

MIAMI BEACH  
PLANNING DEPARTMENT  
Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: December 15, 2015

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **File No. 1840 – 2301-2395 Collins Avenue – 1 Hotel – Modification to Conditional Use Permit Neighborhood Impact Establishment**

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

**RECOMMENDATION**

Approval with Conditions.

**ZONING / SITE DATA**

Legal Description: See "Exhibit A" included in the application

Zoning: RM-3 Residential Multifamily High Intensity Zoning District

Lot Size: 346,701 Square Feet net approximately

**LAND USES**

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

Subject Site: Hotel/Residential

North: Riviera Condominium

South: The W Hotel

East: Atlantic Ocean

West: Hotel, Office

**BACKGROUND**

*September 25, 2007* Sandy Lane Residential LLC, and related entities obtained approval for a Conditional Use Permit to operate two restaurants on site, a ground level VIP lounge, a ballroom and a rooftop pool and bar, which in the aggregate constituted a Neighborhood Impact Establishment.

- September 23, 2008* Several conditions of the Conditional Use Permit were modified by the Board to clarify terms and impose further restrictions intended to reduce negative impact on the residential neighbors.
- June 22, 2010* The applicants, Sandy Lane Residential, LLC, Sandy Lane Retail LLC, and Sandy Lane Beach Front, LLC were approved for a modification to a Conditional Use Permit (MCUP) to introduce the new operator and for the operator to affirm its understanding of the conditions of the Conditional Use Permit; and to modify the condition that refers to decibels in order to be consistent with the City's noise ordinance.
- December 14, 2010* Modifications were made to the final order due to a modification hearing resulting from a Progress Report. The modifications helped clarify terms and imposed further safeguards and restrictions intended to reduce negative impact on the residential neighbors.
- April 24, 2012* The applicant, 2377 Collins Resort, L.P., was approved for a modification to a MCUP to introduce new property owners and operators of the property as required by Condition 3 of the Modified Conditional Use Permit.
- October 29, 2013* The applicant, 2377 Collins Resort, L.P., was approved for a Conditional Use Permit (File No. 2138), for a mechanical parking system within the existing parking garage which expired and the applicant will be reapplying to the Board at the December 15, 2015 meeting.
- June 24, 2014* The applicant, 2377 Collins Resort, LP, was approved for a Modification to a MCUP, in order to relocate a portion of the hotel kitchen serving the rooftop level from the ground floor to just below the rooftop level.
- November 24, 2015* The project was discussed by the Planning Board for a progress report. The item was continued to the January 26, 2016 meeting.

As a point of reference, this CUP encompasses the entire building with the addresses of 2301-2399 Collins Ave and 102 24<sup>th</sup> Street. This includes but is not limited to the Roney Plaza condominium (2301 Collins Ave) and the 1Hotel (2377 Collins Ave) and Residences (102 24<sup>th</sup> Street).

There is a separate request for the Planning Board to consider the issuance of a Conditional Use Permit for a mechanical parking system within the subject site's garage (PB File No. 2301).

#### **STAFF ANALYSIS**

The applicant is now requesting a modification to the Conditional Use Permit to change the owner from 2377 Collins Resort, L.P. to SB Hotel owner, L.P., as required by Condition 3 of the CUP. No other changes are being proposed as part of this request.

#### **STAFF RECOMMENDATIONS**

In view of the foregoing analysis, staff recommends that this application to be approved subject to the following conditions: Double Underlining denotes new language and ~~double strikethrough~~ denotes stricken language from the previous Order.

1. The Planning Board shall maintain jurisdiction over this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board before the time stipulated herein. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c). This condition does not limit any other remedies available to the Board or the City with respect to this Conditional Use.
2. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.
3. This Modified Conditional Use Permit is issued to ~~2377 Collins Resort, L.P.~~ SB Hotel owner, L.P. Any change of control shall require review by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board, within 90 days of the change of ownership or operator, to affirm their understanding of the conditions listed herein.
4. This Conditional Use Permit includes the rooftop area (n/k/a "Rooftop Operation") and the commercial uses within the building - two restaurants: on the southwest and northwest corners; the VIP Lounge; the ballroom; the Gym and spa; and the commercial/retail spaces are hereby approved as part of this request for Conditional Use approval.
5. The relocation of the kitchen servicing the rooftop area from the ground floor to the rooftop level shall be subject to verification that the former mechanical area was previously included in the floor area calculations for the entire building, as determined by the Planning Director, and with the requirement that the floor slab of the existing mechanical room shall remain at its current height.
6. The applicant shall continue to pay a fee in lieu of providing required parking as determined by staff in accordance with applicable law and any newly provided spaces.
7. Live music outdoors shall be prohibited. This condition is applicable to the entirety of Applicants' property, as set forth in Item 3 of their Application dated July 17, 2007. Music played outdoors shall be background music only, played at a level that does not interfere with normal conversation. Additional conditions for sound applicable to the Rooftop Operation, as set forth in this Conditional Use Permit, are incorporated into this condition as well. Non-compliance with this condition shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code.
8. Only the permanently installed, hotel management-controlled sound system shall be permitted in the Rooftop Operation, which shall be under the strict and complete control of management subject to all other terms and conditions of this Conditional Use Permit. No other sound system shall be permitted. Non-compliance with this condition shall be

