

DESIGN REVIEW BOARD

City of Miami Beach, Florida

MEETING DATE: March 2, 2021

PROPERTY: **7118-7140 Collins Avenue and 7121-7145 Harding Avenue**
7145 Harding Avenue 02-3211-002-0570
7135 Harding Avenue 02-3211-002-0580
7131 Harding Avenue 02-3211-002-0590
7121 Harding Avenue 02-3211-002-0600
7118 Collins Avenue 02-3211-002-0630
7124 Collins Avenue 02-3211-002-0640
7134 Collins Avenue 02-3211-002-0650
7140 Collins Avenue 02-3211-002-0660

FILE NO: DR820-0617

IN RE: An application has been filed requesting exterior design modifications to a previously issued Design Review Approval, specifically for one or more waivers and one or more variances from the street class frontage requirements. This project was originally approved on June 05, 2018.

LEGAL: Lots 1, 2, 3, 4, 9, 10, 11 and 12 in Block 8 of Normandy Beach South, according to the Plat thereof, as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

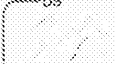
APPLICANTS: Collins & 72nd Developers, LLC

SUPPLEMENTAL ORDER

The City of Miami Beach Design Review 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. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not a individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 16 and 17 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is consistent with Sea Level Rise

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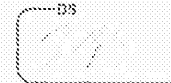
Criteria Section 133-50(a) of the Miami Beach Code

- D. The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:
1. All of the original conditions of approval by this Board shall remain in full force and effect under the prior Final Order dated January 03, 2017 for DRB16-0054, except as modified herein.
 2. All of the original conditions of approval by this Board shall remain in full force and effect under the prior Final Order dated June 05, 2018 for DRB18-0236, except as modified herein.
 3. Prior to the issuance of any Building Permit relative to the approval herein, the applicant shall obtain approval from the City Commission for the vacation of the existing utility easement.
 4. Revised elevation, site plan and floor plan drawings for the proposed project at **7118-7140 Collins Avenue and 7121 - 7145 Harding Avenue** shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. All interior fixtures, including, but not limited to, shelving, partitions, and checkout counters, shall be setback a minimum of ten (10') feet from the east and north walls of the building on the first and second levels, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. This shall not prohibit substantially transparent fixtures for display purposes only.
 - b. The final details of all proposed storefront systems and associated details shall be provided for all of the structures on the project site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - c. All window frames shall be composed of brushed anodized aluminum frames. All windows shall consist of clear glass, incorporate the minimum tint required by the energy code, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. The final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. The final design details of the proposed aluminum grill material, including color, shall be submitted in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

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- f. The design of the window display shall be further refined to include an artistic feature on the proposed wall facing the sidewalk. The final design details shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - g. The final design and details, including materials, exterior finishes, glazing, and any architectural projections and features, shall be provided in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - h. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
 - i. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
5. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
 - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
 - c. Any tree identified to be in good overall condition shall be retained, and protected in its current location if it is not in conflict with the proposed development, or it shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
 - d. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain.

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Right-of-way areas shall also be incorporated as part of the irrigation system.

- e. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan. Silva Cells or approved equal should be provided under the adjacent hardscape areas for trees located in public and private property subject to the review and approval of the CMB Urban Forester. A minimum of 1,000 CuFt of good quality planting soils shall be specified per tree, or 800 CuFt per tree when combined with other trees in the same general area.
- f. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- g. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 - 1. A variance to reduce the required minimum of 70 percent clear glass windows with views into the habitable space in order to retain existing parking area and trash room facing 72nd Street.
 - 2. A variance to eliminate the requirement to screen the parking facilities from public rights-of-way and clear pedestrian path facing 72nd Street.
 - 3. A variance to eliminate the minimum required habitable space with 50'-0" in depth along a Class A frontage in order to retain an existing parking area and trash room facing 72nd Street.
 - 4. A variance to eliminate the required habitable space and 50'-0" setback for parking from the building façade, in order to retain existing parking area facing 72nd Street.

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5. A variance to allow a driveway and vehicle access in a class A frontage facing 72nd Street.
- 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.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

- C. The Board hereby Approves the variance requests and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:
1. 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, even if the modifications do not affect variances approved by the Board.
 2. The vehicle entrance shall be closed when the Denny's restaurant is closed.

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The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. If applicable, the applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- B. The proposed elimination of the on-street parking spaces will require the review and approval of the Parking Department. The costs associated with the removal of the parking spaces will be the responsibility of the developer.
- C. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
- D. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- E. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.
- F. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- G. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- H. The Supplemental Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. 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.
- J. The Supplemental 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

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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.

- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. 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 adopted by the Board, as modified at the Board hearing, that the Application for Design Review approval is GRANTED and the application for a variance is APPROVED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Design Review Board, as determined by staff, entitled "72+ Collins Hotel & Condominium", as prepared by **Revuelta Architecture International**, dated December 7, 2020, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

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.

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Dated 5/3/2021 | 8:14 AM EDT

DESIGN REVIEW BOARD
 THE CITY OF MIAMI BEACH, FLORIDA

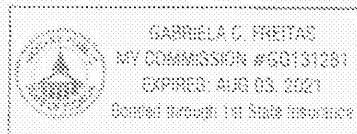
DocuSigned by:

BY:

Michael Belush, AICP
 Chief of Planning and Zoning
 For Chairman

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

The foregoing instrument was acknowledged before me this 3rd day of May, 2021 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

My Commission Expires: Aug. 3, 2021

Commission Number:

(NOTARIAL SEAL)

Approved As To Form:

City Attorney's Office: [Signature] (4/21/2021)

Filed with the Clerk of the Design Review Board on [Signature] (5/3/2021)

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[Signature]