

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: January 25, 2022

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: **PB21-0466. a.k.a PB File No. 2133. 2912 Collins Avenue, 211 29<sup>th</sup> Street and 231 29<sup>th</sup> Street.**

An application has been filed requesting modifications to a previously issued conditional use permit for a 7-story, 150-room hotel with ground level commercial uses, and a mechanical parking lift system. Specifically, the applicant is requesting modifications to the ownership/operator, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

#### **RECOMMENDATION**

Approval with conditions.

#### **BACKGROUND/HISTORY**

*September 24, 2013* The Planning Board approved a Conditional Use Permit (CUP) for a 7-story, 150-room hotel with ground level commercial uses, and a mechanical parking lift system.

*December 21, 2021* Due to the Planning Board hearing lack of quorum, this Item was continued to January 25, 2022.

#### **STAFF ANALYSIS**

The applicant is requesting a modification to the existing Conditional Use Permit (CUP) in order to change the name of the owner. The Property will now be owned and operated by Odyssey Propco VIII, LLC. Besides the name change, there is no anticipated change in operation.

Should this request be approved, Condition 3 of the CUP would be amended as follows:

1. This Conditional Use Permit is issued to ~~2912 Collins Avenue, LL~~ Odyssey Propco VIII, LLC, as owner of the property. Any change of operator or 50% (fifty percent) or more stock ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.

In order to be consistent with recent CUP approvals, staff is recommending the following additional conditions:

- A. That the requirement for change of ownership be modified to require that *any change of operator or 50% (fifty percent) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning*

*Department, transferring approval to the new operator or owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt. A progress report shall be scheduled prior to the applicant's submission and staff's acceptance of the affidavit.*

- B. That 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 Conditional Use Permit.

These proposed new conditions have been incorporated into a revised MCUP (see attached). The rest of the conditions remain the same.

**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:** 2912 Collins Avenue, 211 29<sup>th</sup> Street and 231 29<sup>th</sup> Street

**FILE NO.** PB21-0466. a.k.a PB File No 2133

**IN RE:** The application by 2912 Collins Avenue, LLC., requesting Conditional Use approval, pursuant to Chapter 118, Article IV, Chapter 130, Article II, and Chapter 142, Article IV, to build a 7-story, 150-room hotel with ground level commercial uses, and a mechanical parking lift system.

**LEGAL DESCRIPTION:** Lots 1, 2, 6, 9, and 10 Block 12 Ocean Front Property of the Miami Beach Improvement Company, according to the Plat thereof, recorded in Plat Book 5 Pages 7 and 8 of the Public Records of Miami-Dade County Florida.

**MEETING DATE:** ~~September 24, 2013~~ January 25, 2022

**CORRECTED CONDITIONAL USE PERMIT**

The applicant, 2912 Collins Avenue, LLC, filed an application with the Planning Director requesting Conditional Use approval pursuant to Chapter 118, Article IV, Chapter 130, Article II, and Chapter 142, Article IV, of the Miami Beach City Code, to build a 7-story, 150-room hotel with ground level commercial uses, and a mechanical parking lift system.