- deemed a violation of this Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code.
9. Entertainment, as defined in the City Code shall be prohibited in the Rooftop Operation. Non-compliance with this condition shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code.
  10. Any stage structure as well as smoke machines shall be prohibited in the Rooftop Operation, except that a temporary stage may be approved through the normal City of Miami Beach Special Events permitting process, except that the restriction on temporary stage structure is not applicable to the existing management-owned bridge used to bridge the pool. However, at no time during any Special Event shall the provisions of Conditions number **6, 13, 14, 16, 19 and 20** herein be contravened.
  11. No temporary lighting equipment on the rooftop shall be permitted other than that associated with a City approved Film and Print Permit. However no temporary lighting equipment shall be set up during the hours of midnight and 7:00 a.m.
  12. Lighting shall not shine on or into any neighboring residential units and all lights shall be appropriately shielded to minimize spillover onto neighboring residential areas. There shall be no flashing or spinning lights.
  13. Fireworks shall be permitted only on the ground level east of the building.
  14. Special “teen night,” “all-ages” events, “wet T-shirt,” “thong” or “bikini” contests or games shall be prohibited in all the venues proposed in this application. This shall include, but not be limited to events such as Jell-O wrestling, best-tan contests, and similar type of activities.
  15. Enforcement of age restriction of 21 years and over, as provided in Section 6-5 of the City Code shall be the responsibility of the applicant. A violation of this condition shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code.
  16. Street flyers and handouts shall be prohibited, including handbills from third-party promotions.
  17. The Rooftop Operation shall be subject to the conditions proffered by the applicant, which are hereby enumerated:
    - a. The maximum number of guests that may be permitted shall not exceed 425 persons.
    - b. Closing time shall be 3:00 a.m. Thursday, Friday and Saturday nights, as well as for citywide special events and on national holidays, and 12:00 midnight all other nights.
    - c. The following sound conditions shall govern the Rooftop Operation:
      - (i) Compliance in all respects with the following noise studies: Cerami & Associates, Inc., dated June 9, 2006, and The Audio Bug, Inc., all as

submitted by Applicant under Tab 16 of its "Hearing Notebook" filed with the Planning Board at the Board's July 29, 2008 meeting, as amended by The Audio Bug, Inc. report dated September 17, 2008; and under second amendment by The Audio Bug, Inc. November 16, 2010; and the following ten additional sound conditions (ii – xi) shall govern to the extent that they are not inconsistent with said studies and report:

- (ii) The Audio Bug, Inc. or other sound engineer acceptable to City Staff, commencing on January 15, 2011 and quarterly thereafter shall provide to the Planning Director, Riviera Condominium Association and Roney Condominium Association a copy of a report that confirms that the sound system is in compliance with all the noise studies in 16 c. (i) in this Conditional Use Permit. The report shall also confirm that, based upon a recent inspection, the sound system has not been altered in any manner that would permit the sound system to operate at sound levels that violate the City's Noise Ordinance.
- (iii) The applicant shall notify the Riviera Condominium Association and Roney Condominium Association when The Audio Bug, Inc., or other sound engineer acceptable to City staff, will be performing his inspections. The Condominium associations, at their discretion have the right to send board members and/ or their own sound engineers to be present and participate while Audio Bug, Inc. (or another qualified engineer acceptable to City staff) conducts inspections of the sound system.
- (iv) Deployment of many small, closely spaced speakers, each of which is unable to operate above the maximum sound levels specified above in 17 c (i); No speaker shall exceed 8 inches in diameter.
- (v) A distributed sound system which distributes sound uniformly within the Rooftop Operation and which operates in a manner that does not interfere with normal conversation;
- (vi) A sound system which is locked and which will not permit sound above the maximum levels specified above;
- (vii) A sound system for which only the hotel general manager will have full responsibility and to which disc jockeys and other individuals, whether employed by the hotel or not, will not have access;
- (viii) A sound system which has a centralized computer control and digital processor which will allow only limited access via password security among other security options;
- (ix) Speakers, each of which is equipped with small woofers incapable of producing appreciable levels of low frequency energy;
- (x) Speakers, each of which will be aimed in a manner which will minimize sound propagation to other properties; and

