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- Notes Regarding Reorganization for Clarity and Ease of Future Use (not to be included in proposed order) are Highlighted in **Green**

## MODIFIED CONDITIONAL USE PERMIT

As a result of a public hearing to consider ~~a revocation or modification of an~~ **an application to modify the** approved Conditional Use permit, ~~as an enforcement action,~~ the Planning Board **further** modified the conditions of the original Planning Board order for the Conditional Use for RP Hotel Holdings, LLC, to operate an aggregate of uses - a full service restaurant, a specialty restaurant and lounge, and hotel bar - open to the general public, as a Neighborhood Impact Establishment located in the renovated Royal Palm/Shorecrest Hotel property pursuant ~~Chapter 118, Article IV, "Conditional Use Procedure," of the Land Development Regulations of the Code of the City of Miami Beach, Florida to Chapter 2, Article V, Section 2.5.2 of the Miami Beach Resiliency Code (the "Code").~~ Notice of the request for a Conditional Use Permit was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property, upon which the application was made.

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

That the property in question is located in the ~~RM-3, Residential multifamily high intensity~~ **MXE, Mixed Use Entertainment** 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 **Ordinance Code**;

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 the staff recommendation, that a **Modified** Conditional Use Permit as requested ~~and set forth above~~ be GRANTED, subject to the conditions below, which have been accepted by the applicants. (~~Strikethrough~~ signifies deletions; Underlining signifies new language):

1. The Planning Board shall maintain jurisdiction of this **Modified** Conditional Use Permit. Ninety days after the issuance of the Business Tax Receipt or after general commencement of operations, whichever comes later, the applicant shall provide a progress report to the Planning Board. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to

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determine the timing and need for future progress reports. This **Modified** Conditional Use is also subject to modification or revocation under **City Code Sec. 118-194 (c) Section 2.5.2.5 of the Resiliency Code**.

2. This **Modified** Conditional Use Permit is issued to RP Hotel Holdings, LLC as owner of the property. In the event of any change in the owner and/or **hotel** operator ~~of the new owner and/or operator shall appear before the Board to affirm their understanding of the conditions listed herein at the earliest Board meeting for which the Planning Department can lawfully include this item on the Board's agenda~~ **the new owner and/or hotel operator shall submit an affidavit, in a form acceptable to the City Attorney, to the City of Miami Beach Planning Department, transferring the Modified Conditional Use Permit to the new operator or owner and acknowledging acceptance of all conditions herein, prior to the issuance of a new Certificate of Use/Business Tax Receipt.**
3. The conditions of approval for this **Modified** Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
4. 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.
5. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application for a Neighborhood Impact Establishment **Modified** Conditional Use Permit.
6. As proposed by the applicant, the project authorized by this **Modified** Conditional Use Permit includes the **creation and continued** operation of the following three (3) venues, with their respective approximate maximum occupant loads or such respective lower maximum occupant loads as the Fire Marshal may determine, resulting in an approximate aggregate maximum occupant load of **774 653** persons or such lower aggregate maximum occupant load as the Fire Marshal may determine:
  - (A) ~~the lobby lounge and bar, presently intended to be named James Club;~~ **Lobby Bar:**
    - (i) **Location:** ~~to be located wholly in the inside of the first floor of the north building and extending into the outdoor breezeway between the Royal Palm and Shorecrest structures.~~
    - (ii) **Seats and Occupancy:** ~~approximately 70 59 seats and an occupancy load of 122 total~~ persons;
    - (iii) **Hours of Operation:**
      - (a) **Indoors – open to 5 am;** **[Existing Condition, Formerly Condition 7(A), Reorganized for Clarity]**

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(b) Outdoors (Sunday through Thursday) – open to 11 pm;

(c) Outdoors (Friday & Saturday) open to midnight.

(iv) Entertainment permitted: Yes

(v) Hours of Entertainment: Outdoor entertainment must conclude by 10 PM, at which time the partition and doors to the outdoor portion of the lobby lounge and bar must also be closed. Bar service will continue outdoors until the closing time referenced in the Hours of Operation above.

