

# MIAMI BEACH

## PLANNING DEPARTMENT

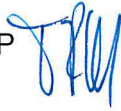
### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: June 25, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 19-0269. 400 - 420 Collins Avenue and 221 4<sup>th</sup> Street – Torino Garage**

An application has been filed requesting Conditional Use Approval for the construction of a new main use parking garage, with accessory uses, with the total area exceeding 50,000 square feet, and including operation of the garage, which is within 100 feet of a residential use, after midnight, pursuant to Chapter 118, Article IV, Chapter 130, Article III, and Chapter 142, Article II, Division 18, of the City Code.

#### **RECOMMENDATION**

Approval with Conditions

#### **HISTORY**

The surface parking lot at 400, 410 & 420 Collins Avenue & 221 4th Street has existed since 1988 according to building records. The Board of Adjustment granted a variance on March 17, 2014 to allow the temporary parking lot to operate for two (2) additional years, subject to the applicant obtaining approval for a new development project on the site. It appears that this Variance has been abandoned, due abandonment of the plans for which the extension was approved.

On September 23, 2014, the Planning Board approved a Conditional Use permit (PB File No. 2209) for a mixed-use structure exceeding 50,000 square feet including a parking garage. On October 14, 2014, the Historic Preservation Board approved the project (HPB File No. 7474). These approvals are still active due to state extensions; however, the applicant is now seeking new approvals.

On June 5, 2019, the City Commission approved the Alternative Parking Incentives for Main Use Garages ordinance, which allowed for modifications to the parking requirements to be considered for main use garages. As such, a new proposal was submitted to staff in anticipation of the adoption of these incentives to provide infrastructure for alternative modes of transit.

The Historic Preservation Board is expected to consider the new proposal on July 9, 2019.

#### **ZONING / SITE DATA**

**Zoning:** CPS-2 – Commercial Performance Standards District, General Mixed-Use Commercial.

**Legal Description:** Lots 5, 6, and 7, Block 6, of “OCEAN BEACH SUBDIVISION”, according to the Plat thereof, as recorded in Plat Book 2, Page 38 of the Public Records of Miami-Dade County, Florida.

**Land Uses:** See Zoning/Site map at the end of this report.  
North: Residential  
South: Residential

East: Residential  
West: Hotel/Commercial Mixed-Use

**Lot Size:** 19,500 SF / 0.73 AC

**Maximum FAR:** 2.0 / 39,000 SF

**Proposed FAR:** N/A (Main Use Parking Garage)

**Maximum Height:** 50' or 75' for Residential and/or Mixed-Use Development

**Proposed Height:** 8 stories / 78' – **Note:** Variances requested for additional 3'

**Proposed Uses:**

- Parking:** 120 Spaces
- Residential:** 15 Units
- Retail:** 4,200 SF
- Restaurant:** 80 Seats (3,942 SF)

### **THE PROJECT**

The applicant has submitted plans entitled "Torino Garage", as prepared by Brandon Haw Architecture dated April 26, 2019. The proposed project consists of a new 95,528 square foot, 7-story, main use commercial parking garage with a 120 parking spaces; 4,200 square feet of retail use; an 80-seat restaurant; and 15 residential units. The project is located in the Ocean Beach Historic District and subject to the review and approval of the Historic Preservation Board.

### **COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:**

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

- 1. The use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

**Consistent** – The request is consistent with the Comprehensive Plan. The proposed use is permitted in the CPS-2 future land use category as a conditional use.

- 2. 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**

**Partially Consistent** – Traf Tech Engineering, Inc. was retained by the applicant to conduct a traffic study. A peer reviewer was selected by the City and paid by the applicant to conduct a peer review. The project may be subject to concurrency mitigation fees. See the attached Memorandum from the Transportation Department.

- 3. Structures and uses associated with the request are consistent with this Ordinance.**

**Consistent** – As proposed, the project will require a 3' height variance. These comments 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.

