



WEISS SEROTA HELFMAN COLE & BIERMAN

AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW

EDWARD O. MARTOS
emartos@wsh-law.com

July 26, 2018

**VIA CITIZENS ACCESS PORTAL
AND HAND DELIVERY**

Mr. Thomas Mooney
Planning Director
The City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

**Re: Amended¹ Letter of Intent in Support of Application to Amend Planning Board
Order 2127 to Allow Off-Site Uses to Utilize Surplus Parking at 1215 West
Avenue**

Dear Mr. Mooney:

Our firm represents 1201 Chelsea, LLP, the “Owner” of the subject parking garage at 1215 West Avenue in Miami Beach (the “Property”). On February 25, 2014, your City’s Planning Board issued Order 2127 approving a Conditional Use Permit to allow the operation of mechanical parking in connection with a hotel and accessory uses (currently, a juice bar) at the Property (the “CUP”).

This letter and the enclosed application request that the Planning Board amend the CUP by deleting one of the CUP’s conditions (“Condition 8(i)”). That condition reads: “Valet storage of vehicles by valet operators shall be exclusively for hotel and restaurant use, as proposed. Valet storage for off-site facilities shall not be permitted.” The Owner wishes to amend the delete Condition 8(i) because it has resulted in the grossly inefficient operation of the Property without bestowing any benefits to the surrounding neighborhood. Deleting Condition 8(i) will allow the Owner to make the Property’s underutilized and surplus parking spaces available for valet storage from off-site uses, for residential pass holders, and/or any member of the public delivering their vehicle to the Property’s own valet stand.²

I. Underutilized and Surplus Parking

The enclosed certificate of occupancy for the existing hotel and the certificate of use for the hotel’s accessory juice bar show that the hotel has 45-units and the juice bar has 37 seats. As summarized in the table below, uses at the Property are therefore required to provide 49 parking

¹ This letter amends and supersedes the Applicant’s prior letter of intent dated July 6, 2018. The amendments made here address comments made by City Staff in a letter dated July 20, 2018.

² The Owner has not yet made arrangements with any off-site uses or West Avenue residents in need of additional parking.

spaces. The Property currently includes 59 parking spaces. The Property therefore has a surplus of 10 parking spaces.

EXISTING USE	REQUIRED PARKING PER SECTION 130-32(26)
45-Unit Hotel	45 Spaces
37-Seat Juice Bar (Note: Per Section 130-32(26)(c) only 15 seats count toward parking requirement)	4 Spaces
Total Parking Required	49 Spaces
Total Parking Provided	59 Spaces
<i>Parking Surplus</i>	<i>10 Spaces</i>

In the eighteen months since the hotel at the Property and its accessory juice bar first opened, business has been strong. Room occupancy has been at or near capacity. Despite this, the popularity of alternative transportation (including Uber, Lyft, and Freebee) has meant that only about 12% of the parking garage's 59 parking spaces (or 7 spaces total) are utilized at any given time.³

This inefficient use of an existing parking facility is unacceptable given Miami Beach's parking needs and the City's scarcity of land. In fact, the City's Code and Comprehensive Plan strongly discourage such inefficiency. Comprehensive Plan Policies 3.1 and 6.2 encourage shared parking and promote shared parking agreements between compatible land uses. Objective 8 of the Comprehensive Plan generally encourages the City to maximize opportunities for providing parking. Sections 130-191, 130-192, and 130-36(a) of the City Code would allow off-site uses to utilize the Property's surplus and under-utilized parking spaces. If not for Condition 8(i), the Property's parking garage could be put to efficient use and the goals of the City's Comprehensive Plan and City Code could be properly advanced.

Accordingly, the Owner hereby requests that the Planning Board amend the CUP to strike Condition 8(i). Doing so would allow the Property to help alleviate the lack of parking in the Property's neighborhood by allowing the efficient use of underutilized and surplus spaces. This is a minimal request for which no new construction would be required and which, as detailed below, complies with all applicable criteria in the City's land development regulations.

