

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: July 9, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB19-0295, **400, 410 & 420 Collins Avenue & 221 4<sup>th</sup> Street.**

An application has been filed requesting a Certificate of Appropriateness for the construction of a new main use parking garage with accessory uses including variances from the required width for driveways and to exceed the maximum building height allowed.

#### **STAFF RECOMENDATION**

Approval of the Certificate of Appropriateness with conditions  
Approval of variance #1  
Denial of variance #2

#### **EXISTING STRUCTURES/SITE**

Local Historic District: Ocean Beach  
Classification: Surface Parking Lot

#### **ZONING / SITE DATA**

Legal Description: Lots 5, 6 and 7, Block 6, Ocean Beach Subdivision, According to the Plat Thereof, as Recorded in Plat Book 2, at Page 38 of the Public Records of Miami-Dade County, FL.

Zoning: CPS-2 (Commercial, General Mixed Use)  
Future Land Use: CPS-2 (Commercial, General Mixed Use)

Lot Size: 19,500 S.F. (Max FAR = 2.0)  
Existing FAR: N/A  
Proposed FAR: N/A (Main Use Parking Garage)  
Proposed Height: 7-stories / 78'-0" (**Variance Required**)  
Existing Use/Condition: Temporary Parking Lot  
Proposed Use: Main Use Parking Garage with accessory commercial and residential

#### **THE PROJECT**

The applicant has submitted plans entitled "Torino Garage", as prepared by Brandon Haw Architecture LLP dated May 6, 2019.

**The proposed project consists of a new 96,026 square foot main use commercial parking garage with 120 parking spaces; 8,132 square foot retail area, and 15 residential units.**

The applicant is requesting the following variances:

1. A variance to reduce 1'-0" from the minimum required width of 11'-0" for a one-way driveway, in order to construct a portion of the ingress and egress driveways at 10'-0" in width for a new parking garage.

- Variance requested from:

**Sec. 130-64. Drives.**

Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic.

The parking area has the main access and exit points facing 4<sup>th</sup> Street. Within the first 20'-0" approximately the driveway width is reduced to 10'-0" by a center area containing access controls. Because cars will be driving at a low speed to a stop in this area, the reduction in the driveway should not have an adverse impact on the operation and functionality of the garage. Staff finds that the need for the access control mechanism in this location result in the need for the variance requested. As such, staff recommends approval of the variance #1.

2. A variance to exceed by 3'-0" the maximum allowed building height of 75'-0" in order to construct a new parking garage building up to 78'-0" as measured from 9.0' NGVD.

- Variance requested from:

**Sec. 142-698. – Commercial performance standard area requirements.**

*(b) The commercial performance standard area requirements are as follows:*  
Maximum Building Height, CPS-2: 75 feet.

The variance request is fundamentally located on the west side to accommodate back of house area, double height spaces and mechanical and emergency generator rooms. The first parking area is split in two different levels with a higher portion above the mechanical rooms. With the relocation of some of the equipment area to the roof, the first parking slab could be reduced in height if the ramp from east to west is eliminated and subsequently the overall height could be reduced by 3'-0". The residential area can also be expanded on top of the parking area and the overall height lowered.

Staff finds that this variance request is design-related and is not to increase building resiliency, which has been the practical difficulty in other projects where this variance has been previously granted. The variance criteria in section 118-353(d) was modified in 2017 to include the increase in building resiliency as part of the practical difficulty or hardship that would merit the granting of a variance, as noted in the last aspect of the practical difficulty and hardship criteria below. As the west side of the property is not proposed at the minimum flood elevation + freeboard, the residential area of the building could be reconfigured to less units or to a lower floor and the mechanical area could be relocated to the roof and the overall building height lowered. Ultimately, the height variance is not for the purpose of increasing building resiliency, and staff cannot support this variance as proposed. The variance request is a self-imposed condition that lacks practical difficulties or hardship, as it is triggered by the design and size of the project program. As such, staff recommends denial of the variance.

### **PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variance #2, as noted above 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 with the exception of variance #2, as noted above:

- 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 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.

### **COMPLIANCE WITH ZONING CODE**

A preliminary review of the project indicates that the application, as proposed, may be inconsistent with the following portions of the City Code:

1. A Conditional Use Permit is required, pursuant to Article IV Section 118, and Article II Section 142 of the Miami Beach City Code, for the construction of a commercial building exceeding 50,000 square feet, including parking.
2. Section 142-1161(3). The accessible area above the main roof does not comply with the maximum 50% of the area of the floor below.
3. Section 130 – 68(1)c. The total amount of residential or commercial space above the ground floor shall be determined by the Historic Preservation Board based upon the Certificate of Appropriateness criteria.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

### **CONSISTENCY WITH 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **main use parking garage** appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Applicable**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Satisfied**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Satisfied**
- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.  
**Satisfied**
- (5) Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.  
**Satisfied**  
**The first finished floor is proposed to be located at BFE + 1' (9.0' NGVD)**
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.  
**Satisfied**
- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.  
**Satisfied**
- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.  
**Not Applicable**
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.  
**Satisfied**  
**To be addressed at time of building permit review.**
- (10) Where feasible and appropriate, water retention systems shall be provided.  
**Satisfied**