- 4. Public health, safety, morals and general welfare will not be adversely affected.**

**Consistent** – The proposed establishment should not adversely affect the general welfare of nearby residents.

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

**Consistent** – The proposed project is providing required parking for all the proposed uses, as well as additional public parking. The garage will also be providing bicycle parking, carpool parking, scooter parking, and rideshare drop-off zones.

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

**Partially Consistent** – Staff is recommending conditions to mitigate any adverse impacts on the surrounding neighbors.

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

**Consistent** – The site currently serves as a parking lot, which has similar impacts as the proposed use. In addition, there is a demand for parking in the surrounding area; therefore, the concentration of similar types of uses will not create a negative impact on the surrounding neighborhood.

**COMPLIANCE WITH REVIEW GUIDELINES CRITERIA FOR NEW STRUCTURES  
50,000 SQUARE FEET AND OVER**

Pursuant to Section 118-192(b), in reviewing an application for conditional use for new structures 50,000 square feet and over, the planning board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines:

**1. Whether the proposed business operations plan has been provided, including hours of operation, number of employees, goals of business, and other operational characteristics pertinent to the application, and that such plan is compatible with the neighborhood in which it is located.**

**Partially Consistent** – The Letter of Intent (LOI) contains a description of operations, however, a specific tenant has not been selected and that a specific business plan and number of employees cannot be provided. However, the spaces are relatively small and should not have a major impact. Additionally, proposed operation conditions were provided which state that a restaurant shall close by 2:00 AM and any outdoor components by midnight.

**2. Whether a plan for the mass delivery of merchandise has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan shall mitigate any adverse impacts to adjoining and nearby properties, and neighborhood.**

**Partially Consistent** – The plans show one loading area within the building. The LOI states that loading will take place in a loading zone perpendicular to the Collins Court alley. As the building contains only 8,142 square feet of commercial space and 15 residential units, there is not a significant amount of loading activity expected. Only one

loading space is required per the land development regulations. See Delivery and Sanitation Analysis.

3. **Whether the scale of the proposed use is compatible with the urban character of the surrounding area and creates adverse impacts on the surrounding area, and how the adverse impacts are proposed to be addressed.**

**Partially Consistent** – The proposed project is taller than the adjacent buildings in the vicinity. So as to not overwhelm the scale of the adjacent community, it is not recommended that the building exceed the allowable 75' height limit. Staff is recommending a condition to help ensure that scale of the community is protected. The overall design and massing of the building will also be reviewed by the Historic Preservation Board.

4. **Whether the proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking and operational needs of the structure and proposed uses.**

**Partially Consistent** – The proposed spaces would satisfy required parking, as well as provide surplus parking within the structure. However, there is no description as to how the parking will be controlled. Additionally, the project will be taking advantage of the City's Alternative Parking Incentives and will provide parking for alternative modes of travel. See Parking Analysis.

5. **Whether an indoor and outdoor customer circulation plan has been provided that facilitates ingress and egress to the site and structure.**

**Partially Consistent** – Pedestrians entering the retail portion of the property will have access directly from the public sidewalk along 4<sup>th</sup> Street and Collins Avenue. Customers arriving in automobiles will be able to access the retail area will access business by taking an elevator to the sidewalk level. The garage is accessed via a two-way driveway on 4<sup>th</sup> Street. See Parking and Access Analysis.

6. **Whether a security plan for the establishment and supporting parking facility has been provided that addresses the safety of the business and its users and minimizes impacts on the neighborhood.**

**Partially Consistent** – A partial security plan has been provided in the LOI. It maintains that individual commercial tenants will be providing their own security on-site. It states that the residential areas will have their own entrance lobby. The entrance lobby is designed to be able to have security personnel; however, it will be up to the residents to determine if they wish to pay for the service. Staff is recommending that qualified staff be onsite during hours of operation of the parking garage in order to monitor the site.

7. **Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.**

**Consistent** – Traf Tech Engineering, Inc. was retained by the applicant to conduct a traffic study. A peer reviewer was selected by the City and paid by the applicant to conduct a

peer review. See the attached Traffic Analysis and Memorandum the Transportation Department.

