

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: April 11, 2023

PROPERTY/FOLIO: 4041 Collins Avenue / 02-3226-001-1920

FILE NO: HPB22-0553

APPLICANT: Golden Palms, LLC

IN RE: An application has been filed requesting a Certificate of Appropriateness for alterations to the hotel property including exterior and public interior modifications, the relocation of the existing 1930s home and the design of a new rear yard site plan including landscape and hardscape modifications.

LEGAL: Lots 1-8 and alley thru Block 33 of the Miami Beach Improvement Co Subdivision, according to the plat thereof, as recorded in Plat Book 5, Page 8, of the public records of Miami-Dade County, Florida and a portion lying east and adjacent west of the erosion control line per Plat Book 105, Page 62.

ORDER

The City of Miami Beach Historic Preservation Board 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:

I. Certificate of Appropriateness

- A. The subject site is located within the Collins Waterfront Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
 - 1. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
 - 2. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
 - 3. Is not consistent with Certificate of Appropriateness Criteria 'b', 'c', 'e' & 'f' in Section 118-564(a)(2) of the Miami Beach Code.
 - 4. Is not consistent with Certificate of Appropriateness Criteria 'a', 'c', 'd', 'e', 'j' & 'm' in Section 118-564(a)(3) of the Miami Beach Code.
 - 5. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(f)(4) of the Miami Beach Code.

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- C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:
1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
 - a. The circular wall and ceiling/light cove shall be eliminated within the entry foyer of the 1940 building, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - b. The relocated single-family home shall be reoriented so that the front is facing east, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - c. Final design and details of the outdoor bar counter and shade structure shall be provided, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. In accordance with Section 142-1109 of the City Code, the accessory outdoor bar counter shall not be visible from any point along the property line adjacent to a public right-of-way, including the Beachwalk.
 - d. Final details of all exterior surface finishes and materials shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
 - a. A prominent view corridor from the Beachwalk centered on relocated 1931 home, of at least 30'-0" in width, shall be incorporated into the design of the rear yard site/landscape plan in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - a. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain.
 - b. The project design shall minimize the potential for a project causing a heat island effect on site.
 - c. Cool pavement materials or porous pavement materials shall be utilized, if applicable.

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In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.

II. Variance(s)

- A. No variances have been requested as part of this application.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. *Certificate of Appropriateness*' and 'II. *Variances*' noted above.

- A. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- B. The issuance of a building permit is contingent upon meeting Public School Concurrency requirements, if applicable. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.
- C. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- D. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- E. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit and shall be located immediately after the front cover page of the permit plans.
- F. All applicable FPL transformers or vault rooms and backflow prevention devices shall not be located within the required setbacks with the exception of the valve (PIV) which may be visible and accessible from the street.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

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- H. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- I. The Final 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.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.
- L. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

IT IS HEREBY 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 are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled **"Andaz", as prepared by EoA, Inc., dated February 2, 2023**, as approved by the Historic Preservation Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and

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void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this Order shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

5/9/2023 | 1:38 PM EDT

Dated this _____ day of _____, 20__.

HISTORIC PRESERVATION BOARD
 THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
 DEBORAH TACKETT
 HISTORIC PRESERVATION & ARCHITECTURE OFFICER
 FOR THE CHAIR

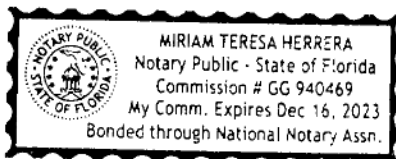
DocuSigned by:

Deborah Tackett

8BE91044165943C

STATE OF FLORIDA)
)SS
 COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 12 day of May, 2023 by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.



Miriam Herrera
 NOTARY PUBLIC
 Miami-Dade County, Florida
 My commission expires: 12-16-23

Approved As To Form: _____
 City Attorney's Office: _____

DocuSigned by:

Nickolas

8D8CB88CCAB846C

(5/9/2023 | 9:17 AM EDT)

DocuSigned by:

Jessica Gonzalez

(5/11/2023 | 5:51 PM EDT)

Filed with the Clerk of the Historic Preservation Board on _____

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

PROPERTY: 4041 Collins Avenue

FILE NO. PB22-0519 a.k.a. PB 0416-0008, f.k.a., File No. 2136

IN RE: Modifications to the ownership/operator for a previously issued conditional use permit for a Neighborhood Impact Establishment with Entertainment. Pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: See "Exhibit A" attached.