(B) ~~the full service "destination" restaurant, and lounge, and nightclub, presently unnamed, to be~~ Full-service "Destination" Restaurant and Lounge:

(i) Location: located at the front the western end of the first and second floors of the south building, historically referred to as the Shorecrest Hotel.

(ii) Seats and Occupancy: with a total occupant load of 543-379 persons and generally consisting of:

(a) 54-34 outdoor dining seats to be located on the existing first-floor terrace located on the west side of and wrapping around the north side of the south building;

(b) 233-250 indoor dining seats to be located on the first and second floors of the south building; and

(c) 256 persons 95 indoor dining/lounge seats in the lounge and nightclub to be located in the rear of the first floor of the south building.

(iii) Hours of Operation:

(a) Indoors – open to 5 am. [Existing Condition, Formerly Condition 7(B)(i), Reorganized for Clarity]

(b) Outdoors - open to 2 am. [Existing Condition, Formerly Condition 7(B)(ii), Reorganized for Clarity]

(iv) Entertainment permitted: Indoors Only

(v) Hours of Entertainment: Entertainment permitted during indoor hours of operation.

(C) ~~the three meal restaurant (which also offers room service), presently intended to be named Jimmy's Restaurant, to be~~ Three-meal Restaurant:

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(i) Location: ~~located~~ wholly outside on the south and east sides of the first floor of the north building ~~(presently occupied in part by exercise equipment) and wrapping around to the pool deck on the east side of the north building (presently occupied in part by a bar)~~.

(ii) Seats and Occupancy: ~~146~~ generally consisting of 122 seats and an occupancy load of 152 total persons;

(iii) Hours of Operation: open to 2 am. **[Existing Condition, Formerly Condition 7(C), Reorganized for Clarity]**

(iv) Entertainment permitted: See Condition 7(A).

(v) Hours of Entertainment: See Condition 7(A).

7. The three (3) above-described venues shall have the following respective hours and operations: **[Hours of Operation and Entertainment Reorganized to Section 6 for Clarity]**

(A) ~~the lobby lounge and bar will close at 5 AM – entertainment is authorized, a dance hall is not authorized;~~

(B) ~~the full-service "destination" restaurant, lounge, and nightclub:~~

(i) ~~The outdoor dining area will close at 2 AM (inclusive of all clean-up and other staff operations) – Neither entertainment nor a dance hall is authorized; and~~

(ii) ~~The indoor area will close at 5 AM – Subject to compliance with applicable requirements, entertainment and a dance hall are authorized;~~

(C) ~~the three-meal restaurant (Jimmy's) will close at 2 AM~~

7. This Modified Conditional Use Permit also authorizes the following for other areas providing customary hotel accessory uses not open to the public:

(A) Ground floor rear yard outdoor entertainment:

(i) Entertainment Permitted: Yes, DJ or live music associated with "customary" accessory uses not for the general public in the outside areas, on and around the pool deck on the first level, such as the restaurant on the first level which facilities are open to the outside is permitted subject to the hours and conditions below: **[Existing Condition, Formerly Condition 18(C), Reorganized for Clarity]**

(ii) Hours of Entertainment: 11:30 am to 11:00 pm, Sunday through Thursday, and from 11:30 a.m. to midnight, Friday and Saturday. **[Existing Condition, Formerly Condition 18(C), Reorganized for Clarity]**

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(iii) **Additional Conditions: No other live music or DJ shall occur in these areas except according to a special event permit. Any DJ shall use the approved distributed sound system only. Outdoor customary hotel events with live music shall also use the hotel's approved distributed sound system only.** [Existing Condition, Formerly Condition 18(C), Reorganized for Clarity]

