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July 28, 2024

Thomas Mooney  
Planning Director  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, FL 33139

**Re: Letter of Intent for Application for Modification to Conditional Use Permit PB22-0519 a.k.a. PB 0416-0008, fka File No. 2136 - 4041 Collins Avenue**

Dear Mr. Mooney:

This firm represents Golden Palms, LLC (“Applicant”), a wholly-owned subsidiary of Sunstone Hotel Investors, Inc. (“Sunstone” or the “Company”), and Applicant under the attached application package seeking modification of an existing Conditional Use Permit (“CUP”) (PB22-0519 a.k.a. PB 0416-0008, fka File No. 2136), located at approximately 4041 Collins Avenue, Miami Beach, Florida (the “Property”). Please accept this correspondence as the Applicant's letter of intent for the attached application package seeking review and approval of the below described modification to the CUP by the Planning Board in accordance with Section 2.5.2 of the Miami Beach Resiliency Code (the “Code”).

### **Conditional Use Permit History and HBP Approval for Venue Reorganization**

The CUP was first approved in June of 2014 and allows for the operation of a Neighborhood Impact Establishment within the Confidante Miami hotel located on the Property, inclusive of five (5) distinct venues. These venues include: the 3-Meal Restaurant (“Venue 1”); Bazaar (“Venue 2”); the 1930’s House (“Venue 3”); the Pool (“Venue 4”); and the Andaz Lounge (“Venue 5”).

The CUP was modified in June 2016 to reflect a change in the owner/operator to HT Miami Beach, LLC (“Hyatt”) and again in 2022 to reflect a change in ownership to Golden Palms, LLC, and a change in the operator to Hyatt Corporation, an affiliate of HT Miami Beach, LLC, as required by Paragraphs 2 and 3 of the CUP.

In 2023, the Historic Preservation Board issued a Certificate of Appropriateness for alterations to the hotel property including exterior and public interior modifications, the relocation of the 1930’s House from the north side of the property to the south to allow for the relocation of the Pool. This reconfiguration is shown in Figure 1 below with the 1930’s House shown in blue and the Pool shown in orange:

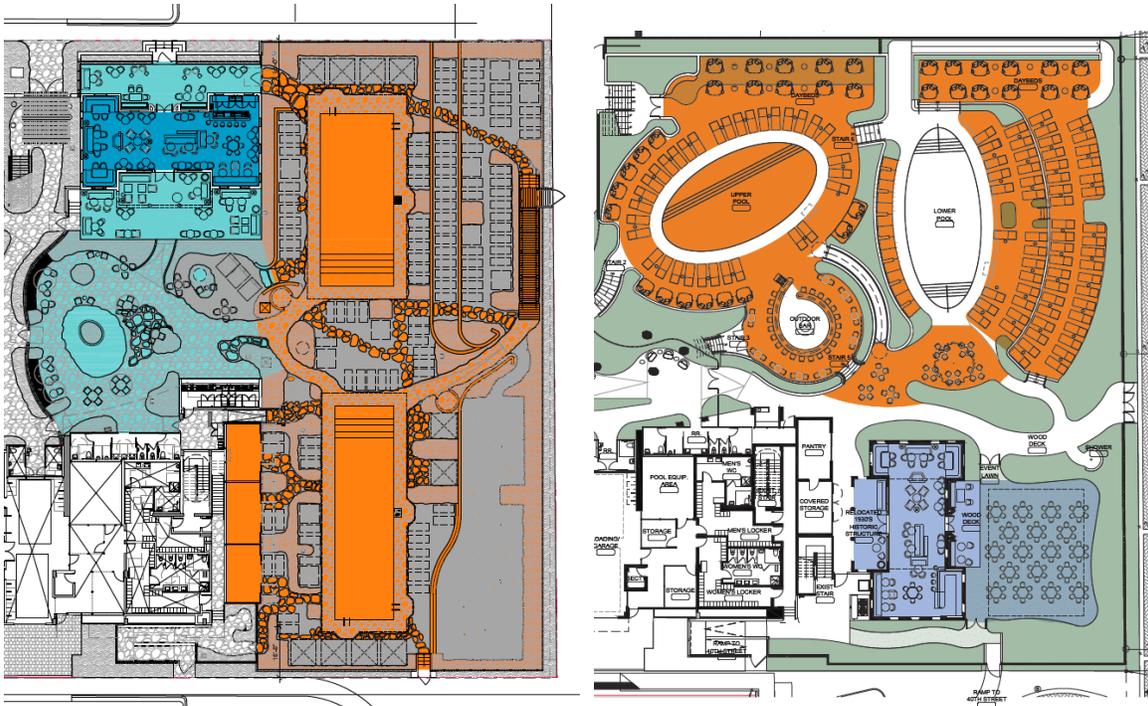


Figure 1: Reconfiguration of the Backyard (Prior on Left, Present on Right)