MEETING DATE: July 26, 2022, June 28, 2016

MODIFIED CONDITIONAL USE PERMIT

The Applicant, Golden Palms, LLC, requested a modification to a previously issued Conditional Use Approval for a Neighborhood Impact Establishment. Specifically the applicant requested to change the ownership/operator, pursuant to Section 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 – Multifamily Residential 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, the evidence, information, testimony and materials presented at the public hearing, which are part of the record

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 The Confidante Miami Beach Hotel
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for this matter, and the staff report and analysis, which is adopted herein, including staff recommendations, as may have been modified by the Planning Board, that a Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed: Underlining denotes new language and ~~strike through~~ denotes stricken language from the previous Order.

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR, and again within 180 days from the issuance of the BTR. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Modified Conditional Use Permit is issued to ~~HT Miami Beach LLC, Golden Palms, LLC,~~ as the owner and Hyatt Corporation as the operator of The Thompson Confidante Miami Beach Hotel for a Neighborhood Impact Establishment, consisting of restaurants, lounges, bars and pool deck. ~~Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein. any change of operator or 50% (fifty percent) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt. A progress report shall be scheduled within 60 days followed by the submission and acceptance of the affidavit.~~
3. Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
4. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
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. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the following venues, with a maximum occupant content of 1,590 persons or any lesser such occupant content as determined by the Fire Marshal:

a. 3-Meal Restaurant / "Venue 1"

- i. 334 Total Occupancy
- ii. Full-service restaurant with approximately 245 seats, which shall be permitted to serve breakfast, lunch and dinner until 2 a.m.

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The Confidante Miami Beach Hotel
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- iii. Interior and exterior seating facing another ground floor venue, "the Grove."
- iv. Only permitted to play ambient background music, which may include live music, at a volume that does not interfere with normal conversation.

b. La Esquina Taqueria / "Venue 2"

- i. 234 Total Occupancy
- ii. Full-service restaurant and café with approximately 129 seats which may serve lunch and dinner until 5 a.m. ~~It shall be permitted to provide~~
- iii. Entertainment and dance may be permitted in the interior restaurant.
- iv. The café shall be permitted to operate until 3 a.m. and includes approximately 48 interior seats and approximately 36 exterior seats.
- v. The café shall only be permitted to play ambient background music at a volume that does not interfere with normal conversation.

c. 1930's House / "Venue 3"

- i. 334 Total Occupancy.
- ii. A bar lounge which contains approximately 50 seats located in the interior of the house. Entertainment and dancing shall be permitted until 5 a.m in the bar lounge portion of the venue.
- iii. The "Outdoor Northside", includes approximately 19 seats and shall only be permitted to play ambient background music, and shall be permitted to stay open until 3:00 a.m.
- iv. The "Outdoor Southside", which shall include approximately 39 seats.
- v. "The Grove", includes approximately 64 seats, and shall only be permitted to play ambient background music, which may include live music, at a volume that does not interfere with normal conversation, and shall be permitted to stay open until 3:00 a.m.

d. Pool / "Venue 4"

- i. 382 Total Occupancy.
- ii. The venue, located in the rear of the property, contains approximately 224 outdoor seats.
- iii. Lunch and dinner service shall be permitted until 3:00 a.m., at which time the venue shall be closed.

