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HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

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

PROPERTY: 2-30 + 46-64 Ocean Drive and 1-35 + 69 Collins Avenue – Block 1.

FILE NO. 2070

IN RE: The request by TRG, BLOCK ONE, LTD., for Conditional Use approval pursuant to Sections 118-192 and 130-38 of the City Code, for a mechanical parking garage with lifts for a portion of the required parking for the project, which includes 50 residential units, 3,290 square feet of retail, 7,880 square feet of restaurant, and 200 required parking spaces.

LEGAL DESCRIPTION: See Exhibits attached.

MEETING DATE: June 26, 2012

CONDITIONAL USE PERMIT

The applicant, TRG, BLOCK ONE, LTD., filed an application for Conditional Use approval under Sections 118-192 and 130-38 of the Land Development Regulations 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:

That the property in question is located in the CPS-1 Commercial Performance Standard limited 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 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. 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).
2. This Conditional Use Permit is issued to TRG-BLOCK ONE, LTD as owner of the property. Any change of owner, or operator, or 50% (fifty percent) or more stock ownership change shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
3. 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.
4. 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.
5. Parking operation shall be by valet attendants only, except for residential unit owners who may park their vehicles on the ground level of the garage. Otherwise, no self parking shall be permitted.
6. There shall be personnel 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.
7. When construction has been completed, but before the commencement of the garage operations authorized by this Conditional Use Permit and before the issuance of a Business Tax Receipt, the garage operations shall be fully tested under the supervision of one of the noise consultants currently approved by the City to ensure that all aspects of the garage operation fully comply with applicable codes and this approval with respect to noise. The garage shall not begin operating until staff has received and approved in writing a final written report from the noise consultant stating that as tested, all aspects of the garage operation fully comply with the sound study. Thereafter, all aspects of the garage operation shall fully and continuously comply with the parameters of said testing.
8. For mechanical lifts, the parking lift platform must be sealed and of a sufficient width and length (minimum of eight feet by 16 feet) to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below, where applicable.
9. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift, where applicable.
10. All electrical components of the lifts shall be underwriters laboratories (UL) approved, where applicable.

11. All mechanical parking systems, including lifts, elevators and robotic systems, must be inspected and serviced at least once per year with an annual safety report signed by a licensed mechanical engineer.
12. All vehicle elevators shall be maintained and kept in good working order.
13. The backup generators shall be maintained in proper operating condition. The location of the generators shall be submitted for the review and approval by staff to ensure that any negative impacts associated with the operation or testing of the equipment are minimized. The generators shall be installed in accordance with Code requirements regarding minimum flood plain criteria.
14. There shall be approval by the Public Works Department of the parking bay as proposed, or with an equivalent of 4 parking spaces. Any modifications shall be submitted to the Planning Director for review and approval.
15. The applicant shall submit an MOT (Method of Transportation) 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.
16. 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.
17. 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.
18. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the parking facility.
19. 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.
20. 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.
21. Within a reasonable time after applicant's receipt of this Modified Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No certificate of use, certificate of occupancy, certificate of completion or Business Tax Receipt shall be issued until this requirement has been satisfied.

22. 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.
23. 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 23rd day of July, 2012

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: 
Richard G. Lorber, AICP, LEED AP
Acting Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 23rd day of July, 2012 by Richard G. Lorber, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



TERESA MARIA
MY COMMISSION # DD 928148
EXPIRES: December 2, 2013
Bonded Thru Budget Notary Services

[NOTARIAL SEAL(STAMP)]



Notary: TERESA MARIA
Print Name:

Notary Public, State of Florida

My Commission Expires: 12-2-13

Commission Number: DD928148

Approved As To Form:
Legal Department (Meld 7-20-12)

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Exhibit "A-1"

Legal Description of the Land

PARCEL 1:

Lots 1, 5 and 6, Block 1, of OCEAN BEACH, FLA., according to the Plat thereof, as recorded in Plat Book 2, at Page 38 of the Public Records of Miami-Dade County, Florida, less and except therefrom the Easterly 15.00 feet for road widening purposes.