**(B) Second Floor Outdoor Terrace of North Building (formerly a pool deck)**

(i) **Hours of Operation: In conjunction with customary hotel events (not open to the general public) only, Sunday through Thursday – 11 pm; Friday and Saturday – Midnight.** [Existing Condition, Formerly a Portion of Condition 13, Reorganized for Clarity]

(ii) **Entertainment Permitted: permitted during customary hotel events (not open to the general public).** [Modification to Existing Condition, Formerly Condition 18(D), Reorganized for Clarity]

(ii) **Hours of Entertainment: Entertainment shall conclude by 10 PM at which time all entertainment must move indoors and the doors to the outdoor terrace must be closed.**

(iii) **Temporary outdoor bar counters: permitted during customary hotel events (not open to the general public) which shall be removed at closing – See Hours of Operation above.** [Existing Condition, Formerly a Portion of Condition 13, Reorganized for Clarity]

8. **An A final** operation plan for the restaurants and commercial uses shall be submitted to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion or Business Tax Receipt, whichever occurs first.
9. None of the rooftops **(except the second floor outdoor terrace space, formerly a pool deck, and the terraces of the presidential suites)** of the present buildings or any future buildings shall have any guest, invitee, or public usage or facilities of any kind, and there shall be no access to any such rooftop except for
  - (A) emergency evacuations as required by the Fire Code and Fire Marshal, and
  - (B) the hotel's operating, maintenance, and construction personnel and contractors.
10. Applicant will **install and** maintain a safe, secure, and locked rear gate which can be opened only by registered hotel guests using their magnetic room key cards or other secure devices, hotel personnel, and public safety personnel.
11. Applicant will **repair or install, and will thereafter** maintain, a fire alarm system which reduces false alarms to a generally accepted minimum number, and which complies in all other respects with all applicable requirements.

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12. Applicant will adopt and, on a 24-hour basis will apply, such practices and procedures as are reasonably likely to remedy inappropriate guest and invitee conduct. Without limiting the generality of the foregoing, applicant's personnel will, on a 24-hour basis, regularly inspect:

(A) all outdoor areas in order to determine whether there is any yelling, screaming, or other inappropriate sounds being made by guests or invitees who are on any terrace, balcony, pool deck, breezeway, or any other outdoor area, and will promptly take such action as may be reasonably necessary to terminate the yelling, screaming, and other inappropriate sounds and to prevent a recurrence; and

(B) all terraces, balconies, and other outdoor areas in order to determine whether any railings are being used to hang or dry towels, swim suits, beach toys, and other items, such inspection to be made from the ground or any other reasonable vantage point, and will promptly take such action as may be reasonable necessary to terminate such practices and to prevent their recurrence.

Applicant will arrange for hotel management on duty to be available by telephone, on 24- hour basis, to receive and act promptly upon complaints of inappropriate guest or invitee conduct. If any venue is leased to a third party, Applicant will satisfy the foregoing obligations with respect to such venue by requiring the third party to comply with this section.

13. No outdoor bar counters shall be permitted except for the outdoor portion of the lobby bar and that the bar at the three-meal restaurant Jimmy's Restaurant, which shall be part of a full service restaurant at all times. No outdoor bar counter shall be placed on any roof, terraces, private decks, or balconies at any time except for the second floor outdoor terrace in accordance with this Order. ~~Temporary outdoor bar counters, including temporary outdoor bar counters on the 2nd floor pool deck, will be permitted during customary hotel events (not open to the general public) which shall be removed on:~~

Sunday through Thursday: 11:00 p.m. Friday and Saturday: Midnight  
**[Deleted Portion Moved to Condition 7(B) for Clarity]**

14. Final calculations for required parking for the project shall be determined by the Planning Department prior to approval of a building permit. Such parking calculations shall be based upon both the number of hotel rooms, residential units, and additionally, the intensity of the proposed accessory uses as measured by the number of seats in dining areas, and by the square footage of the liquor service areas not included in the areas for which seats are calculated. A final determination for the required parking shall be conducted at the time of the Building Permit and any deficiency may be paid by a fee in lieu of providing the required parking, which shall be paid before the building permit is issued.