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- iv. The pool shall only be permitted to play ambient background music, which may include live music, at a volume that does not interfere with normal conversation.
- e. Library/VIP Area & Banquet / "Venue 5"
 - i. 306 Total Occupancy.
 - ii. The venue is a lounge located in the interior second floor of the ~~Thompson~~ Confidante Hotel containing approximately 238 seats.
 - iii. Entertainment, including live music and dancing, shall be permitted.
 - iv. This venue shall be permitted to operate until 5:00 a.m.
- 8. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff, except that during the first ninety days following the issuance of a TCO, occupancy loads for Special Events shall not exceed aggregated permitted on paragraph 7. The Board reserves the right to modify occupancy loads for Special Events at the time of progress reports. Live entertainment may be permitted.
- 9. The equipment and installation plan for each proposed new sound system, including the location of all speakers and sound system controls shall be submitted to staff for review and approval prior to obtaining a building permit. Ninety days after opening, the sound systems in all the venues shall be tested by a qualified acoustic professional, and a report shall be submitted to staff for review.
- 10. Hotel security personnel and other hotel staff shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
- 11. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
- 12. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division, prior to obtaining a Certificate of Occupancy or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing. Without exception, all concurrency fees, mitigation fees and concurrency administrative costs shall be paid prior to the issuance of a Certificate of Occupancy or Business Tax Receipt.
- 13. Valet attendants shall be prohibited from using 43 Street in their route to store and retrieve vehicles.
- 14. Valet operator and hotel security personnel shall monitor pick-up and drop-off areas to ensure that queuing of vehicles will not interfere with traffic on Collins Avenue.

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15. As proposed by the applicant, security staff shall be posted at each entrance and exit point to the hotel. Security staff shall monitor patron circulation and occupancy levels in order to adjust crowds according to occupant loads. Additional security staff would be hired during special events, holidays, and high occupancy days, based on demand. Security cameras shall be installed around the perimeter of the property, as well as throughout the interior of the property, as needed.
16. During weekends and large events the Applicant shall maintain additional security staff to control crowds when the 41st Street entrance is in operation.
17. Trash collection shall take place seven days a week and noise from trash dumpsters shall be mitigated with rubberized wheels and/or other noise reducing materials, subject to the review and approval of staff.
18. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Building Permit.
19. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this entertainment establishment.
20. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load of the accessory uses proposed for the project should there be valid complaints about loud, excessive, unnecessary, or unusual 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.
21. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
22. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.
23. 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.
24. 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.

DS
RM

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25. 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.
26. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

8/16/2022 | 4:51 PM EDT

Dated _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

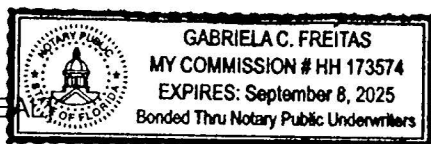
DocuSigned by:
Rogelio Madan
BY: _____
Rogelio A. Madan, AICP
Chief of Community Planning and Sustainability
for Chairman

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 16th day of August, 2022, by Rogelio A. Madan, Chief of Community Planning and Sustainability for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



Gabriela C. Freitas
Notary:
Print Name: Gabriela C. Freitas
Notary Public, State of Florida
My Commission Expires: Sept. 8, 2025
Commission Number: 14H173574

Approved As To Form:
Legal Department

DocuSigned by:

8/16/2022 | 4:47 PM EDT

Filed with the Clerk of the Planning Board on _____

DocuSigned by:
Jessica Gonzalez (8/16/2022 | 4:57 PM EDT)
UF-CJF3E9D654X5

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RM

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EXHIBIT "A"

LAND DESCRIPTION:

PARCEL A

LOTS 1, 2, 3, 4, 5, 6, 7 AND 8, BLOCK 33, OF "AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, PAGES 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH THE STRIP OF LAND SHOWN ON THE PLAT AFORESAID AS AN ALLEY LYING BETWEEN LOTS 1, 2, 3 AND 4 OF THE EAST, AND LOTS 5, 6, 7 AND 8 OF THE WEST, IN BLOCK 33 OF "AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, PAGES 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

ALSO DESCRIBED AS:

BEGIN AT THE SOUTHWEST CORNER OF LOT 8, BLOCK 33, "AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, PAGES 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, THENCE NORTH 07° 25' 55" EAST FOR 200.00 FEET; THENCE SOUTH 82° 34' 49" EAST FOR 355.40 FEET TO THE INTERSECTION WITH THE EROSION CONTROL LINE RECORDED IN PLAT BOOK 105, PAGE 62, SHEET 14, OF MIAMI-DADE COUNTY, FLORIDA; THENCE SOUTH 06° 58' 25" WEST ALONG THE EROSION CONTROL LINE RECORDED IN PLAT BOOK 105, PAGE 62 SHEET 14 FOR 200.01 FEET; THENCE NORTH 82° 34' 43" WEST FOR 357.00 FEET TO THE POINT OF BEGINNING.