PARCEL 2:

Lots 2 and 3, Block 1 of OCEAN BEACH, FLA., according to the Plat thereof, as recorded in Plat Book 2, at Page 38 of the Public Records of Miami-Dade County, Florida, less and except therefrom the Easterly 15.00 feet of said Lot 3 for road widening purposes.

PARCEL 3:

Lots 7 and 8, less the Easterly 15.00 feet of said Lots 7 and 8 for road widening purposes, 9, 10, 11, 12 and 13, Block 1, of OCEAN BEACH, FLA., according to the Plat thereof, as recorded in Plat Book 2, at Page 38 of the Public Records of Miami-Dade County, Florida. Also less and excepting from said Lots 7 and 8, that part described as follows:

Commence at the Northeast corner of said Lot 7 and run North 79 degrees 12' 25" West, a distance of 15.00 feet to the Point of Beginning (P.O.B.) said distance being measured along the Northerly line of Lot 7; thence continue North 79 degrees 12' 25" West along the Northerly line of Lot 7, a distance of 4.00 feet; thence run South 10 degrees 47' 35" West, a distance of 84.56 feet to the Point of Curvature (P.C.) of a Circular Curve concave Northwesterly and having for its elements, a Central Angle of 76 degrees 51' 22" and a Radius of 25.90 feet; thence run Southwesterly along the Arc of said Curve for a distance of 33.53 feet to a Point of Intersection (P.I.) with the Southerly line of Lot 8; thence run North 87 degrees 38' 47" East along the said Southerly line of Lot 8 for a distance of 23.94 feet to a point; thence run North 10 degrees 47' 35" East along a line 15.00 feet Westerly of and parallel with Easterly line of said Lots 7 and 8 for a distance of 103.46 feet to the Point of Beginning (P.O.B.).

PARCEL 4:

That portion of the alley in Block 1 of OCEAN BEACH, FLA, according to the plat thereof as recorded in Plat Book 2, Page 38, of the Public Records of Miami - Dade County, Florida, lying south of the north line of lot 5 extended westerly to the west line of said alley, and lying north of the north right-of-way line of South Pointe Drive (f/k/a Biscayne Street).

PARCEL 5:

Lot 17, Block 1, of OCEAN BEACH, FLA., according to the plat thereof as recorded in Plat Book 2, Page 38, of the Public Records of Miami - Dade County, Florida.

PARCEL 6:

The East one-half (E 1/2) of that certain alley lying adjacent to the Westerly lot lines of Lots 1, 2 and 3, in Block 1, of OCEAN BEACH, FLA., according to the plat thereof as recorded in Plat Book 2, Page 38 of the Public Records of Miami - Dade County, Florida.

PARCEL 7:

The West one-half (W 1/2) of that certain alley lying adjacent to the Easterly line of Lot 17, in Block 1, of OCEAN BEACH, FLA., according to the plat thereof as recorded Plat Book 2, Page 38 of the Public Records of Miami - Dade County, Florida.

Exhibit "A-2"

Legal Description of Appurtenances

AIR SPACE PARCEL 1:

A parcel of air space lying above Lot 4, Block 1 of "Ocean Beach FLA." according to the plat thereof as recorded in Plat Book 2, Page 38 of the Public Records of Miami-Dade County, Florida, in which the lower horizontal plane lies at an elevation of 22.50' N.G.V.D. and the upper horizontal plane lies at the elevation 32.50' N.G.V.D. the horizontal location of this air space parcel is more particularly described as follows: Commence at the Northwest corner of Lot 1, Block 1 of said Plat of "Ocean Beach FLA." as recorded in Plat Book 2, Page 38 of the Public Records of Miami-Dade County, Florida; thence from said point of commencement (P.O.C.) run South 00 degrees 00' 00" East along the West line of said Lot 1 and the West line of Lots 2 and 3 of said Block 1 for 150.00 feet to the point of beginning (P.O.B.) of a parcel hereinafter described; from said P.O.B., run North 90 degrees 00' 00" East for 11.33 feet; thence South 00 degrees 00' 00" East along a line 11.33 feet East of and parallel to the West line of said Block 1 for 50.00 feet to a point; thence South 90 degrees 00' 00" West for 11.33 feet; thence North 00 degrees 00' 00" West along the West line of Lot 4, Block 1 for 50.00 feet to the point of beginning.