In addition, to this reconfiguration the HPB approved the partial demolition of the interior second-floor Crown Lounge and two hospitality suites as well as the outdoor covered terrace in order to repurpose the space as a redesigned Venue 5 – to be used as the rebranded Andaz Lounge. This lobby, lounge, and bar will be enveloped by floor to ceiling window wall glazing that will provide a new visual connection to the outdoor terraces, pools, and Miami Beach's sun-soaked shoreline and the Atlantic Ocean. The modification of Venue 5 is shown in Figure 2 below, again with the prior configuration on the left.

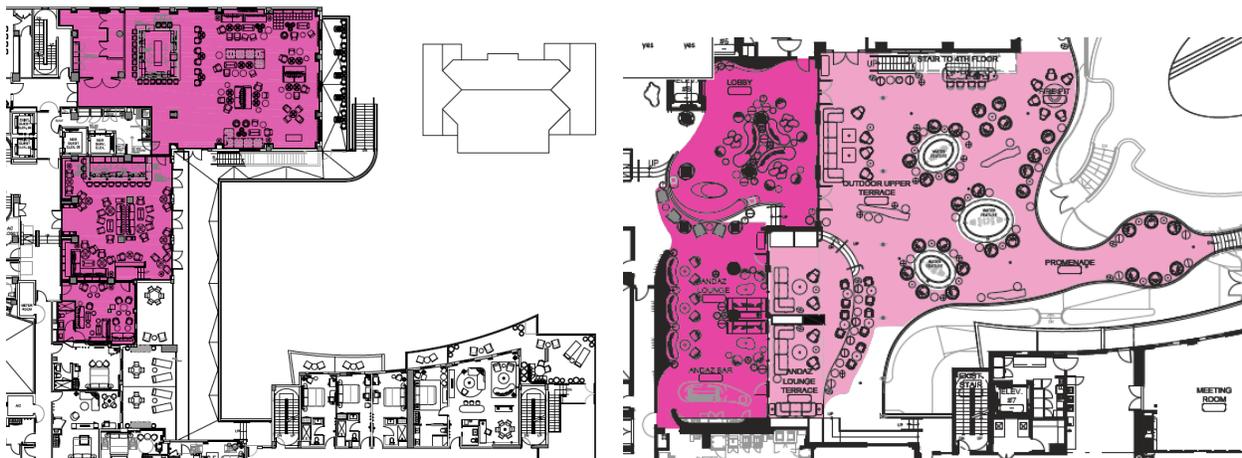


Figure 2: Renovated Second Floor Lobby and Lounge (Prior on Left, Present on Right)

## **Modifications to the Existing Conditional Use Permit**

### *Hours of Operation*

The alterations do not create any major changes to the approved existing venues nor is the Applicant requesting to expand the hours of operation for any of the venues. The outdoor component of Venue 5, the Andaz Lounge, is proposed to close at the same time as the existing outdoor venues at 3:00 a.m.

### *Occupancy and Seat Count / Number of Venues*

While the max occupant load is modified, the total seat count of the venues is decreasing by 162 total seats. The current/original CUP consisted of 5 total venues and the proposed modified CUP maintains the same number of venues with slight modifications as detailed below and in the accompanying materials. These changes combined with the reduction of the total number of hotel rooms results in net reduction of 20 net new vehicle trips during the weekday A.M. peak hour and a reduction of 57 net new vehicle trips during the weekday P.M. peak hour.

### *Entertainment and Sound Levels*

The Applicant is not requesting any modification of the existing entertainment permissions or noise level limitations included in the existing CUP. As it pertains to Venue 4, the renovated western pool includes a rising pool floor which will permit the pool area to host private hotel events such as corporate events and weddings. In order to accommodate this hotel function, the Applicant is requesting that Entertainment within this Venue not be limited to ambient background levels only during such private events. The day to day operation of Venue 4 would be limited to ambient background noise levels. To further ensure control over noise levels, when the Applicant is hosting a private event at Venue 4, the noise must be reduced to ambient background levels beginning at 11:00 p.m. until close.