CFN 2014R0563325
DR Bk 29266 Pgs 4545 - 4551 (7pgs)
RECORDED 08/12/2014 09:24:41
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

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

PROPERTY: 4041 Collins Avenue

FILE NO. 2136

IN RE: The application by Crown Miami Hotel Owner, LLC, requesting a Conditional Use Permit pursuant to Chapter 118, Articles IV and V, for a Neighborhood Impact Establishment (NIE) with a combined maximum occupant content of 1,590 persons.

LEGAL DESCRIPTION: See "Exhibit A" attached.

MEETING DATE: June 24, 2014

CONDITIONAL USE PERMIT

The applicant, Crown Miami Hotel Owner, LLC, filed an application with the Planning Director requesting Conditional Use approval pursuant to Chapter 118, Articles IV and V, for a Neighborhood Impact Establishment (NIE) with a combined maximum occupant content of 1,284 persons. 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 – Multifamily Residential 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, 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 staff recommendations, as may have been modified by the Planning Board, that a Conditional Use Permit as requested and set forth above, 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 appear before the Planning Board for a progress report within 90 days from the issuance of the BTR, and again within 180 days from the issuance of the BTR. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Conditional Use Permit is issued to Crown Miami Hotel Owner, LLC, as owner of The Thompson Miami Beach Hotel for a Neighborhood Impact Establishment, consisting of restaurants, lounges, bars and pool deck. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
3. Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
4. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
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. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the following venues, with a maximum occupant content of 1,600 persons or any lesser such occupant content as determined by the Fire Marshal:
 - a. 3-Meal Restaurant / "Venue 1"
 - i. 334 Total Occupancy
 - ii. Full-service restaurant with approximately 245 seats, which shall be permitted to serve breakfast, lunch and dinner until 2 a.m.
 - iii. Interior and exterior seating facing another ground floor venue, "the Grove."
 - iv. Only permitted to play ambient background music, which may include live music, at a volume that does not interfere with normal conversation.



b. La Esquina Taqueria / "Venue 2"

- i. 234 Total Occupancy**
- ii. Full-service restaurant and café with approximately 129 seats which may serve lunch and dinner until 5 a.m. It shall be permitted to provide**
- iii. Entertainment and dance may be permitted in the interior restaurant.**
- iv. The café shall be permitted to operate until 3 a.m. and includes approximately 48 interior seats and approximately 36 exterior seats.**
- v. The café shall only be permitted to play ambient background music at a volume that does not interfere with normal conversation.**

c. 1930's House / "Venue 3"

- i. 334 Total Occupancy.**
- ii. A bar lounge which contains approximately 50 seats located in the interior of the house. Entertainment and dancing shall be permitted until 5 a.m in the bar lounge portion of the venue.**
- iii. The "Outdoor Northside", includes approximately 19 seats and shall only be permitted to play ambient background music, and shall be permitted to stay open until 3:00 a.m.**
- iv. The "Outdoor Southside", which shall include approximately 39 seats.**
- v. "The Grove", includes approximately 64 seats, and shall only be permitted to play ambient background music, which may include live music, at a volume that does not interfere with normal conversation, and shall be permitted to stay open until 3:00 a.m.**

d. Pool / "Venue 4"

- i. 382 Total Occupancy.**
- ii. The venue, located in the rear of the property, contains approximately 224 outdoor seats.**
- iii. Lunch and dinner service shall be permitted until 3:00 a.m., at which time the venue shall be closed.**
- iv. The pool shall only be permitted to play ambient background music, which may include live music, at a volume that does not interfere with normal conversation.**



e. Library/VIP Area & Banquet / "Venue 5"

