

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

PROPERTY: 4360-4370 Collins Avenue

FILE NO. PB 20-0347

IN RE: A conditional use approval for the construction of a new 5-story accessory commercial structure to The Fontainebleau Hotel, including the approval of a Neighborhood Impact Establishment with mechanical parking, pursuant to Chapter 118, Article IV, Chapter 142, Article V, Division 6, Chapter 130 Article II of the City Code.

LEGAL DESCRIPTION: 4360 Collins Avenue
02-3226-001-2220
23-26-27 34 53 12 PB 5-8 MIAMI BEACH IMPROVEMENT CO SU LOT 2 BLK 40

4370 Collins Avenue
02-3226-001-2200
23-26-27-34 53 42 MIAMI BEACH IMP CO SUB PB 5-8 E1/2 LOT 1 LESS WLY19.1FT BLK 40

02-3226-001-2210
23-26-27-34 53 42 MIAMI BEACH IMP CO SUB PB 5-8 W19.1FT OF E1/2 LOT 1 BLK 40

02-3226-001-2190
PORT OF LOT 1 BLK 40 DESC BEG NW COR OF LOT 1 TH ELY112.5 FT SLY100FT WLY110FT NLY100.125FT TO POB & S4.55FT OF UNNUMBERED TR DESIGNATED AS J H SNOWDEN LYG N & ADJ TO LOT 1 BLK 40 & TRS OPP SAME FACING IND CREEK DR

MEETING DATE: June 29, 2020

CONDITIONAL USE PERMIT

The applicant, Fontainebleau Florida Hotel, LLC, filed an application with the Planning Director requesting conditional use approval for the construction of a new 5-story accessory commercial structure adjacent to The Fontainebleau Hotel, located at 4441 Collins Avenue, including the approval of a Neighborhood Impact Establishment with mechanical parking, pursuant to Chapter 118, Article IV, Chapter 142, Article V, Division 6, Chapter 130 Article II of the City Code. 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:



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That the property in question is located in the RM-2 Residential Multifamily, Medium Intensity 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 the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

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, including modification to the hours of operation, 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 Fontainebleau Florida Hotel, LLC, and any changes in ownership or 50% (fifty percent) or more stock ownership, or the equivalent, 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. 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.
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.

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5. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
6. As part of the Building Permit plans for the project, the applicant shall submit revised architectural drawings, which shall be subject to the review and approval of staff; at a minimum, such plans shall satisfy the following:
 - a. A raised curb design for the vehicle entry on Collins Avenue shall be provided to narrow the entry so that delivery trucks do not use this entrance.
7. The following shall apply to the construction and operation of the parking garage and the proposed mechanical parking lift system:
 - a. The noise or vibration from the operation of mechanical parking lifts, car elevators, or robotic parking systems shall not be plainly audible to or felt by any individual standing outside an apartment or hotel unit at any adjacent or nearby property. In addition, noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage.
 - b. For mechanical lifts, the parking lift platform must be fully load bearing, and must be sealed and of a sufficient width and length to prevent dripping liquids or debris onto the vehicles below.
 - c. All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage; vehicle elevators must have backup generators sufficient to power the system.
 - d. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift.
 - e. The ceiling heights of any parking level with parking lifts within the parking garage shall be a minimum of 11 feet - 6 inches.
 - f. All mechanical parking systems, including lifts, elevators and robotic systems, must be inspected and certified as safe and in good working order by a licensed mechanical engineer at least once per year and the findings of the inspection shall be summarized in a report signed by the same licensed mechanical engineer or firm. Such report shall be furnished to the Planning Director and the Building Official.
 - g. All parking lifts shall be maintained and kept in good working order.
 - h. Parking operation for mechanical parking spaces shall be by valet attendants only. A contract with a valet operator, or other evidence of an acceptable valet operation shall be submitted to staff for review and approval prior to a final Certificate of Occupancy or Business Tax Receipt, whichever occurs first.
 - i. Self-parking shall only be available to employees parking in areas of the garage that do not require the use of mechanical lifts.

