

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: September 8, 2015

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: File No. 7549, **400, 410 & 420 Collins Avenue & 221 4th Street.**

The applicant, Savoy Hotel Partners, LLC, is requesting a Certificate of Appropriateness for the construction of a new 7-story main use parking garage, including variances to reduce the required rear setback and to exceed the maximum allowed projection into the required front setback.

STAFF RECOMMENDATION

Approval of the Certificate of Appropriateness with conditions
Denial of the variances

EXISTING STRUCTURES/SITE

Local Historic District: Ocean Beach
Classification: Surface Parking Lot

ZONING / SITE DATA

Legal Description: Lots 5, 6 and 7, Block 6, Ocean Beach Subdivision, According to the Plat Thereof, as Recorded in Plat Book 2, at Page 38 of the Public Records of Miami-Dade County, FL.

Zoning: CPS-2 (Commercial, General Mixed Use)
Future Land Use: CPS-2 (Commercial, General Mixed Use)

Lot Size: 19,500 S.F. (Max FAR = 2.0)
Existing FAR: N/A
Proposed FAR: N/A (Main Use Parking Garage)
Proposed Height: 7-stories / 75'-0"
Existing Use/Condition: Temporary Parking Lot
Proposed Use: Main Use Parking Garage

BACKGROUND

On July 12, 2005, the Board approved a Certificate of Appropriateness for the construction of a new 7-story mixed use structure on a vacant lot (HPB 2983).

On January 9, 2007, the Board approved a one (1) year Extension of Time to obtain a Full Building Permit for a previously issued Certificate of Appropriateness.

A Full Building Permit was not obtained within the timeframe permitted by Code, and no further extensions are possible at this time. Consequently, the applicant has submitted a new application requesting approval of the previously approved project with minor modifications.

On September 23, 2014, the Planning Board reviewed and approved a Conditional Use Permit for the construction of the subject 7-story, mixed-use building with a mechanical parking lift system exceeding 50,000 square feet.

On October 14, 2014, the Historic Preservation Board reviewed and approved a Certificate of Appropriateness for the construction of a 7-story, mixed-use building consisting of a 200-seat ground floor restaurant and 6 levels of residential units above (HPB File No. 7474).

Since that time, the applicant has redesigned the project and has submitted a new application to construct a 7-story main use parking garage.

On June 28, 2015, the Planning Board reviewed a Conditional Use approval for the construction of a new building exceeding 50,000 square feet including a parking garage, pursuant to Section 118, Article IV, Section 142, Article II, Division 18. (PB File No. 2269). The application was continued by the Planning Board to a date certain of September 30, 2015 to allow the applicant additional time to further develop the design of the residential units located on the upper levels.

THE PROJECT

The applicant has submitted plans entitled "400 Collins Avenue", as prepared by Shulman+Associates, dated July 27, 2015.

The proposed project consists of a new 95,528 square foot, 7-story, main use commercial parking garage with a 154 parking spaces, 5,137 square feet of commercial use and 4 residential units.

The applicant is requesting the following variances:

1. A variance to reduce by 3'-8" the minimum required rear yard setback of 5'-0" in order to construct a new parking garage with a rear yard setback of 1'-4".
 - Variance from:

Sec. 142-699 - Setback requirements in the C-PS1, 2, 3, 4 districts.

- (a) The setback requirements in the C-PS1, 2, 3, 4 districts are as follows:

Pedestal and tower (non-oceanfront), Rear - 10 feet when abutting a residential district, otherwise—5 feet

The applicant has requested the rear yard pedestal setback variance in order to accommodate the proposed “architectural skin” on the two street facing façades. However, the interior drive aisles of the garage, as proposed, are 24’-0” wide; the City’s Land Development Regulations only require drive aisle widths of 22’-0”. Staff is not supportive of the requested variance and would recommend that the applicant reduce the interior drive aisles to eliminate the need for the variance while maintaining the depth required for the proposed decorative façades.

2. A variance to exceed by 6’-0” the maximum allowed projection into the front yard tower setback of 6’-0” in order to construct a balcony located at the 7th floor and a roof top trellis with a projection of 12’-0” into the required front yard tower.

- Variance from:

Sec. 142-1132 - Allowable encroachments within required yards.

(o) Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet, unless otherwise noted.

(4) Exterior unenclosed private balconies.

(5) Ornamental features.

The applicant has not presented a hardship for the requested variance to allow the 7th floor balcony and roof top trellis to exceed the maximum projection in the front yard setback. The variance is only being requested for design purposes. Staff is not supportive and believes that the projections should be reduced to 6’-0” into the required front yard setback, which would eliminate the need for the variance.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded do not satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents submitted with the application do not comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
Not Satisfied – The requested variances are for new construction. No special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- That the special conditions and circumstances do not result from the action of the applicant;
Not Satisfied – The requested variances are a result of the design of the new building.
- That granting the variance requested will not confer on the applicant any special

privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

Not Satisfied - The granting of these variances would result in setbacks that are out of character and inconsistent with other properties in the historic district.

- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

Not Satisfied – The requested variances would create non-conforming rear and frontyard setbacks for new construction.

- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

Not Satisfied – The requested variances would create non-conforming rear and frontyard setbacks for new construction.

- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

Not Satisfied – The requested variances would create non-conforming rear and frontyard setbacks for new construction and would result in massing that is out of character and scale with the historic district and would have a negative impact on adjoining properties.

- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

Satisfied

COMPLIANCE WITH ZONING CODE

The application appears consistent with the requirements of the City Code with the exception of the variances requested herein; this shall not be considered final zoning review or approval.

These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

CONSISTENCY WITH 2025 COMPREHENSIVE PLAN

A preliminary review of the project indicates that the proposed **main use parking garage** appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

Satisfied

- g. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties and consistent with a City master plan, where applicable.