As it pertains to Venue 5, specifically the new outdoor component of Venue 5, the Applicant does propose to provide Entertainment at this Venue. Similar to the request for Venue 4, the Applicant is requesting an amendment to the CUP which would permit the Applicant to have entertainment, not limited to ambient background levels until 11:00 p.m. at such levels it will then remain until close. In support of these new requests for these reimagined outdoor venues the Applicant has commissioned the attached sound study which concludes the venues will be compatible with the surrounding area and comply with the City of Miami Beach's Code of Ordinances. This is due, in part, because the outdoor venues are enveloped by building structures on the west, north, and south boundaries which will shield sound that would otherwise emanate from the Property. All venues, including Venue 5, will have independent audio systems providing for effective control, management and monitoring of sound levels produced at any venue to ensure compliance with the City's Code.

Furthermore, the Property has no adjacent residential uses and is bordered by hotels with the Best Western Plus Atlantic Beach Resort on the north, the Hampton Inn Miami Beach and the 4000 Collins Avenue Parking Garage on the west, and the Cadillac Hotel and Beach Club on the south.

It should also be noted that the Condition 21 of the CUP already provides that a violation of the City’s noise ordinance is also a violation of the CUP, a standard the Applicant understands and has held itself to since taking ownership of the Property in 2022. In fact, a review of all code compliance violations on the Property since 2016 shows that the applicant has been in good standing and since the most recent change in ownership approved by the Planning Board in July of 2022, there have been no noise complaints reported.

A summary of the changes, or lack thereof, are reflected in the venue charts attached to the proposed plans and copied below, which reflect the existing and proposed venues with existing and proposed occupancies, seat counts, hours of operation, music levels and entertainment permissions:

<b>EXISTING CUP (Last Approved by Planning Board July 26, 2022)</b>										
Venue Number	Venue Name	Floor	Indoor / Outdoor	Max Occupant Load	Seat Count	Hours of Operation	Ambient / Background Music Only	Entertainment	Dance Hall License	Food Service Available
1	3 Meal Restaurant	1	Indoor	1590	1092					
		1	Outdoor	224	153	6:30am - 2:00am	Yes	Yes (Live Music)	No	Yes
2	La Esquina Taqueria	1	Indoor Restaurant	110	92	6:30am - 2:00am	Yes	Yes (Live Music)	No	Yes
		1	Indoor Café	130	129	11:30am - 5:00am	No	Yes (Live Music)	Yes	Yes
3	1930's Historic Structure	1	Out Café	68	48	Until 3:00 am	Yes	No	No	Yes
		1	Indoor	36	36	Until 3:00 am	Yes	No	No	Yes
		1	Indoor	84	50	10:00am - 5:00am	No	Yes (Live Music)	Yes	Yes
		1	Outdoor North Side	44	19	10:00am - 3:00am	Yes	No	No	Yes
3	1930's Historic Structure	1	Outdoor South Side	68	39	10:00am - 3:00am	Yes	Yes (Live Music)	No	Yes
		1	Outdoor Grove Bar	138	64	10:00am - 3:00am	Yes	Yes (Live Music)	No	Yes
4	Pool Venue	1	Outdoor	382	224	11:00am - 3:00am	Yes	Yes (Live Music)	No	Yes
5	Library VIP Area Banquete	2	Indoor	78	52		No	Yes	Yes	Yes
		2	Indoor	27	24	11:00am - 5:00am	No	Yes	Yes	Yes
		2	Indoor	201	162		No	Yes	Yes	Yes

<b>PROPOSED CUP MODIFICATIONS 2024</b>										
Venue Number	Venue Name	Floor	Indoor / Outdoor	Max Occupant Load	Seat Count	Hours of Operation	Ambient / Background Music Only	Entertainment	Dance Hall License	Food Service Available
				2043	930					
1	3-Meal Restaurant	1	Indoor	58	66	6:00 am - 2:00 am	yes	yes	no	yes
		1	Outdoor	91	102	6:00 am - 2:00 am	yes	yes	no	yes
2	Bazaar	1	Indoor Restaurant	267	200	11:30 am - 5:00 am	no	yes	yes	yes
		1	Outdoor	12	12	11:30 am - 3:00 am	yes	no	no	yes
3	1930's House	1	Indoor	84	50	10:00 am - 5:00 am	no	yes	yes	yes
		1	Outdoor	250	122	10:00 am - 3:00 am	yes	yes	no	yes
4	Pool	1		912	251	10:00 am - 3:00 am	yes*	yes	yes	yes
5	Andaz Lounge	2	Indoor	107	39	11:00 am - 5:00 am	no	yes	yes	yes
		2	Outdoor	262	88	11:00 am - 3:00 am	yes**	yes	yes	yes

