



The Law Offices of Kent Harrison Robbins, P.A.

HPB21-0481, 1901 Collins Ave.
5/10/22 meeting "Exhibit D"

May 6, 2022

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Chairman and Members of the Historic Preservation Board
c/o Debbie Tackett, Chief of Historic Preservation
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Objection to Application for Certificate of Appropriateness for partial demolition and renovation of two buildings on the site, the total demolition of two buildings, the construction of two new additions and landscape and hardscape modifications for the property located at 1901 Collins Avenue, Miami Beach, Florida (Historic Preservation Board File No. 21-0481). (Shore Club Project)

Dear Chairman and Members of the Historic Preservation Board,

I represent the owners of units 1808 (Setai 1808, LLC), 2204 (Setai 2204, LLC), 2304 (Setai Unit 2304, LLC) and 3701 (Dr. Stephen Soloway) at the Setai Resort and Residences located at 101 20th Street, Miami Beach, Florida (collectively "The Setai Condo specified unit owners") concerning the above referenced matter.

The Setai Condo specified unit owners' properties are on the north side of 20th Street, immediately across the street and directly impacted by, the Applicant Shore Club Property Owner, LLC's development project at 1901 Collins Avenue, and on 20th Street, Miami Beach, Florida.

The Setai Condo specified unit owners hereby advise the Board of their objection to the proposed application. We incorporate the graphic presentation submitted to the Historic Preservation Board which is attached to this letter.

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Proposed Project Incompatible with Historic and Contributing Buildings, and Inconsistent with Review Criteria

The Staff Report fails to provide a credible evaluation determining whether the project is compatible with the surrounding properties, compatible with the historic and contributing buildings on the site, and meets the Secretary of Interior Standards and the Certificate of Appropriate Criteria required to “evaluate the compatibility, appropriateness and impact” of proposed buildings “on adjacent properties and structures” pursuant to §118-564(3), Miami Beach Code. (emphasis added.)

In particular, the HPB is required to consider:

- “The proposed structure, and/or additions to an existing structure are appropriate to and compatible with the environment and adjacent structures, and enhance the appearance of the surrounding properties.” §118-564(3)(d), Miami Beach Code.
- “Relationship to the surrounding neighborhood, impact on preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.” §118-564(3)(e), Miami Beach Code.
- “Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).” §118-564(3)(j), Miami Beach Code.
- “Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).” §118-564(3)(m), Miami Beach Code.

See graphic presentation submitted to the Historic Preservation Board which is attached to this letter.

The Setai Condo and its Units are Protected by the HPB Review Criteria and The Impact of the New Addition is Recognized and Protected by Law.

The Setai Condo specified unit owners will be adversely impacted by the incompatible and inappropriate proposed new building. My clients will suffer a special injury. *Fontainebleau Hotel Corp. v. Forty-Five Twenty Five Inc.*, 114 So. 2d 357 (Fla. 3d DCA 1959) holds that there is no right to air, light or view, across the adjacent property “unless by contract or statute.” *Id.* at 359 (emphasis added). The court in *Fontainebleau* noted “a property owner may put his own property to any reasonable and lawful use, so long as he does not thereby deprive the adjoining landowner of any right of enjoyment of his property which is recognized and protected by law” *Id.* (citing to *Reaver v. Martin Theatres*, 52 So. 2d 682,683 (Fla. 1951) (emphasis added). Here there is a specific review criteria ordinance, a law which is in place to protect views and other contextual

impacts of adjacent property owners. The impact of the new addition is recognized and regulated by law. The adverse impact is clear:

- The proposed structure is incompatible with the adjacent structures and does not enhance the appearance of the surrounding properties. §118-564(3)(d), Miami Beach Code.
- The new structure will have an adverse impact on adjacent buildings and view corridors. §118-564(3)(e), Miami Beach Code.
- It is not sensitive to and not compatible with the building site and surrounding areas and does not maintain important view corridors. §118-564(3)(j), Miami Beach Code.
- The additional building is not sensitive and compatible with the existing improvements both on the site and on the adjacent properties. §118-564(3)(m), Miami Beach Code.

Revision of Curb Cut for Loading Spaces Not Supported by Traffic Maneuverability Study

The proposed revision of the loading spaces and the reduction of the curb cut will render the loading area dysfunctional. The Applicant's Traffic Engineering Report on loading maneuverability shows the SU-40 vehicles entering the loading area crossing over the curb and sidewalk. It is obvious that the narrowing of the curb cut renders the entrance to the loading area to be geometrically dysfunctional.

Villa Setback

The Villa is setback only five (5) feet from the Beach Access Walkway. The Villa will place the Walkway in shadow during the morning and mid-day and the new tower will likely place the Walkway in shadow the rest of the day. The Villa must be setback no less than 20 feet further from the Walkway to avoid these shadows.

Failure to Provide Studies of Shadows and View Corridors

Although requested by members of the Historic Preservation Board to provide shadow studies and view corridor studies, none were provided in the Applicant's April 18, 2022 submission. The Setai Condo specified unit owners made a reminder request to the Applicant, but no shadow studies and view corridor studies were provided. See May 3, 2022 letter attached hereto.

Project Should Be Redesigned

The Applicant should be directed to redesign the building consistent with the review criteria and thereby render its design, massing and siting sensitive to the contributing buildings on site and the surrounding area, to be compatible with the historic district,

preserving the character of the neighborhood and historic district, as well as the contiguous and adjacent buildings and view corridors and to enhance the appearance of the surrounding properties.

Sincerely,

Kent Harrison Robbins

Kent Harrison Robbins

Attorney for Setai 1808, LLC, Setai 2204, LLC and Setai Unit 2304, LLC.

Enclosures: Graphic Presentation and Letter Request for Shadow and View Studies

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