- i. 306 Total Occupancy.
 - ii. The venue is a lounge located in the interior second floor of the Thompson Hotel containing approximately 238 seats.
 - iii. Entertainment, including live music and dancing, shall be permitted.
 - iv. This venue shall be permitted to operate until 5:00 a.m.
8. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff, except that during the first ninety days following the issuance of a TCO, occupancy loads for Special Events shall not exceed aggregated permitted on paragraph 7. The Board reserves the right to modify occupancy loads for Special Events at the time of progress reports. Live entertainment may be permitted.
 9. The equipment and installation plan for each proposed new sound system, including the location of all speakers and sound system controls shall be submitted to staff for review and approval prior to obtaining a building permit. Ninety days after opening, the sound systems in all the venues shall be tested by a qualified acoustic professional, and a report shall be submitted to staff for review.
 10. Hotel security personnel and other hotel staff shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
 11. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 12. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division, prior to obtaining a Certificate of Occupancy or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing. Without exception, all concurrency fees, mitigation fees and concurrency administrative costs shall be paid prior to the issuance of a Certificate of Occupancy or Business Tax Receipt.
 13. Valet attendants shall be prohibited from using 43 Street in their route to store and retrieve vehicles.
 14. Valet operator and hotel security personnel shall monitor pick-up and drop-off areas to ensure that queuing of vehicles will not interfere with traffic on Collins Avenue.
 15. As proposed by the applicant, security staff shall be posted at each entrance and exit point to the hotel. Security staff shall monitor patron circulation and occupancy levels in order to adjust crowds according to occupant loads. Additional security staff would be hired during special events, holidays, and high occupancy days, based on demand. Security cameras shall be installed around the perimeter of the property, as well as throughout the interior of the property, as needed.



16. During weekends and large events the Applicant shall maintain additional security staff to control crowds when the 41st Street entrance is in operation.
17. Trash collection shall take place seven days a week and noise from trash dumpsters shall be mitigated with rubberized wheels and/or other noise reducing materials, subject to the review and approval of staff.
18. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Building Permit.
19. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this entertainment establishment.
20. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load of the accessory uses proposed for the project should there be valid complaints about loud, excessive, unnecessary, or unusual 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.
21. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
22. 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.
23. 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.
24. 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.
25. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.



Dated this 2nd day of JULY, 2014

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
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, 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]



TERESA MARIA
MY COMMISSION # FF 042188
EXPIRES: December 2, 2017
Bonded Thru Budget Notary Services

Notary: [Signature]
Print Name: TERESA MARIA
Notary Public, State of Florida
My Commission Expires: 12-2-17
Commission Number: FF042188

Approved As To Form: [Signature]
Legal Department (7-1-14)

Filed with the Clerk of the Planning Board on 07/03/2014 [Signature]

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[Signature]

EXHIBIT "A"

LAND DESCRIPTION:

PARCEL A

LOTS 1, 2, 3, 4, 5, 6, 7 AND 8, BLOCK 33, OF "AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, PAGES 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH THE STRIP OF LAND SHOWN ON THE PLAT AFORESAID AS AN ALLEY LYING BETWEEN LOTS 1, 2, 3 AND 4 OF THE EAST, AND LOTS 5, 6, 7 AND 8 OF THE WEST, IN BLOCK 33 OF "AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, PAGES 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

ALSO DESCRIBED AS:

BEGIN AT THE SOUTHWEST CORNER OF LOT 8, BLOCK 33, "AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, PAGES 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, THENCE NORTH 07° 25' 55" EAST FOR 200.00 FEET; THENCE SOUTH 82° 34' 49" EAST FOR 355.40 FEET TO THE INTERSECTION WITH THE EROSION CONTROL LINE RECORDED IN PLAT BOOK 105, PAGE 62, SHEET 14, OF MIAMI-DADE COUNTY, FLORIDA; THENCE SOUTH 06° 58' 25" WEST ALONG THE EROSION CONTROL LINE RECORDED IN PLAT BOOK 105, PAGE 62 SHEET 14 FOR 200.01 FEET; THENCE NORTH 82° 34' 43" WEST FOR 357.00 FEET TO THE POINT OF BEGINNING.