8. **Whether a noise attenuation plan has been provided that addresses how noise shall be controlled in the loading zone, parking structures and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.**

**Partially Consistent** – The parking and loading is located within the structure, so the applicant does not anticipate any significant noise from it. Since the loading zone is expected to be located in the alley, staff is recommending conditions to help reduce any potential impact from noise.

9. **Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.**

**Partially Consistent** – The Applicant would contract with a waste collection company. Trash pick-up would occur via the trash in the Collins Court alley. Trash will be stored in an enclosed trash room contained located adjacent to a loading staging area. Staff is recommending conditions minimize the impact of the operations. See Delivery and Sanitation Analysis.

10. **Whether the proximity of the proposed structure to similar size structures and to residential uses create adverse impacts and how such impacts are mitigated.**

**Partially Consistent** – The structure is generally compatible with the surrounding structures. However, staff is recommending conditions to minimize the potential of impacts to residential uses in the area.

11. **Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect shall be addressed.**

**Consistent** – The CPS-2 zoning district permits development such as that proposed. There are other structures of a similar scale in the surrounding vicinity; however, no negative impacts from a cumulative effect are expected.

#### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) **A recycling or salvage plan for partial or total demolition shall be provided.**  
**Consistent.** There are no buildings on the site.
- (2) **Windows that are proposed to be replaced shall be hurricane proof impact windows.**  
**Consistent.**
- (3) **Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.**  
**Consistent.**
- (4) **Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.**

**Consistent.**

- (5) **Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.**

**Consistent.** The finished floor of the elevation of the ground floor will be located at 9' NGVD to accommodate future adaptation measures.

- (6) **The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.**

**Consistent.** Ramping will be able to accommodate future adaptation measures.

- (7) **Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.**

**Consistent.** All critical mechanical and electrical systems will be located above base flood elevation and freeboard.

- (8) **Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.**

**Not applicable.**

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

**Consistent.** No habitable space is located below base flood elevation.

- (10) **Where feasible and appropriate, water retention systems shall be provided.**

**Consistent.** The site will contain onsite stormwater retention.

**STAFF ANALYSIS**

**Project Description**

The application is for an 8-story, 97,235 square feet, main use commercial parking garage with a 120 parking spaces; 4,200 square feet of retail use; 80 seat (3,942 SF) restaurant; and 15 residential units. All commercial uses will be located on the ground floor fronting 4<sup>th</sup> Street and Collins Avenue. Parking is proposed on the 2<sup>nd</sup> through 5<sup>th</sup> floors. The residential units will be located on floors 6 to 8, with 5 units on each floor. The building also has a rooftop pool deck for use by residents.

While the subject site, zoned CPS-2, Commercial Performance Standard District, is located on the west side of Collins Avenue, bordered on two (2) sides by the RPS-3, Residential Performance Standard District, most of the immediate neighbors are residential apartment buildings. Although retail/restaurant uses are permitted in the neighboring RPS-3 zoning district, they are only allowed as accessory uses to hotel projects.

While more active commercial uses have been approved along Washington Avenue directly behind the development site, and along the Collins Avenue corridor further to the south, most of the immediate neighborhood is comprised of low intensity multifamily residential buildings with no accessory uses. Due to the more residential character of the neighborhood, the introduction of a more intense development which includes a potential restaurant must be reviewed carefully to ensure that the quality of life of surrounding residents is not negatively impacted. Staff is recommending conditions to further minimize the impacts as outlined in the recommendation for approval.

Additionally, the proposed building is taller than most buildings in the surrounding area. Height beyond the allowable 75 feet could be out of scale from the surrounding neighborhood. Staff has recommended conditions to minimize the potential for impacts from this scale.

### **Parking and Access**

Ingress and egress into the parking garage would be from 4<sup>th</sup> Street. The proposed driveway ramp would be located on the south side of the building fronting 4<sup>th</sup> Street. Access to the garage for pedestrians shall be from an elevator lobby on the north side of the building facing Collins Avenue.