15. A queuing analysis relating to the valet parking processing rate shall be revised has been provided to determine whether additional attendants will need to be added to the valet operation. The final revised queuing analysis shall be submitted

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to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion, or Business Tax Receipt, whichever occurs first.

16. All parking and vehicle retrieval will be ~~The revised queuing analysis shall be submitted to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion, or Business Tax Receipt, whichever occurs first,~~ by valet attendants only; self-parking will not be permitted (except in off-property parking garages elsewhere). Valet attendants will drive the vehicles to and retrieve the vehicles from ~~either:~~

(A) ~~the present on-site garage with its 104 96 parking spaces,~~ or

(B) ~~the City garage located on the south side of 16th Street immediately west of Collins Avenue~~

Applicant shall not in any manner directly or indirectly participate in the storage or parking of vehicles for non-hotel guests or invitees or entities in ~~either of the above two facilities~~ facility.

17. Directional signs shall be posted at the entrance to the hotel and exit to Collins Avenue. Such signs shall be submitted to the Planning Department and Public Works Department for review and approval and shall be indicated on the Plans submitted to the Building Department for final permit.

18. The following additional conditions of approval ~~by the Historic Preservation Board for File No. 7245~~ are hereby incorporated ~~as part of the Planning Board conditions of approval:~~

(A) The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced. Owner agrees to include the rules and regulations set forth in these conditions in any contract or assignment.

(B) The applicant shall install and/or maintain a distributive sound system for providing ambient music in all open areas, as well as in facilities, such as the proposed restaurant on the first level, which are open to the outside. The controls for the distributive sound system shall be adjusted by a sound engineer professional to limit the amplitude of music and adjust the sound system so that it will comply with all applicable noise ordinances. Other than the sound engineer professional, only the Hotel Manager may have access to the controls which shall be locked.

(C) ~~All DJ or live music associated with "customary" accessory uses not for the general public in the outside areas, on and around the pool deck on the first level, such as the restaurant on the first level which facilities are open to the outside, shall be prohibited except from 11:30 am to 11:00 pm, Sunday through Thursday, and from 11:30 a.m. to midnight, Friday and Saturday. No other live music or DJ shall occur in these areas except according to a special event permit. Any DJ shall use the approved distributed sound system only. Outdoor customary hotel events with live music shall also use~~

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~~the hotel's approved distributed sound system only. Reserved.~~ [Moved to Condition 7(A) for Clarity]

- (D) ~~Live music is prohibited on the second level pool deck, except in accordance with a valid Special Event Permit. Reserved.~~ [Moved to Condition 7(B) for Clarity]
- (E) Should the applicant materially increase the outside pool deck areas greater than as proposed in the application, that change must be presented and approved by the HPB in a subsequent application, and not by staff review, unless such change is approved in writing by 1500 Ocean Drive.
- (F) The applicant will establish rules that prohibit guests from bringing **audible** electronic amplification devices on the decks and balconies that may disturb the residents of 1500 ~~Collins Avenue Ocean Drive.~~
- (G) The rooftops of the lanai building shall not be used as habitable areas.
- (H) Owner agrees to install **and/or maintain** an exhaust system, if required by code, for the kitchen that will substantially reduce grease and smoke that would otherwise escape to the surrounding area. This may include the installation of a fan in connection with the kitchen exhaust system within the interior of the building in order to reduce noise levels at the exhaust outlet.
19. 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.
20. The Applicant will provide supervisory training to senior staff personnel to ensure that at all times there are trained staff members on site to monitor and control guest behavior in the outdoor areas, in particular open spaces at ~~Jimmy's the three-meal restaurant located~~ **on the first floor** and pool deck areas. Senior staff will ensure that all conditions stipulated in the **Modified** Conditional Use Permit are followed by hotel guests and invitees. In addition, the Applicant will purchase a two-way radio system so personnel can maintain contact with the general manager and/or the senior manager on duty. Additionally, security cameras will be utilized and off duty police or security personnel will be hired on an as needed basis.
21. If any outdoor venue has doors which open upon any indoor venue which is authorized by this **Modified** Conditional Use Permit to remain open later than its connected outdoor venue, then, at and after the time specified in this **Modified** Conditional Use Permit for that outdoor venue to close, the indoor venue must either (A) close those connecting doors, or (B) reduce the volume of the music to the level specified in the noise ordinance. Background ambient music will be turned off **at the following times:**
- (A)** Around the pool area: Sunday through Thursday: 11:00 p.m. Friday and Saturday: Midnight