\* except for hotel events, in such case beginning at 11:00 p.m. until close  
\*\* beginning at 11:00 p.m. until close

For your convenience and ease of reference, we have also reflected the proposed changes in strikethrough and underline of the existing CUP text below:

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 ~~4,590~~ 2,043 persons or any lesser such occupant content as determined by the Fire Marshal:

- a. 3-Meal Restaurant/ "Venue 1"
  - i. ~~334~~ 149 Total Occupancy
  - ii. Full-service restaurant with approximately ~~245~~ 168 seats (66 indoors and 102 outdoors), 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. ~~iii.~~ 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 Bazaar~~ / "Venue 2"
  - i. ~~234~~ 279 Total Occupancy
  - ii. Full-service restaurant ~~and cafe~~ with approximately ~~429~~ 212 seats which may serve lunch and dinner until 5 a.m.
  - iii. Entertainment and dance may be permitted in the interior restaurant.
  - iv. The ~~cafe~~ outdoor portion of Venue 2 shall be permitted to operate until 3 a.m. and includes ~~approximately 48 interior seats and approximately 36~~ 12 exterior seats.
  - v. The ~~cafe~~ outdoor portion of Venue 2 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.~~ ~~iii.~~ "The Grove", The outdoor patio and lawn includes approximately 64 122 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.
  - ~~iv.~~ Food service shall be permitted during operating hours.
- d. Pool/ "Venue 4"
- i. 382 912 Total Occupancy.
  - ii. The venue, located in the rear of the property, contains approximately 224 251 outdoor seats.
  - iii. Lunch and dinner service shall be permitted until 3:00 a.m., at which time the venue shall be closed.
  - iv. During daily hotel operations, The 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.
  - v. Entertainment, including live music, and dancing, shall be permitted for hotel special events, including, but not limited to corporate events and weddings; however beginning at 11 p.m., any such entertainment shall only be permitted to play ambient background music at a volume that does not interfere with normal conversation.
- e. ~~Library/VIP Area & Banquet~~ Andaz Lounge/ "Venue 5"
- i. 306 369 Total Occupancy.
  - ii. The venue is a lounge located ~~in~~ on the ~~interior~~ second floor of the Confidante Hotel containing approximately 238 127 seats, 39 interior seats and 88 exterior seats.
  - iii. Entertainment, including live music and dancing, shall be permitted; however, beginning at 11 p.m., the outdoor portion of Venue 5 shall only be permitted to play ambient background music at a volume that does not interfere with normal conversation and shall be permitted to remain open until 3:00 a.m. at which time the outdoor component will be closed and entertainment will only proceed within the indoor portion of Venue 5.

- iv. ~~This~~ The interior portion of the venue shall be permitted to operate until 5:00 a.m.
- v. Food service shall be permitted during operating hours.

### **Sea Level Rise and Resiliency Review Criteria**

As part of its review, the Planning Board shall also consider how the project addresses the City's **Sea Level Rise and Resiliency Review Criteria** pursuant to **Section 7.1.2.4**, addressed below:

- 1) A recycling or salvage plan for partial or total demolition shall be provided.

*To the extent required, the Applicant will provide a recycling and salvage plan to the City prior to the partial demolition of any existing structure.*

- 2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

*The Applicant is installing hurricane proof impact resistant windows within the renovated portions of the second-floor lobby*

- 3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

*Where appropriate, passive cooling systems have been incorporated into the project.*

- 4) Resilient landscaping (salt tolerant, highly water-absorbent, native, or Florida-friendly plants) shall be provided, in accordance with chapter 126 of the city Code.

*Landscaping shall comply with all code requirements.*

- 5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

*The architect studied the land elevation of the property and adjacent parcels, and proposed a design that is compliant with the current Florida Building Code and addresses the need for improved resiliency to future sea level rise. The renovation has been reviewed and approved by all reviewing disciplines, permits have been issued and the renovation is under construction.*

- 6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-way and adjacent land, and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three additional feet in height.

*The ground floor and yard elevations are adaptable to future raising of public rights-of-way and adjacent land. The renovation has been reviewed and approved by all reviewing disciplines, permits have been issued and the renovation is under construction.*

- 7) As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.

*All critical mechanical and electrical systems will be located above base flood elevation, as required.*

- 8) Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard.