**To be addressed at time of building permit review.**

**COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
  - a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.  
**Satisfied**
  - b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.  
**Satisfied**
- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
  - a. Exterior architectural features.  
**Satisfied**
  - b. General design, scale, massing and arrangement.  
**Satisfied**
  - c. Texture and material and color.  
**Satisfied**
  - d. The relationship of a, b, c, above, to other structures and features of the district.  
**Satisfied**
  - e. The purpose for which the district was created.  
**Not Satisfied**  
**The lack of visual and physical connectivity between the sidewalk and outdoor dining area is highly inconsistent with the urban character of the surrounding historic district and has the potential to create an undesirable and unsafe condition for pedestrians.**
  - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.  
**Not Satisfied**  
**The lack of visual and physical connectivity between the sidewalk and outdoor dining area is highly inconsistent with the urban character of the surrounding historic district and has the potential to create an undesirable and unsafe condition for pedestrians.**

- g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.  
**Not Applicable**
  - h. The original architectural design or any subsequent modifications that have acquired significance.  
**Not Applicable**
- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
  - a. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Satisfied**
  - b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.  
**Satisfied**
  - c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.  
**Satisfied**
  - d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.  
**Satisfied**
  - e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, 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.  
**Not Satisfied**  
**The lack of visual and physical connectivity between the sidewalk and outdoor dining area is highly inconsistent with the urban character of the**

**surrounding historic district and has the potential to create an undesirable and unsafe condition for pedestrians.**

- f. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

**Not Satisfied**

**The lack of visual and physical connectivity between the sidewalk and outdoor dining area is highly inconsistent with the urban character of the surrounding historic district and has the potential to create an undesirable and unsafe condition for pedestrians.**

- g. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties and consistent with a City master plan, where applicable.

**Satisfied**

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

**Not Satisfied**

**The lack of visual and physical connectivity between the sidewalk and outdoor dining area is highly inconsistent with the urban character of the surrounding historic district and has the potential to create an undesirable and unsafe condition for pedestrians.**

- i. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, adjacent properties and pedestrian areas.

**Satisfied**

- j. 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).

**Satisfied**

- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Satisfied**

- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.  
**Satisfied**
- m. 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).  
**Satisfied**
- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.  
**Satisfied**
- o. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.  
**Satisfied**

### **ANALYSIS**

The applicant is currently proposing a 96,026 square foot main use commercial parking garage with 120 parking spaces; 4,200 square foot retail area; 64 seat restaurant and 15 residential units. The commercial uses will be located on the ground floor fronting onto Collins Avenue and 4<sup>th</sup> Street. Parking is proposed on the 2nd through 4th levels and the residential units will be located on the 5th through 7th levels. Staff would note that there have been several separate development projects approved by the Historic Preservation Board for this site, with the most recent approval obtained on July 12, 2016 for a similar garage design.

On June 5, 2019, the City Commission approved the Alternative Parking Incentives for Main Use Garages ordinance, which allowed for modifications to the parking requirements to be considered for main use garages. A new proposal was submitted to staff in anticipation of the adoption of these incentives to provide infrastructure for alternative modes of transportation, resulting in the reduction of the area of the structure used for car parking by one floor when compared to the previously approved design.

Staff would commend the applicant for proposing to construct a high quality structure on the existing surface parking lot. Over time, the existing parking lot has had an increasing negative impact on the developed urban context of Collins Avenue as well as the surrounding historic district. Staff is pleased with the overall contemporary design language of the proposed structure.

The design of the proposed new building is successful in terms of scale and massing, with the three upper floors set back from on all sides with large landscaped terraces helping to reduce the perceived height of the structure. Additionally, the design has been developed in a manner that appropriately responds to the unique architectural character of the historic district. The proposed building is defined by a dynamic architectural screen wrapping the parking levels. This screen consists of two layers of open architectural fins. Inspired in part, by the late 1970's preservation efforts lead by designers Barbara Baer Capitman and Leonard Horowitz, pastel colors of varying intensities have been strategically incorporated into the surface of both the inner and outer fins. Additionally, the strong horizontal eyebrow features and curvilinear forms recall both the Art Deco and Streamline Moderne styles of architecture present in the district.



Further, staff would note that the unique profiles and placement of these fins serves to shield the transmission of direct light from vehicle headlamps to the exterior and helps to lessen the transfer of noise from within the structure.

Staff's only concern with the proposed project is with regard to the design for the public right-of-way along the west side of Collins Avenue. This approximately 21'-3" wide strip of land located between the western curb of Collins Avenue and the east property line currently consists of a 10' wide sidewalk adjacent to Collins Avenue and an approximately 11'-3" wide landscape area with several large mahogany trees adjacent to the existing surface parking lot. This landscape area was introduced in 2006 in order to comply with landscaping buffer requirements outlined in the City Code for temporary parking lots. Since the applicant is currently proposing to remove the surface parking lot and introduce an active commercial space along the ground floor, staff is not supportive of the proposed re-introduction of a dense landscape buffer that will block the commercial space from pedestrian view. The lack of visual and physical connectivity between the sidewalk and outdoor patio area is highly inconsistent with the urban character of the surrounding historic district and has the potential to create an undesirable and unsafe condition for pedestrians.