Satisfied

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

Satisfied

- i. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, adjacent properties and pedestrian areas.

Satisfied

- j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

Satisfied

- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.

Satisfied

- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

Satisfied

- m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

Satisfied

- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.

Satisfied

- o. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

Satisfied

ANALYSIS

Staff would preface this analysis by noting that there have been two separate development projects approved by the Historic Preservation Board for this site. Both approved projects were for the construction of a 7-story mixed-use building, with the most recent approval obtained on October 14, 2014.

Since that time, the applicant has redesigned the project and is currently proposing the construction of a new 7-story main-use parking garage.

Staff would commend the applicant for proposing to construct a high quality structure on the existing surface parking lot. Over time, the existing parking lot has had an increasing negative impact on the developing urban context of Collins Avenue as well as the surrounding historic district. Staff is pleased with the overall contemporary design language of the proposed structure.

The proposed new building is well within the scale and context of the immediate area and the programming of the structure is highly effective in terms of the location of the commercial space at the first level and the residential units located at the upper two levels.

The design of the structure is equally successful, as the elevations have been massed, for the most part, in a manner that effectively breaks down the scale of the structure and establishes a successful architectural relationship with the residential structure to the south. The proposed design is defined by a dynamic architectural screen wrapping the first 5 levels of the building with integrated landscaped planters.

Staff has only minor concerns with the proposed design. First, staff believes that the proposed 7th floor balcony and expansive rooftop trellis structure add unnecessary mass and height to the building, especially when viewed from the south on Collins Avenue. In order to achieve a higher level of compatibility with the surrounding historic district, staff recommends these elements be reduced in the depth by a minimum of 6'-0". This projection is also consistent with the maximum permitted by the City Code, and would negate the need for the requested variance. Second, it is not yet clear how access for maintenance would be provided for the proposed exterior planters on the 3rd level facing south and east. Staff would recommend that these planters be accessible for maintenance from the interior of the garage. Staff is confident that these issues can be addressed administratively, as indicated in the recommendation.

Finally, it is important to note that the proposed project was initially reviewed by the Planning Board on July 28, 2015, with regard to important issues related to the operations of the project, including parking, traffic, deliveries, sanitation and security, and is currently pending final review and approval by the Planning Board on September 30, 2015.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application be **denied as to variance requests 1 and 2; and the Certificate of Appropriateness be approved**, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable.

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HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: September 8, 2015

FILE NO: 7549

PROPERTY: 400, 410 & 420 Collins Avenue & 221
4th Street

APPLICANT: Savoy Hotel Partners, LLC

LEGAL: Lots 5, 6 and 7, Block 6, Ocean Beach Subdivision, According to the Plat
Thereof, as Recorded in Plat Book 2, at Page 38 of the Public Records of
Miami-Dade County, FL.

IN RE: The Application for a Certificate of Appropriateness for the construction of
a new 7-story main use parking garage, including variances to reduce
the required rear setback and to exceed the maximum allowed projection
into the required front setback.

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 Ocean Beach 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 the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.

2. Is not consistent with Certificate of Appropriateness Criteria 'a', 'd' & 'f' in Section 118-564(a)(2) of the Miami Beach Code.
 3. Is not consistent with Certificate of Appropriateness Criteria 'b' Section 118-564(a)(3) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 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 7th floor balcony and rooftop trellis structure along the east elevation shall be reduced in depth by a minimum of 6'-0".
 - b. Final details of all exterior surface finishes and materials, including samples, 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.
 - c. Final details of all proposed storefront systems and associated details shall be provided for all of the structures on the project site, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. The frames shall be a clear anodized aluminum or a light grey or silver powder coated finish. The glass shall not be colored and any tinting shall be the minimum required by Energy Codes.
 - d. The internal garage lighting shall be shielded to inhibit direct views of all internal light sources from either the street or adjacent properties, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - e. The final design and details of all exterior lighting 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. Exterior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding historic district. No florescent or intensive 'white' lighting (or similar intensive lighting) visible from the adjacent public rights or way or adjacent properties shall be permitted.
 - f. All kitchens and other venting shall be chased to the roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.
 - g. A fully enclosed air conditioned trash room that is sufficiently sized to handle the entire trash load of the building at all times shall be required, located within the envelope of the building, in a manner to be 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. Access shall be provided from the interior of the garage to the planter structures to facilitate regular maintenance.
 - b. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the final revised landscape plan.
 - c. 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. Right-of-way areas shall also be incorporated as part of the irrigation system.

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. The applicant filed an application with the Planning Department for the following variance(s) (Underlining denotes new language and ~~strikethrough~~ denotes stricken language):
 1. ~~A variance to reduce by 3'-8" the minimum required rear yard pedestal setback of 5'-0" in order to construct a new parking garage with a rear yard pedestal setback of 1'-4".~~ (**Variance Denied**)
 2. ~~A variance to exceed by 6'-0" the maximum allowed projection into the front yard tower setback of 6'-0" in order to construct a balcony located at the 7th floor and a roof top trellis with a projection of 12'-0" into the required front yard tower.~~ (**Variance Denied**)
- B. The applicant has submitted plans and documents with the application that the Board has concluded do not satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, the Board has concluded that the plans and documents submitted with the application do not comply with the following hardship criteria as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

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. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- B. 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.
- C. The applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools, prior to the issuance of a Building Permit. 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 prior to the issuance of a Building Permit.
- D. 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.

- E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- G. Applicant agrees that in the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- 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

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 "400 Collins Avenue", as prepared by Shulman+ Associates, dated July 27, 2015, and 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.

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HPB File No. 7549
Meeting Date: September 8, 2015

Filed with the Clerk of the Historic Preservation Board on _____ ()

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