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- j. Storage of vehicles shall be exclusively for the Fontainebleau Hotel, residents, and accessory uses, as proposed. Storage for any other off-site facilities shall not be permitted.
 - k. There shall be qualified personnel of at least one person, on-site, monitoring the garage operation during hours of operation seven days a week. The structure, operation, procedures, maintenance, service response procedures, remote technical service team, local, on-site service team, and spare parts inventory shall be in accordance with the requirements of the manufacturer.
 - l. Signs prohibiting tire-screaching and unnecessary horn-honking shall be posted at the garage entrance.
8. The Applicant agrees to the following operational conditions for the entire facility:
- a. Except as required for life safety purposes, outdoor speakers shall not exceed a volume that would interfere with normal conversation.
 - b. Unless a special events permit is obtained, the rooftop operations shall cease by 10:00 PM Sunday through Thursday and 11:00 PM on Friday and Saturday. Rooftop operations shall not commence prior to 10:00 am.
 - c. There shall be no outdoor entertainment.
 - d. Food and drink may only be served during events in the facility. Food and drink shall not be served to users that are not attending events in the facility.
 - e. All deliveries shall be accommodated within the site. No backing in or backing out of the loading area onto the street shall be permitted at any time.
 - f. Entry of delivery vehicles from Collins Avenue shall be prohibited.
 - g. Stacking, idling or loading shall not be permitted on the street at any time.
 - h. Vehicular regulating signage shall be provided in the garage in a manner to be reviewed and approved by staff.
 - i. Cameras shall be provided throughout the site to assist with security.
 - j. There shall be security personnel of at least one person on-site monitoring the site at all times.
 - k. A delivery and refuse plan, including all delivery access points and routes, as well as the location of all trash and refuse areas, shall be provided and shall be subject to the review and approval of staff.
 - l. Deliveries and trash collection shall take place only at the designated areas proposed by the applicant as shown in the plans.
 - m. Delivery trucks shall not be allowed to idle in the loading zone.

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- n. Deliveries and waste collections may occur daily between 9:00 AM and 3:00 PM and 6:00 PM to 8:00 PM on Monday to Friday; and 9:00 AM to 4:00 PM Saturday and Sunday.
 - o. Equipment and supplies shall not be stored in areas visible from streets or nearby buildings.
 - p. 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.
 - q. Adequate trash room space, air conditioned and noise baffled or enclosed trash compactors, shall be provided, in a manner to be approved by the Planning and Public Works Departments. For trash room space, 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.
 - r. An air-conditioned trash room(s)/garbage room(s) or enclosed trash compactors shall be large enough, or sufficient in number to accommodate enough dumpsters so that no more than one pick up of garbage per day will be necessary.
 - s. Garbage dumpster covers shall be closed at all times except when in active use.
 - t. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day.
 - u. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
9. The applicant shall pay all impact, mobility, and concurrency fees due prior to obtaining a Building Permit, Certificate of Occupancy, or Business Tax Receipt, whichever may occur first.
10. The applicant shall abide by the Traffic Demand Management (TDM) plan incorporated into the Operations Plan. Additionally, the applicant shall abide by the following:
- a. The applicant shall identify locations, acceptable to the Transportation Department, for bicycle racks to be installed in the public right-of-way and within the proposed development. The applicant shall provide the location of short-term and long-term bicycle parking, consistent with the requirements for each type of bicycle parking, as defined in Section 114-1 of the City Code. The applicant shall furnish and install the bicycle racks in accordance with the standards outlined in the City of Miami Beach Public Works Manual.
 - b. The applicant may be required to coordinate with the South Florida Commuter Services in participating in the transit subsidy program.

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11. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license with entertainment.
12. 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.
13. The Planning Board shall retain the right to call the owner or operator back before the Board and modify the hours of operation or the occupant load should there be valid complaints about loud, excessive, unnecessary, or unusual noise. 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 Conditional Use Permit.
14. 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, Code of the City of Miami Beach, Florida.
15. 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.
16. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
17. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.
18. 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.
19. 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 7/17/2020 | 2:29 PM EDT, 2020.

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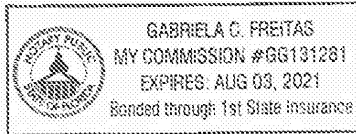
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PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush
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 17 day of July, 2020, 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.



Gabriela Freitas
Notary:
Print Name Gabriela Freitas
Notary Public, State of Florida
My Commission Expires: Aug. 3, 2021
Commission Number: gg131281

{NOTARIAL SEAL}

Approved As To Form: Noted
Legal Department Noted (7/13/2020 | 3:29)PM EDT

Filed with the Clerk of the Planning Board on

Jessica G. G. G. (7/20/20)

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