

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: January 12, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB File No. 7598, a.k.a. BOA File No. 3694, **400 Collins Avenue – Temporary Parking Lot**

The applicant, Savoy Hotel Partners, LLC., is requesting a modification to a previously approved variance to allow for an additional 12 month period of time to utilize the existing ground level parking lot at 221 4th Street and 400, 410, 420 Collins Avenue while it seeks additional approvals from the Historic Preservation Board and the Planning Board for a new proposed main use parking garage.

STAFF RECOMMENDATION

Approval with conditions

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 Use/Condition: Temporary Parking Lot
Proposed Use: Same

BACKGROUND

The following is a history of the prior Land Use Board approvals for this site:

On July 12, 2005, the HPB 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 were possible at that time. Consequently, the applicant 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 a 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).

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 (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. Because the design has substantially changed, and due to the timeframe limitation on pending applications, a new application will be required to be submitted to the Planning Board for review and approval.

Since that time, the applicant has redesigned the project and has submitted a new application for the February 9, 2016 meeting for a 7-story main use parking garage.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the original application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, 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.

REQUEST / STAFF ANALYSIS

The property has been operating as a parking lot since 1988 as per Building Department records. Numerous violations were issued in the 1990's for the improper use of the lot as a parking lot. The following is a summary of the history of the temporary parking lot since the first occupational license was issued:

Jan. 10, 2003: A license was issued for a temporary parking lot.

Oct. 24, 2006: The Planning Board (File No. 1790) granted a two-year extension of time to the applicant (to expire in 2008), Sunset Parking Systems, who made renovations to meet zoning set back requirements and new landscaping requirements, bringing the site into compliance with temporary parking lot guidelines in Section 130-70 of the Land Development Regulations of the City Code.

May 22, 2007: The Planning Board granted Sunset Parking a Conditional Use Permit (File No. 1821) to operate the lot on a twenty-four (24) hour basis for valet and self-parking.

Subsequently five (5) more one year extensions of time were granted by the Planning Director, with the last of these extensions expiring on January 6, 2013.

Jan. 24, 2012: A modification to the existing Conditional Use Permit (File No. 2046 (f/k/a File No. 1821) for a change in operator was approved by the Planning Board.

March 7, 2014: The applicant was granted the following variance from the Board of Adjustment:

1. A variance to permit the Planning Director to issue up to three one-year extensions of time, not to extend beyond July 31, 2016, for a temporary parking lot whose prior extensions expired after July 31, 2011.

Variance requested from:

Sec. 130-70. Temporary parking lot standards

An applicant may request from the planning board a further extension of time for a period not to exceed two years for approved temporary parking lots that have held a temporary parking lot license (n/k/a business tax receipt), if they have availed themselves of all applicable extensions of time, and are expiring no later than July 31, 2011, inclusive of parking lots in the MXE (east side of Collins Avenue) district.

Pursuant to Sec. 130-70 (7) of the City Code, temporary parking lots are not permitted to exist for a period of time greater than three years from the date of certificate of occupancy or occupational license regardless of ownership. At the end of this time a request may be made from the Planning Board for one initial extension of time for a period not exceeding two years. Temporary parking lots may receive up to five one-year extensions of time from the Planning Director after the extension of time from the Planning Board. In considering these additional extensions of time the Planning Director must also consider the same criteria that are considered by the Board. At the end of this period, if the lot continues to be used for the purposes of parking, a permanent lot shall be constructed in conformity with the land development regulations.

The code allows temporary parking lots whose extension of time expired not later than July 31, 2011 to receive up to five extensions of time. For this particular parking lot, the applicant was not able to request any more extensions of time as the last extension of time expired after July 31, 2011.