EASEMENT PARCEL 1:

Easement(s) for the benefit of Air Space Parcel 1, and Parcels 1 through 7 above (the "Block-One Parcels") as created by that certain Reciprocal Easement Agreement by and between TRG-Block One, Ltd., a Florida limited partnership and Taverna Opa of South Beach, Inc., a Florida corporation, recorded in Official Records Book 25464, Page 302, of the Public Records of Miami-Dade County, Florida for purposes of ingress and egress to build and maintain improvements, over and under the following described lands ("TRG Construction Easement"): Lot 4 in Block 1, and also that portion of the alley lying West of and adjacent to Lot 4 in Block 1 of OCEAN BEACH, FLA., according to the Plat thereof recorded in Plat Book 2, Page 38, of the Public Records of Miami-Dade County, Florida, less the easterly 15 feet thereof for road widening purposes.

Subject to the terms and provisions contained in said instrument.

EASEMENT PARCEL 2:

Easement(s) for the benefit of Air Space Parcel 1 and all of the "Block-One Parcels" as created by that certain Reciprocal Easement Agreement by and between TRG-Block One, Ltd., a Florida limited partnership and Taverna Opa of South Beach, Inc., a Florida corporation recorded in Official Records Book 25464, Page 302, of the Public Records of Miami-Dade County, Florida, for purposes of ingress and egress under, over and across the following described lands ("TRG Alley Easement"):

That portion of the alley lying West of and adjacent to Lot 4 in Block 1 of OCEAN BEACH, FLA., according to the Plat thereof recorded in Plat Book 2, Page 38, of the Public Records of Miami-Dade County, Florida

Subject to the terms and provisions contained in said instrument.

EASEMENT PARCEL 3:

Easement(s) for the benefit of Air Space Parcel 1 and all of the "Block-One Parcels" as created by that certain Reciprocal Easement Agreement by and between TRG-Block One, Ltd., a Florida limited partnership and Taverna Opa of South Beach, Inc., a Florida corporation recorded in Official Records Book 25464, Page 302, of the Public Records of Miami-Dade County, Florida, for purposes of access to maintain the improvements located within Air Space Parcel 1 on, over, through and across the following described lands ("TRG Maintenance Easement"):

That portion of Lot 4 in Block 1 of OCEAN BEACH, FLA., according to the Plat thereof recorded in Plat Book 2, Page 38, of the Public Records of Miami-Dade County, Florida, that extends ten (10) feet Northward, Eastward and Westward around the Air Space, and Southward, from the Air Space to the ground of the Taverna Property and on, over, under, through and across all portions of the Alley.

Subject to the terms and provisions contained in said instrument.

EASEMENT PARCEL 4:

Easement(s) for the benefit of Air Space Parcel 1 and all of the "Block-One Parcels" as created by that certain Reciprocal Easement Agreement by and between TRG-Block One, Ltd., a Florida limited partnership and Taverna Opa of South Beach, Inc., a Florida corporation recorded in Official Records Book 25464, Page 302, of the Public Records of Miami-Dade County, Florida, for purposes of locating building foundation improvements over, within and across the following described lands ("TRG Foundation Encroachment Easement"):

Lot 4, Block 1, of OCEAN BEACH, FLA, according to the plat thereof as recorded in Plat Book 2, Page 38, of the Public Records of Miami - Dade County, Florida, less the easterly 15 feet thereof for road widening purposes, and less and except Air Space Parcel 1.

Subject to the terms and provisions contained in said instrument.

EASEMENT PARCEL 5:

Easement(s) for the benefit of Air Space Parcel and all of the "Block-One Parcels" as created by that certain Reciprocal Easement Agreement executed by and between TRG-Block One, Ltd., a Florida limited partnership and Southpointe Heights, LLC, a Delaware limited liability company, recorded in Official Records Book 25532, Page 3463, of the Public Records of Miami - Dade County, Florida, for purposes of ingress and egress under, over and across the following described lands:

That portion of the alley lying East of and adjacent to Lots 14 and 15 in Block 1 of OCEAN BEACH, FLA., according to the plat thereof as recorded in Plat Book 2, Page 38, of the Public Records of Miami - Dade County, Florida.

Subject to the terms and provisions contained in said instrument.