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

That the property in question is located in the RM-2, Residential Multifamily Medium Intensity 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 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. This Conditional Use Permit is issued to ~~2912 Collins Avenue, LLC~~ Odyssey Propco VIII, LLC, as owner of the property. ~~Any change of operator or 50% (fifty percent) or more stock ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein. Any change of operator or 50% (fifty percent) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt. A progress report shall be scheduled prior to the applicant's submission and staff's acceptance of the affidavit.~~
2. The owner of the property at 2901 Collins Avenue shall file an application to modify Condition No. 12 of the previously issued CUP for PB File 2013, in sufficient time to be heard at the November 19, 2013 meeting, in order to clarify the location and type of the required parking. A denial of such application shall require the applicant to return to the Board for reconsideration of this Conditional Use Permit.
3. The existing Conditional Use Permit for surface parking on the subject property, PB File 2055, shall expire either upon the issuance of a Certificate of Occupancy for this approved project, or in April 2014, whichever comes first.
4. Prior to the issuance of a building permit for the project, the applicant shall submit an operational plan and narrative for the parking and drop-off portions of project, in a manner to be reviewed and approved by staff consistent with the instructions from the Planning Board and the Conditional Use criteria. At a minimum, such operational plan and narrative shall include the following:
  - a. The garage shall be in operation 24 hours per day, seven days a week, as proposed by the applicant. There shall be security personnel of at least one person on-site monitoring the garage operation 24 hours a day, seven days a week.
  - b. 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 manufacturer's specifications, and as detailed in the operations plan, as proposed by the applicant.
  - c. The mechanical lifts shall be maintained in accordance with the manufacturer's requirements. A designated person will be on the property to monitor the operation of the mechanical lifts.
  - d. An emergency procedure that includes a quick-response service contract with the mechanical lifts and manual operations service provider.

- 
- e. Generators shall be provided to assist with the operation of the mechanical lifts in the event of a power outage.
  - f. Repair personnel for the mechanical lifts shall be on call 24 hours per day seven days per week.
  - g. Warning signs prohibiting horn honking or car alarm sounding shall be posted prominently by the applicant or valet operator, and valet attendants shall be instructed to observe them strictly.
  - h. Valet storage of vehicles in the above ground portions of the mechanical parking garage shall be exclusively for the hotel at 2912 Collins Avenue and its accessory uses. The basement level of the mechanical parking garage shall be for the exclusive valet parking use of 2901 Collins Avenue.
  - i. 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 in a manner to be reviewed and approved by staff.
  - j. All valet drop-off and pick-up for the uses at 2912 Collins Avenue shall occur within the garage structure, as depicted in the submitted plans as proposed by the applicant.
  - k. The number of valet attendants may vary from 2 to 4 depending on demand, as determined by the valet operator.
5. As part of the Building Permit plans for the project, the applicant shall submit revised architectural drawings, in a manner to be reviewed and approved by staff consistent with the instructions from the Planning Board and the Conditional Use criteria; at a minimum, such plans shall satisfy the following:
- a. The final details and plans for the proposed mechanical parking system shall be made part of the building permit plans for the project. Such plans shall comply with all applicable regulations and requirements of the City Code.
  - b. The applicant shall install any sound attenuating fixtures and/or devices that may be required, throughout the building and property, in order to minimize any spillover of sound to adjacent properties, which may be generated by the mechanical parking system, in a manner consistent with the requirements of the City Code and in a manner to be reviewed and approved by staff.
6. Prior to the issuance of a building permit for the project, the applicant shall submit an operational plan and narrative for all portions of the project, in a manner to be reviewed and approved by staff, consistent with the instructions from the Planning Board and the Conditional Use criteria. At a minimum, such operational plan and narrative shall satisfy the following:
- a. Hours of delivery shall be between 8:00 AM and 11:00 AM Monday through Friday. No deliveries shall take place on Saturdays or Sundays, as proposed by the Applicant.