Parking would be located on levels 2 through 5. The total number of parking spaces proposed is 120. The required parking for the proposed would be 57 spaces; however, the applicant is taking advantage of alternative parking incentives, which reduce the parking requirement to 28 spaces. Among the incentives considered include providing spaces for compensation vehicle loading and drop-off. Plans indicate that these will utilize existing on-street parking spaces which are subject to the review and approval of the Parking Department. If such spaces are not realized, the parking requirements will have to be recalculated prior to the approval of a building permit.

The use of the Alternative Parking Incentives leaves a surplus of 92 spaces potentially available to surrounding uses and the public. The breakdown of the location of all parking is as follows:

Level 1:	0
Level 2:	1
Level 3:	38
Level 4:	39
Level 5:	42
<b>Total:</b>	<b>120</b>

Section 130-69.5 of the Land Development Regulations requires that conditional use approval be obtained to operate parking garages and parking lots that are not accessory to a residential use, if they are within 100 feet of a residential use or district, after midnight. Since the site is within 100 feet of other residential uses, staff is recommending conditions to minimize nuisances to surrounding residents.

### **Delivery and Sanitation**

The plans show a small loading staging area and trash area within the building. The LOI states that loading will take place in a loading zone that is accessed form the Collins Court alley. The trash pickup is expected to take place in the alley itself, with the trash being brought out of the building through the loading area. As the building contains only 8,142 square feet of commercial space and 15 residential units, there is not a significant amount of loading activity expected.

In order to prevent impacts to surrounding areas, staff is recommending that garbage pickups and service deliveries not be allowed between 7:00 PM and 8:00 AM, along with other operational conditions, in order to minimize negative impacts to surrounding residents.

### **Security**

A partial security plan was provided in the LOI. It states that individual commercial tenants will be providing their own security on-site. The residential areas will have their own entrance lobby and private parking, and that the entrance lobby is designed to be able to have security personnel; however, it will be up to the residents to determine if they wish to pay for the service.

Security for the garage is not detailed; however, staff is recommending that qualified staff be onsite during hours of operation of the parking garage in order to monitor the site.

**Traffic**

Traf Tech Engineering Inc. was retained by the applicant to conduct a traffic study in connection with the proposed development. The City retained a traffic consultant, paid for by the applicant, to conduct a peer review for this project. Please see the attached Memorandum from the Transportation Department.

**STAFF RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the application be approved subject to the conditions enumerated in the attached Draft Order.



**ZONING/SITE MAP**



**PLANNING BOARD  
CITY OF MIAMI BEACH, FLORIDA**

**PROPERTY:** 400-420 Collins Avenue & 221 4<sup>th</sup> Street

**FILE NO.** PB 19-0269

**IN RE:** An application requesting Conditional Use Approval for the construction of a new main use parking garage, with accessory uses, with the total area exceeding 50,000 square feet, and including operation of the garage, which is within 100 feet of a residential use, after midnight, pursuant to Chapter 118, Article IV, Chapter 130, Article III, and Chapter 142, Article II, Division 18, of the City Code.

**LEGAL DESCRIPTION:** Lots 5, 6, and 7, Block 6, of "Ocean Beach Subdivision", according to the Plat thereof, as recorded in Plat Book 2, Page 38, of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** June 25, 2019

**CONDITIONAL USE PERMIT**

The applicant, Savoy Hotel Partners, LLC, filed an application with the Planning Director requesting Conditional Use approval pursuant to Section 118, Article IV, Section 130, Article III, and Section 142, Article II, Division 18, to build a new main use parking garage, with accessory uses, with the total area exceeding 50,000 square feet, and including operation of the garage, which is within 100 feet of a residential use, after midnight. Notice of the request 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 CPS-2-Commercial Performance Standard-General Mixed Use 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 Land Development Regulations;