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

- b. 24<sup>th</sup> Street – The applicant shall install the awning for the loading bay at 24<sup>th</sup> Street, as depicted on the design dated November 22, 2010, entitled “24<sup>th</sup> Street Loading Bay Plan” within 90 days of this Modified Conditional Use Permit being rendered. The applicant shall maintain a retractable gate, approved by staff, that fully encloses the loading bay fronting 24<sup>th</sup> Street, which shall remain closed at all times when the loading bay is not in use, i.e. garbage pickup or deliveries. The Applicant within 30 days of the order being rendered shall apply to the Board of Adjustment for a variance to permit the height of the gates to be 8’. After the awning and gate are installed, the applicant shall install a 34 yard trash compactor within the enclosed and covered bay. The applicant shall annually submit to the Planning Director documentation that Applicant has informed its tenants where to dispose of the garbage. This shall insure that no more than approximately forty percent (40%) of the building’s total garbage disposal shall be through 24<sup>th</sup> Street. Garbage shall be picked up no more than two (2) times per week on weekdays. Best efforts shall be used so the compactor is only picked up between 10 a.m. and 5 p.m. and shall not be picked up on weekends or federal holidays. If, in the future, the applicant can clearly demonstrate the need to increase garbage pickup to three (3) times per week, that request can be brought to the Planning Director upon notice to the Riviera and Roney for consideration and approval.
  - c. If requested by the City, including the Planning Board, the Applicant shall provide data illustrating the utilization of the loading bays for garbage as the building becomes fully operational. Repeated violation of the garbage pickup times and gate closure rules as provided above shall result in reconsideration of this issue by the Board. The Applicant shall put all tenants and other garbage producing entities on notice of these conditions, with a copy of such notice submitted to the Planning Department.
  - d. Regarding the loading of trucks and vehicles at the loading docks on the 23<sup>rd</sup> and 24<sup>th</sup> Streets, the Applicant shall propose a plan for the distribution to the Planning Director, the Roney and the Riviera for their approval within 120 days of rendition of this approval. In the event an agreement is not reached between the Roney, Riviera, Planning Director and Applicant the Planning Director shall bring the issue and proposed plan before the Planning Board for review and approval. The Applicant shall notify each of its tenants and operators that all vendors shall only be allowed to unload at the designated loading docks with a copy of such notice submitted to the Planning Director for the file. The plan shall be incorporated by reference into and enforced as part of this Modified Conditional Use Permit.
20. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation should there be complaints about loud, excessive, unnecessary, or unusual noise.
  21. A violation of Section 46-152, Code of the City of Miami Beach, Florida (a/k/a “noise ordinance”), as amended and as these sections may in the future be renumbered, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
  22. Fireworks shall be permitted on July 4 and New Years Eve without notice to the Roney or Riviera if approved by appropriate city officials in advance and in writing. At all other

- times notice shall be given by the Applicant to both the Riviera and Roney 30 days in advance of the proposed fireworks in order to file any objections. However, notice is not required if written permission is granted by the Association Boards of each Condominium. Compliance with all other requirements of applicable law is required for any fireworks display.
23. The Applicant shall prepare and submit to the Planning Department staff, the Riviera and the Roney a traffic circulation analysis prepared by a traffic engineer within 120 days from the rendition of the order. If the traffic engineer deems it necessary he may supply a revised traffic circulation plan. The Roney and Riviera may also submit a traffic circulation analysis for consideration by the Planning Director. Any traffic improvements recommended by the analysis shall be implemented after approval by the Planning Director, Roney, Riviera and Applicant. Such agreement on such improvements shall be incorporated by reference and enforced as part of this Modified Conditional Use Permit. If an agreement is not reached between the Director, Applicant, Riviera and Roney, the Director shall bring the analysis and/or plan issue before the Planning Board to make a determination.
  24. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue and 24<sup>th</sup> Street, in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times during the hours of operation.
  25. Non-compliance with any of the conditions specified herein shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code, including but not limited to revocation of this Permit.
  26. The approval of this Conditional Use Permit shall be based upon the Operational Plan submitted as part of this application for Neighborhood Impact Establishment and other conditions and restrictions as articulated herein.
  27. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
  28. Mitigation measures to improve level of service standards and traffic conditions, especially on 24th Street shall be the sole responsibility of the applicant. The applicant shall coordinate these mitigation measures with the City's Transportation Manager, including but not limited to traffic light timing, left-hand turn signal for westbound traffic, and similar.
  29. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
  30. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the

