowed to idle in the loading areas.
 - d. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - e. Deliveries and waste collections may occur daily between 7:00 AM and 4:00 PM.
 - f. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
 - g. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
 - h. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
 - i. Garbage dumpster covers shall be closed at all times except when in active use.
 - j. Restaurant personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
 - k. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
 - l. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day

- m. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - n. Special Events are limited to six (6), one day events per year on the premises, subject to City Ordinances, rules or regulations existing at the time, and may exceed the occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.
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10. The applicant shall address the following Concurrency and Traffic requirements, as applicable:
 - a. A Method of Transportation (MOT) shall be submitted to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
 - b. 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 may be determined as determined by the Concurrency Management Division.
 - c. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.
 - d. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Business Tax Receipt.
 - e. Valet or loading activities shall not block Harding Avenue at any time.
 11. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a Building permit.
 12. The applicant shall obtain a full building permit within 18 months from the date of approval of this Conditional Use Permit, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.
 13. ~~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.~~
 14. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
 15. 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