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 staff recommendations, as may have been modified by the Planning Board, that a Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR. 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).
2. This Conditional Use Permit is issued to Savoy Hotel Partners, LLC, any changes in ownership or 50% (fifty percent) or more stock ownership, or the equivalent, for non-residential portions of the building shall require the new owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Business Tax Receipt.
3. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. 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.
4. As part of the Building Permit plans for the project, the applicant shall submit revised architectural drawings, and landscape drawings, which shall be subject to the review and approval of staff; at a minimum, such plans shall satisfy the following:
  - a. The plans shall be revised to reflect a maximum height limit of 75 feet. No variances shall be sought for increased height.
  - b. If on-street spaces drop-off and loading zones for compensation vehicles cannot be obtained from the City, parking requirements shall be recalculated and plans shall be revised to reflect updated parking calculations.
  - c. Any roof-top lighting shall be shielded from nearby residential uses and shall not exceed 42" in height above the roof deck, except as may be required by code at any entry doors.
  - d. The site plan shall clearly indicate the location, design and quantity of all exterior bike racks. Such bike racks shall be located within those areas of the property that are easily accessible. The final design details, dimensions, location and quantity of

exterior bike racks shall be subject to the review and approval of staff. Such plans shall also comply with all applicable regulations and requirements of the City Code.

- e. Any exterior mechanical devices must be low noise emitting equipment and must be screened from view. Any fan/exhaust for the garage shall be located substantially in compliance with the plans as approved or in the alternative along the west side of the property, and not directly adjacent to the southernmost or northernmost property line. As provided in paragraph 7 below, herein, in the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and the complaints are determined to be valid, even if the equipment is operating pursuant to manufacturers' specifications, the applicant shall take such reasonable steps to mitigate the noise with noise attenuating materials as reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
5. The following shall apply to the construction and operation of the parking garage and alternative parking facilities:
- a. The parking control systems shall be professionally planned, designed and implemented in a manner to be approved by Staff to ensure smooth operation of the garage that does not queue into 4th Street.
  - b. There shall be security personnel of at least one person, on-site, monitoring the garage during hours in which the public has access to the garage.
  - c. Signs prohibiting tire-screeching and unnecessary horn-honking shall be posted at the garage entrance.
  - d. The valet spaces in the garage shall be utilized by the valet operator and not for self-parking patrons. Residential parking shall be self-parking spaces.
  - e. Short-term and long-term bicycle parking facilities shall be maintained in good operating order.
6. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
- a. Tinting, paper, blackout, or similar treatments shall be prohibited on the interior or the exterior of all glass located at the first level. Sheer drapes may be proposed at the first level, in a manner to be reviewed and approved by staff.
  - b. The restaurant shall close by 2:00 AM. Any future outdoor component of the restaurant shall close no later than 12 AM, seven days per week. After normal operating hours the establishment shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein between closing and 7 am.

- c. No alcoholic beverage service may be provided in the exterior open-air restaurant unless accompanied by food service.
- d. No sidewalk café permit shall be sought or utilized by the applicant or any lessees.
- e. No exterior loudspeakers shall be permitted except those necessary for fire and life safety purposes.
- f. Background music may be provided in the non-residential interior areas of the building, provided it is limited to background music that does not interfere with normal conversation. This restriction does not apply to the interior of the residential units.
- g. Patrons shall not be allowed to queue on public rights-of-way, or the exterior of the premises along 4<sup>th</sup> Street or Collins Avenue.
- h. Special events pursuant to the Miami Beach City Code, associated with the proposed establishment, may not be held on the premises and the applicant agrees that it will not seek or authorize applications for such permits.
- i. Delivery trucks shall only be permitted to park within the designated loading space for the property.
- j. Delivery trucks shall not be allowed to idle in the loading zone area.
- k. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
- l. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
- m. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
- n. Garbage dumpster covers shall be closed at all times except when in active use.
- o. Trash pick-ups from the alley shall at no time block the passage of any other vehicles along the alley.
- p. Loading and trash pick-ups may only take place between the hours of 9:00 a.m. and 3:00 p.m., and 6:00 p.m. and 9:00 p.m. on weekdays; and 9:00 a.m. and 9:00 p.m. on weekends.
- q. The loading area shall be closed and secured when not in use.