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**(B)** ~~Jimmy's Restaurant~~ (-Three-meal-restaurant): 2:00 a.m.

**(C)** Outdoor Portion of Full Service Destination Restaurant: 2:00 a.m.

22. No third-party outside sound systems shall be permitted; only house sound systems shall be used. At all times, each of the house sound systems shall be under the control only of the general manager, the manager on duty, or the hotel manager on duty (or the restaurant manager for the destination restaurant and lounge). Following installation and testing, each sound system shall be locked and password-protected, so that its volume cannot be changed

(A) by anyone other than one of those individuals, or

(B) to a volume which would violate the City's Noise Ordinance. Each sound system shall, in all respects, be installed, tested, and operated so that it complies, in all material respects, with the specifications and requirements of the Noise Study prepared by The Audio Bug, Inc. and dated July 25, 2011 Edward Dugger and Associates, P.A. dated August 1, 2025 ("Sound Study"). The Audio Bug, Inc. will prepared an updated letter from its report addressing directional noise transfer issues that may exist in the direction of the 1500 Ocean property.

23. Special Events may exceed restrictions except for the noise ordinance and any other Ordinances, rules or regulations existing at the time, and shall be noticed by the applicant in advance of filing an application for special events, proof of which shall be filed with the application, to abutting residential condominium associations for suggestions and objections. If a Special Event Permit is issued, a specific condition of the event shall be that no live music or entertainment shall be permitted after 2:00 a.m. except for New Year's Eve and July 4th.

24. The installation plan for each proposed new sound system and for each proposed material modification of an existing sound system, including the location of all the speakers and sound system controls shall be submitted to staff for review and approval prior to obtaining a building permit. Speakers shall not be installed above ground (walls, etc.) as per the approved building permit drawings.

25. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.

26. The following shall apply to all deliveries, loading, and garbage and trash pickups which shall be conducted:

(A) from the private driveway which is located to the south of the property and to which applicant has access through agreements with the driveway's owners located to the south of the private driveway; and

(B) directly within the structures or private driveway and not on Collins Avenue; and

(C) between 9:00 AM and 5:30 PM only; and

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(D) within the 15-foot-wide strip, running east-west approximately 179 feet, and located between, on the north, the hotel's southern wall, and on the south, a clear and brightly-painted continuous yellow stripe, running in an east-west direction, which shall be placed, maintained, and periodically repainted in a location approximately 15 feet south of the Shorecrest Hotel structure;

or within the loading areas located south of the shared driveway, provided the loading docks of the buildings located on the south side of the shared driveway are not blocked; and

(E) not within the shared driveway, which is located in-between the loading area to the north and the loading area to the south, both of which are delineated by yellow striping running east-west along the shared driveway.

27. Deliveries, loading, garbage and trash pickups shall adhere to the following operational standards:

(A) At the top of the ramp of the shared driveway, an arm gate, or two arm gates, one for each lane, but in either case, extending the entire width of the shared driveway, shall, within sixty days of the modification of the CUP, be installed in a sound and workmanlike manner, using materials and equipment which are generally recognized as appropriate for high-quality commercial or residential buildings. **[Note: Completed]**. Thereafter, the arm gate(s) shall, promptly and in the same manner, be maintained, repaired, periodically serviced, and replaced (all or in part) as may reasonably be needed from time to time.