II. Analysis of Conditional Use Permit, Mechanical Parking, and Resiliency Criteria

Sections 118-192(a),⁴ 130-38, and 133-50 of the City Code list multiple criteria for the approval of conditional use permits, mechanical parking, and for sea level rise and resiliency

³ A table prepared by the Owner's valet operator and detailing parking utilization on a monthly basis is attached.

⁴ Criteria listed in Section 118-192(b) and (c) do not apply. Criteria provided in subparagraph (b) apply only where the subject structure has a floor area of more than 50,000 square feet. The Property analyzed here has an FAR of 34,404 square feet. Criteria provided in subparagraph (c) apply only to religious institutions.

review criteria. The following analysis examines how each of these criteria relate to the proposed amendments to the CUP.⁵

Criteria 1: The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.

Analysis: The proposed amendment to the CUP would be consistent with the City's Comprehensive Plan and specifically advance several of the plan's Objectives and Policies, including Policy 3.1 and 6.2, which encourage shared parking and promote shared parking agreements between compatible land uses, and Objective 8, which generally encourages the City to maximize opportunities for providing parking.

Criteria 2: 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.

Analysis: The proposed amendment to the CUP will not affect levels of service. It will not generate new trips, create new units, or result in additional floor area. The amendment will merely allow the efficient and logical use of previously approved parking spaces that go unused today.

Criteria 3: Structures and uses associated with the request are consistent with these land development regulations.

Analysis: The proposed amendment to the CUP will not require any modification to the existing structure or use. Furthermore, the City has previously confirmed that the existing structure and uses are consistent with the land development regulations.⁶

Criteria 4: The public health, safety, morals, and general welfare will not be adversely affected.

Analysis: The proposed amendment will not adversely affect the public health, safety morals, and general welfare. Again, the amendment does not propose any new uses, structures, or activities. To the contrary, the amendment would advance the comprehensive plan goals listed above and thus advance the public welfare by making sorely needed public parking available.

⁵ We focus our analysis only on the proposed amendment because the City's Planning Board (*see* Order PB 2127), Design Review Board (*see* Order DRB 22978) and Building Department (*see* Certificate of Occupancy CO17-0762) have already confirmed that the existing structures and uses on the Property comply with the conditional use and mechanical parking criteria.

⁶ See footnote 4 above.

Criteria 5: Adequate off-street parking facilities will be provided.

Analysis: The proposed amendment will affect only underutilized and surplus parking spaces—not the minimum spaces required for the uses located on the Property.

Criteria 6: Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

Analysis: The CUP provides multiple safeguards. The proposed amendment would preserve all of those safeguards. Notably, the proposed amendment would continue to require that all parking be valet-operated and, as noted above, would affect only the underutilized and surplus parking spaces.

Criteria 7: The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

Analysis: The proposed amendment would not change existing uses or any create a new concentration of uses. It merely proposes the efficient use of currently underutilized and surplus parking spaces.

Criteria 8: The structure and site complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

Analysis: Section 133-50's resiliency review criteria do not contemplate amendments to conditions of prior approvals that do not involve new construction or renovation. As Section 133-2 notes, the purpose of Chapter 133 is to support "resilient design and construction practices." This application does not propose new design, construction or landscaping and, therefore, Section 133-50's criteria do not apply here. That said, the proposed amendment is compatible with the City's overall resiliency efforts in that it will encourage the efficient use of existing development and thereby reduce the need to construct or otherwise provide for additional parking elsewhere.

Criteria 9: Compliance with mechanical parking standards.

Analysis: The City's Planning Board (*see* Order PB 2127), Design Review Board (*see* Order DRB 22978) and Building Department (*see* Certificate of Occupancy CO17-0762) have already confirmed that the existing structures

Mr. Thomas Mooney
July 26, 2018

and uses on the Property comply with the City Code's mechanical parking criteria. That set of criteria relates almost exclusively to project design. The proposed amendment would not modify the existing parking garage structure. The proposed amendment requires no construction or renovation. Accordingly, proposed amendment complies with the City Code's mechanical parking criteria.

Thank you for your time and favorable consideration of the enclosed application request. If you have any questions or if I can be of any assistance, please contact me.

Very truly yours,



Edward Martos

Enclosures

cc: Tui Munday
Flavio Rossato
Gilberto Pastoriza

1576.003