- r. Applicant shall ensure that restaurant personnel do not place trash or recycling into any exterior dumpsters or receptacles between 8 PM and 8 AM, seven days a week.
  - s. Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors shall be contained within the premises. Owner agrees to install an exhaust system, if required by code, for the kitchens of any commercial restaurants on the premise 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 kitchen exhaust systems within the interior of the building in order to reduce noise levels at the exhaust outlet substantially in compliance with the plans as approved or in the alternative any such exhaust system shall be located along the west side of the property not directly adjacent to the southernmost or northernmost property lines.
  - t. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
  - u. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue, 4<sup>th</sup> Street and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
  - v. The rooftop pool deck shall not have any commercial uses. Nor shall a bar counter be placed on any portion of the property's exterior, including the rooftop, terraces, private decks, and balconies.
  - w. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
  - x. The applicant shall obtain a Certificate of Occupancy or a Certificate of Completion prior to the issuance of a Business Tax Receipt.
  - y. The applicant shall satisfy outstanding liens and past due City bills, if any, as well as any outstanding code and building violations, including any fines, to the satisfaction of the City prior to the issuance of an occupational license to operate the proposed restaurant.
  - z. The valet drop-off and ridesharing drop-off spaces shall be located on Collins Avenue. No vehicles shall be parked in the drop-off spaces longer than necessary to either drop -off or move the valet vehicle to the garage.
  - aa. The residential lobby will be secured at all times and monitored electronically from the units. Electronic monitoring shall be provided for the property perimeter.
7. Prior to the issuance of a Temporary Certificate of Occupancy (TCO) or Certificate of Occupancy (CO), the operational conditions as referenced above (to be determined by staff), shall be posted on site, in a location and manner to be reviewed and approved by staff.
8. The Planning Board shall retain the right to call the owner or operator, both now and in the future, back before the Board and modify this Conditional Use Permit, including the hours of operation and/or the occupant load of the accessory restaurant, as well as modifications to

the parking operations, should there be valid complaints or violations (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise.

9. The applicant shall address the following Concurrency and Parking requirements, as applicable:
  - a. A Method of Transportation (MOT) shall be submitted 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.
  - b. 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 may be determined as determined by the Concurrency Management Division.
  - c. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.
  - d. Prior to the issuance of a Building Permit, calculations for required parking for the project shall be determined by the Planning Department. A final determination for the required parking shall be conducted prior to the issuance of a Certificate of Occupancy or Business Tax Receipt, whichever comes first. If required, a one-time fee in lieu of providing the required parking on site, as determined by staff, shall be paid prior to the issuance of the Certificate of Occupancy.
10. The applicant, operator and/or owner, both now and in the future, shall abide by all the documents and statements submitted with this application, as well as all conditions of this Order.
11. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
12. Any substantial modifications to the plans submitted and approved as part of this application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans.
13. The applicant shall obtain a full building permit within 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.
14. The applicant shall resolve all outstanding violations and fines on the property, if any, prior to the issuance of a building permit for the project.
15. 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 Conditional Use Permit and subject to the remedies as described in section 118-194, of the City Code.
16. 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.

17. Within a reasonable period of time after receipt of the executed Conditional Use Permit, the applicant, at its sole expense, shall record it in the Public Records of Miami-Dade County, and return the recorded instrument to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
18. 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 City Code, and shall be subject to enforcement procedures set forth in Section 114-8 of the Code and such other enforcement procedures as are permitted by law. 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.
19. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.
20. 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.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
Michael Belush, AICP  
Chief of Planning and Zoning  
For Chairman

STATE OF FLORIDA       )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

\_\_\_\_\_  
Notary:  
Print Name  
Notary Public, State of Florida



{NOTARIAL SEAL}

My Commission Expires:  
Commission Number:

Approved As To Form:  
Legal Department ( )

Filed with the Clerk of the Planning Board on \_\_\_\_\_ ( )