The request was approved conditioned upon the following:

- B.1.a. The applicant shall be granted a one year Extension of Time, which shall expire on January 6, 2015.
- B.1.b. In the event the applicant obtains all required Land Use Board approvals for a proposed mixed-use development project on the subject site, and demonstrates that the project team is actively working on construction documents for submission to the Building Department for a Building Permit, by January 6, 2015, an additional one year Extension of Time may be granted by the Planning Director, which shall expire on January 6, 2016.
- B.1.c. In the event that the applicant has submitted a completed application to the Building Department for a Building Permit for the approved mixed-use development project on the subject site and such plans have received a minimum of one round of comments from all applicable review disciplines, by January 6, 2016, or a Full or Phased Building Permit is issued by January 6, 2016, an additional 6 month Extension of Time may be granted by the Planning Director, which shall expire on July 6, 2016.
- B.1.d. No further extensions of may be granted by the Planning Director past July 6, 2016, unless authorized by the Board of Adjustment.

In the beginning of 2015, the applicant demonstrated compliance with the requirements of Condition B.1.b. of the Final Order from the Board of Adjustment (BOA File No. 3694), and an

extension was granted with an expiration date of January 6, 2016.

The applicant is now before the Board requesting an additional one (1) year extension for the operation of the temporary parking lot, as the applicant is in the process yet again of re-designing a development project for the subject site, which will provide required parking for the nearby Villa Savoy site.

The subject temporary parking lot has existed for some time due to continued requests for variances to extend the time expiration. It appears, however, that a tangible is forthcoming. As the lot is substantially landscaped around the perimeter, including relatively large canopy shade trees, which help screen the parking and shade the public sidewalks, staff is supportive of the requested variance.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application be **approved** subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: January 12, 2016

FILE NO: 7598, a.k.a. BOA File No. 3694

PROPERTY: 400 Collins Avenue

APPLICANT: Savoy Hotel Partners, LLC.,

LEGAL: Lots 5, 6 and 7 less W 56 feet Block 6 of Ocean Beach Florida Addition, According to the Plat Thereof, as Recorded in Plat Book 2, at Page 38, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for a modification to a previously approved variance to allow for an additional 12 month period of time to utilize the existing ground level parking lot at 221 4th Street and 400, 410, 420 Collins Avenue while it seeks additional approvals from the Historic Preservation Board and the Planning Board for a new proposed main use parking garage.

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. Certificate of Appropriateness has not been requested as part of this application.

II. Variance(s)

A. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to permit the Planning Director to issue up to three one-year extensions of time, not to extend beyond July 31, 2016, for a temporary parking lot whose prior extensions expired after July 31, 2011.

- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, 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.

- C. The Board hereby grants the requested variance(s) and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:
1. The extension of time granted to the applicant shall be in accordance with the following:
 - a. The applicant shall be granted a six (6) month Extension of Time, which shall expire on July 6, 2016.
 - b. In the event the applicant obtains all required Land Use Board approvals for the proposed/pending development project on the subject site, and demonstrates that the project team is actively working on construction

documents for submission to the Building Department for a Building Permit, by July 6, 2016, an additional six (6) month Extension of Time may be granted by the Planning Director, which shall expire on January 6, 2017.

- c. In the event that the applicant has submitted a completed application to the Building Department for a Building Permit for the approved mixed-use development project on the subject site and such plans have received a minimum of one round of comments from all applicable review disciplines, by January 6, 2017, or a Full or Phased Building Permit is issued by January 6, 2017, an additional 6 month Extension of Time may be granted by the Planning Director, which shall expire on July 6, 2017.
 - d. No further extensions of may be granted by the Planning Director past July 6, 2017, unless authorized by the Historic Preservation Board.
2. The applicant shall comply with all conditions of the Conditional Use Permit No. 2046 dated January 24, 2012.
 3. Prior to the issuance of an Occupational License, the site shall be inspected by the Planning Department to verify compliance with the latest approved building permit and landscape 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 'II. Variances' noted above.

- A. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- B. 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.
- C. 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.
- D. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- E. 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.

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

Dated this _____ day of _____, 20____.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
PRESERVATION AND DESIGN MANAGER
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this _____ day of _____ 20____ by Deborah Tackett, Preservation and Design Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: _____

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

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