*All habitable portions of the buildings are located above flood elevation.*

- 9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with chapter 54 of the City Code.

*The renovation has been reviewed and approved by all reviewing disciplines, permits have been issued and the renovation is under construction..*

- 10) As applicable to all new construction, stormwater retention systems shall be provided.

*Stormwater retention systems were provided per civil engineer design at time of permitting.*

- 11) Cool pavement materials or porous pavement materials shall be utilized.

*Cool pavement or porous pavement materials are being utilized where possible and most effective.*

- 12) The design of each project shall minimize the potential for heat island effects on-site.

*The architect is utilizing materials that minimize the heat island effect.*

### **General Standards for Approval**

Pursuant to Sec. 2.5.2.2 of the Resiliency Code, the Planning Board may approve a Conditional Use if it finds that the use meets the following general standards for approval:

- 1) The use shall be consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.

*The Property's RM-3 Comprehensive Plan future land use designation permits hotels and their accessory uses.*

- 2) The intended use or construction shall not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.

*The intended uses will not result in an impact that will exceed established level of service thresholds.*

- 3) Structures and uses associated with the request shall be consistent with these land development regulations.

*All structures and uses shall be consistent with applicable land development regulations.*

- 4) The public health, safety, morals, and general welfare shall not be adversely affected.

*The use shall not adversely affect public health, safety, morals, and general welfare.*

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

*All parking requirements required by the land development regulations shall be met.*

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

*Neighborhood property, persons, and values shall be safeguarded.*

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

*Approval of this CUP shall not result on a negative impact on the neighborhood due to geographic concentration of conditional uses. The number of venues is the same and the cumulative impact of entertainment establishments on the neighborhood actually decreases as, based on the revised seat counts proposed in the Application, the total amount of seats for all venues is decreasing by more than 160 seats.*

- 8) The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

*The structure and site are designed to meet the sea level rise and resiliency criteria, as noted above.*

- 9) Appropriate consideration is given to the safety of and friendliness to pedestrian traffic; passageways through alleys is encouraged where feasible and driveways shall be minimized to the extent possible.

*Friendliness to pedestrian traffic has been considered throughout the design process.*

### **Supplemental Standards for Approval of Entertainment Establishments**

- 1) An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.

*A operations plan, with hours of operation, number of employees, menu items, goals of business, and other operational characteristics is provided as part of the application.*

- 2) A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, selfpark, shared parking, after-hour metered spaces and the manner in which it is to be managed.

*A parking plan is provided.*

- 3) An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises will be controlled.

*The primary use of the Property is a hotel which shall primarily be used by hotel guests. The Applicant does not anticipate large groups of people waiting to gain entry into the hotel premises or any particular venue for any reason, as any large crowds would be limited to private hotel events coordinated through management. However, the operations plan does address staffing and security which would be employed to control such a situation at the Property.*

- 4) A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.

*A security plan has been provided.*

- 5) A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.

*A traffic methodology has been provided to the City and a Traffic Impact Statement will be provided with final submittal. As noted above, the initial methodology shows an overall net reduction of peak hour trips as a result of the renovation of the Property.*

- 6) A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment

*A sanitation plan has been provided.*

- 7) A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance.

*The Applicant has engaged Edward Dugger & Associates to conduct a sound impact analysis and recommend sound mitigation measures to ensure the entertainment*

*complies with the City's noise ordinance and does not create any adverse impact on the immediate neighborhood.*

- 8) Proximity of proposed establishment to residential uses.

*All properties directly across Collins Ave, and 40<sup>th</sup> and 41<sup>st</sup> Street are similar hotel or commercial uses.*

- 9) Cumulative effect of proposed establishment and adjacent pre-existing uses.

*The renovations will revitalize the building, uplift the neighborhood, and are not expected to have any adverse impact on the adjacent uses.*

The proposed renovations are consistent with the character of the surrounding neighborhood, complement the architectural and historic identity of the Property, and will elevate the guest experience at the Property. Moreover, the Application is not seeking any waivers or variances to proceed with the project. Based on the foregoing, the Applicant respectfully requests that the Planning Board approved this application.

Sincerely,

*Javier F. Aviñó*

Javier F. Aviñó

Cc: Jenny Kessler, Sunstone Hotel Investors  
Zachary Hay, Andaz Miami Beach  
Harris Levy, EoA  
Adrian Dabkowski, Kimley Horn  
Sam Shroyer, Edward Dugger & Associates