- 
- b. Hours of trash pick-up shall be between 8:00 AM and 11:00 AM 7 days a week, as proposed by the Applicant.
  - c. All trash containers shall utilize rubber wheels, as well as a path consisting of a surface finish that reduces noise.
  - d. The trash room shall be air conditioned and sound-proofed. The doors to the trash room shall remain closed and secured when not in use and all trash dumpsters shall be closed at all times except when in active use.
  - e. All check-in and check-out shall occur at the main lobby, on the ground floor of the hotel on 29<sup>th</sup> Street.
  - f. The applicant shall not seek an entertainment or dance hall license for any of the venues on the property, as proffered by the applicant.
  - g. No accessory use shall have music, whether live, recorded, amplified or non-amplified, which is played at a volume louder than ambient background music (defined as a sound level that does not interfere with normal conversation), as proposed by the applicant.
  - h. Except as may be required for fire or building code/Life Safety Code purposes, no loudspeakers shall be affixed to or otherwise located on the exterior of the premises.
  - i. No patrons shall be allowed to queue on public rights-of-way.
  - j. No ground floor accessory use shall operate between 2:00 A.M. and 6:00 A.M. 7 days per week. This shall not apply to room service.
  - k. The third floor patio and rooftop pool deck shall be for the use of registered hotel guests and their invitees, exclusively.
  - l. All food served on the third floor patio and rooftop deck shall be prepared in the hotel's restaurant located on the third floor. All patron use of the outdoor area of the third floor patio and/or rooftop pool deck shall cease at 8:00 P.M., seven days a week, and staff clean up shall cease one hour past this time. Any rooftop pool or spa shall be closed from 2:00 AM to 8:00 AM.
  - m. Applicant agrees to install sound attenuating design elements throughout the property in order to minimize any spillover of sound to adjacent properties, in a manner consistent with the limits and requirements of the City Code.
  - n. Small distributed speakers, shall be permitted to be mounted on the ground or placed within the landscaped areas but only for ambient, background music, which does not interfere with normal conversation and will be shut down nightly by 8:00 P.M. Entertainment, including live music, shall be permitted for limited private indoor events only.
  - o. No speakers, except as may be required for fire or building code/Life Safety Code purposes and those associated with the distributed sound system for the landscape areas or at floor level, may be permitted on the ground floor and rooftops.

- 
- p. No outdoor bar counters shall be permitted on the premises.
  - q. The hotel's rules and practices shall prohibit visitors, invitees and others using the facilities or otherwise on the premises, from operating audio amplification equipment, inclusive of loudspeakers, radio receivers, television sets, musical instruments, or other machines or devices for the producing or reproducing of sound, that generate noise that is plainly audible at nearby properties.
- 7. Pursuant to Section 130-251 of the City Code, a declaration of restrictive covenants, running with the land, and stipulating that a valet operator shall be provided for such parking for so long as the use continues, shall be provided by the applicant in a form acceptable to the City Attorney and the Planning Director, and recorded in the official records of Miami Dade County. Such covenant shall be fully executed and recorded prior to the issuance of a building permit.
  - 8. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to 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).
  - 9. The Planning Director shall retain the right to call the applicant back before the Planning Board, at the expense of the applicant, to impose and/or modify the hours of operation, and the placement or use on the property of exterior loudspeakers, fixed or portable, or amend or impose other conditions, should there be a valid violation (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise or other conditions of this approval. An adverse adjudication of a violation against the operator is not necessary for the board to have jurisdiction over the matter under this condition. This condition vests jurisdiction independent of any other condition thereof.
  - 10. 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. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application for Conditional Use permit.
  - 11. Any 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 of the modified plans.
  - 12. The applicant shall address the following Concurrency and Parking requirements:
    - a. The applicant shall submit an MOT (Management of Traffic) 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 shall be paid prior to the project receiving any Building Permit.
  - d. Prior to the issuance of a Building Permit, the calculations for required parking for the project shall be determined by the Planning Department. Such parking calculations shall be based upon both the number of hotel rooms, and the intensity of the proposed accessory uses as measured by the number of seats in dining areas, and by the square footage of the liquor service areas not included in the areas for which seats are calculated.
  - e. 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.
- 13. The applicant shall obtain a full building permit within 18 months from the date of the meeting at which the original CUP was issued, 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, in accordance with the requirements and procedures in the land Development Regulations.
- 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. 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.

20. That 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 Conditional Use Permit.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_

Rogelio A. Madan, AICP

Chief of Community Planning and Sustainability  
for Chairman

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

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

[NOTARIAL SEAL]

Notary:

Print Name:

Notary Public, State of Florida

My Commission Expires:

Commission Number:

Approved As To Form:

Legal Department \_\_\_\_\_ ( )

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