(B) Parking in the 15-foot-wide strip, described in Condition 26 (D) above, shall be prohibited between 9:00 AM and 5:30 PM 365 days a year, except for vehicles engaged in delivery and pickup operations **and as provided in the following subsection**. The applicant shall not block or obstruct in any manner any part of the 15-foot-wide strip, except for vehicles engaged in delivery and pickup operations. Between 9:00 AM and 5:30 PM 365 days a year, applicant shall engage personnel to manage the shared driveway and promptly take action to remove any such vehicle and/or to remove any such blockage or obstruction.

Notwithstanding the foregoing, the applicant shall be permitted to provide five (5) delineated parking spaces located on the western end of the shared driveway, and located north of the shared driveway (north of the northerly yellow strip).

(C) Deliveries and pickups shall be handled and managed by a dock master supervisor who shall be on duty between 9:00 AM and 5:30 PM 365 days a year, and who shall be stationed at a location where the entire shared driveway and the 15-foot- wide-strip can be observed and immediately accessed. The dock master supervisor shall be responsible for:

i. controlling hotel related deliveries and refuse pick up traffic in order

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to minimize disruption of traffic on Collins Avenue and in order to minimize interference with the business and resident traffic of the shared driveway's respective owners, and

- ii. enforcing the provisions of conditions No. 26 and 27 relating to Deliveries and Pick-Ups.
- (D) Trash/garbage containers shall have rubber wheels and be maintained in a clean and fully operable condition. Trash/garbage containers shall be kept in the trash room, with its door completely closed except during trash and garbage pickups, after which the containers shall be promptly returned to the trash room, its door completely closed, and all trash, debris, and garbage shall be removed from the area in front of the door.
  - (E) A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room located on the south side of the south building; time of service for deliveries and best efforts used to have garbage and trash pickups shall be restricted to not before 9 A.M. and not after 5:30 P.M.
  - (F) All garbage and trash from hotel rooms, restaurants, bars, meeting rooms, and any other facilities or activities on or attributable to the property will be disposed of on a daily basis and will be consolidated in an air-conditioned trash/garbage holding room located on the south side of the south building. Applicant will ~~enter into a~~ **maintain a** contract with an appropriate waste removal operator, and ~~at that time a~~ **continue to comply with the** more detailed sanitation plan ~~shall be~~ **previously approved and provided** to Planning Department staff for review and approval, such plan to include a copy of the fully-signed contract with the waste removal operator.
28. All variances, as may be necessary for the entire project shall be applied for and obtained prior to applying for a building permit.
  29. The applicant shall submit an MOT (Method of Transportation) to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
  30. In accordance with Chapter 122 of the Code of the City of Miami Beach, the Transportation and Concurrency Management Division shall conduct a final concurrency determination that will meet the City's concurrency requirements and level-of-service standards prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), by paying its fair share cost, as may be determined by the Concurrency Management Division. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.
  31. The applicant shall obtain a full building permit **for the modifications approved**

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**herein within no later than** 18 months from the date of the meeting, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.

32. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the structure.
33. 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, or amend other conditions or add new conditions. 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 **Modified** Conditional Use Permit.
- ~~34. Applicant agrees to replace the garage exhaust fans and install new fans per building code requirements that are state of the art Quiet Technology within 60 days of the issuance of a Temporary Certificate of Occupancy for the new destination restaurant located in the Shorecrest hotel.~~
- 35 34.** 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 **Modified** Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
- 36 35.** 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.
- 37 36.** This **Modified** Conditional Use Permit shall be recorded in the Public Records of Miami- Dade County within a reasonable time after receipt at the expense of the applicant. No building permit, certificate of use, certificate of occupancy, certificate of completion or business tax receipt shall be issued until this requirement has been satisfied.
- 38 37.** The establishment and operation of this **Modified** 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 **Modified** Conditional Use.
- 39 38.** 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.