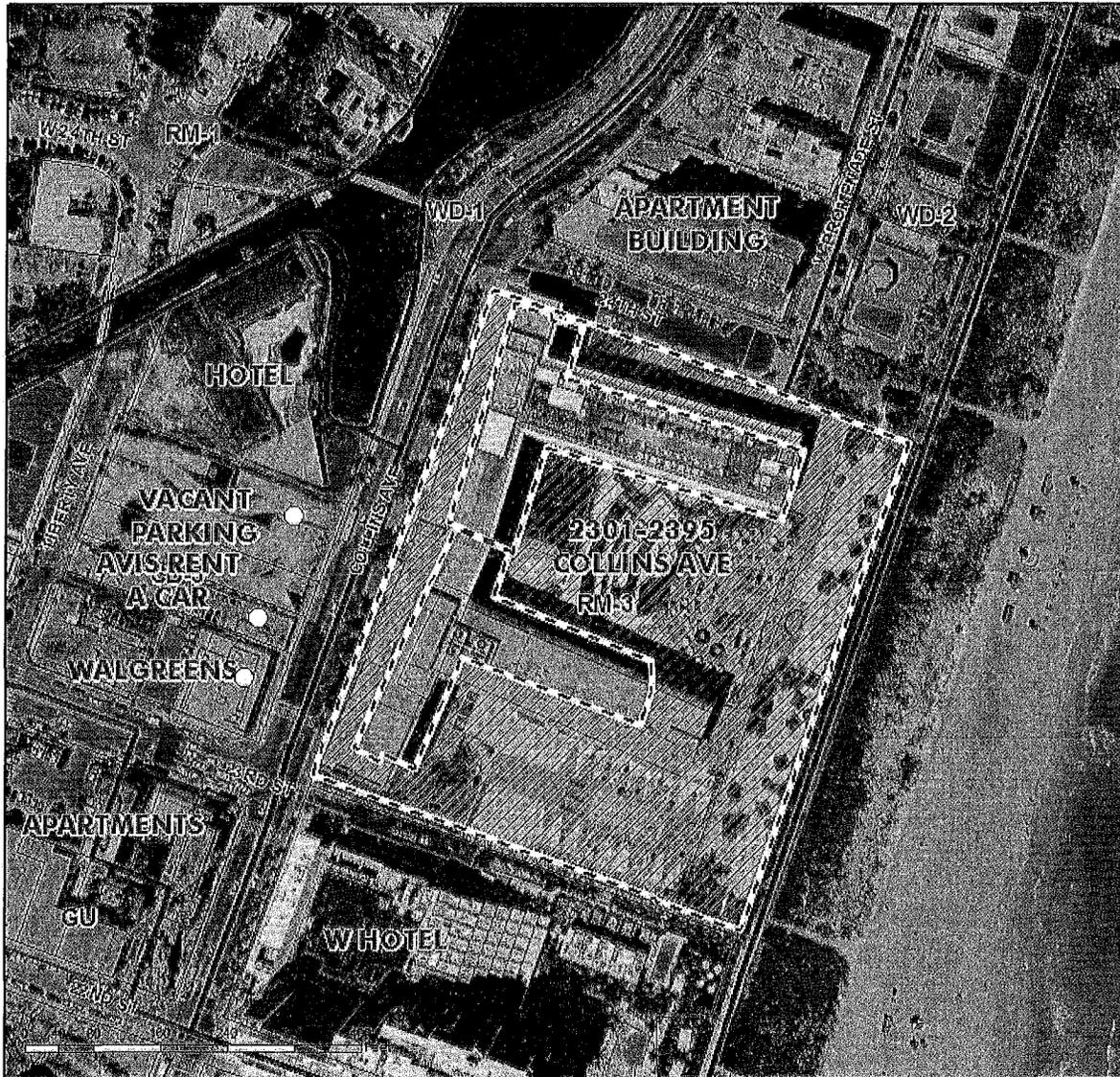
Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

31. Nothing in this order authorizes a violation of the City Code or other applicable law, nor supersedes any requirement or standard set forth in the City Code (or City's Noise Ordinance, etc).
32. References to third parties in this Order are at the request of and by agreement of the Applicant, and shall not be considered an unlawful delegation of legislative authority.

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ZONING / SITE MAP



City of Miami Beach Planning Board  
File No. 1840  
2301-2395 Collins Ave - 1 Hotel

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

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