Consequently, staff would recommend that the landscape plan be further developed in a manner more consistent with the adjacent right-of-ways, in order to ensure substantial transparency into the site. Specifically, staff would recommend that the sidewalk be increased in width to provide for a minimum 10' pedestrian path, clear from any tree pits or street light poles. Staff would also recommend that the existing Mahogany trees proposed to be relocated to the north interior side yard be instead relocated to the sidewalk where they will be able to provide much needed shade, and that the remainder of the Collins Avenue right-of-way be a combination of trees and sod only. Staff is confident that this issue can be addressed administratively, as indicated in the recommendation.

Finally, it is important to note that the proposed project is scheduled to be reviewed by the Planning Board on June 25, 2019, with regard to important issues related to the operations of the project, including parking, traffic, noise, deliveries, sanitation and security.

### **VARIANCE ANALYSIS**

The applicant is requesting two variances for the project. The first variance is related to the width of the ingress and egress one-way driveway at the garage entry. The driveway width is proposed at 10'-0" instead of the 11'-0" required along approximately 20'-0" in length where the access control devices are located between the two lanes of traffic. The driveway curb cut has a width of 24'-0", larger than the 22'-0" required for a two-way driveway, but each lane is reduced within the first portion and then increased in width to 12'-0" exceeding the minimum width required. As vehicles commonly drive from a low speed to a stop entering and exiting a parking garage, staff believes that there should not be any negative impact on the granting of this variance and that practical difficulty exist in this specific condition, typical in most parking garages. In addition, the rest of the driving aisles have been designed with larger width than the minimum required.

The second variance requested pertains to the increase on the maximum building height allowed from 75'-0" to 78'-0". In other projects where similar height variance is requested, the additional height is located at the ground floor where commercial area is proposed to provide for increased building resiliency. That is not the case in this project and staff recommends that other design alternatives be studied. The additional height is fundamentally located on the west

side where back of house uses, mechanical equipment area and double height spaces are proposed. To accomplish the two-level below the first parking floor, a ramp from east to west on the south side breaks the parking level on two levels from 21'-9" NGVD to 26'-1" NGVD. The mechanical room and generator room could be relocated to the roof without impact on FAR or building height and the parking level above this area could be lowered in height.

In addition, the residential floors have been stacked in a three-story volume and placed toward the rear with a significant front setback. The residential area could be reconfigured to two floors and reduce the height of the building. In addition, the applicant's letter of intent does not clearly explain the hardship or practical difficulties for this variance. The site is a vacant corner lot with 19,500 sf that would allow enough flexibility to accommodate any project without variances. Further, a similar project for a parking garage was approved on 2016, pursuant to file HPB0516-0026 and did not require variances.

Staff would note that the applicant obtained an amendment to the section 130-68 of the City Code for commercial and non-commercial parking garages that allows the increase in the total area for accessory uses, including residential and commercial to 35%, when previously 25% was the maximum for main use parking garages by providing other alternatives for parking. This modification allows the building to be considered a main use parking garage, where the parking area does not count as FAR. Although the proposed project has reduced the height of the parking portion at the street level and the increase in height has been located to the rear, staff finds that there are no practical difficulties for the granting of the variance #2.

In summary, staff recommends approval of the variance #1 and denial of variance #2.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application be **approved**, as to the Certificate of Appropriateness and variance request #1, and that the variance request #2 be **denied**, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable.

**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: July 9, 2019

FILE NO: HPB19-0295

PROPERTY: 400, 410 & 420 Collins Avenue & 221 4<sup>th</sup> Street

APPLICANT: Savoy Hotel Partners, LLC.

LEGAL: Lots 5, 6 and 7, Block 6, Ocean Beach Subdivision, According to the Plat Thereof, as Recorded in Plat Book 2, at Page 38, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for the construction of a new main use parking garage with accessory uses including variances from the required width for driveways and to exceed the maximum building height allowed

**ORDER**

The City of Miami Beach Historic Preservation 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. Certificate of Appropriateness**

- A. The subject site is located within the Ocean Beach Local Historic District.
- 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:
  - 1. Is not consistent with Sea Level Rise and Resiliency Review Criteria (1) in Section 133-50(a) of the Miami Beach Code.
  - 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  - 3. Is not consistent with Certificate of Appropriateness Criteria 'e' & 'f' in Section 118-564(a)(2) of the Miami Beach Code.
  - 4. Is not consistent with Certificate of Appropriateness Criteria 'a', 'c', 'e', 'f' & 'h' Section 118-564(a)(3) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:
  - 1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:

- a. 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 Certificate of Appropriateness Criteria and/or the directions from the Board.
  - b. Final details of all proposed storefront systems and associated details shall be provided, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - c. The internal garage lighting shall be shielded to inhibit direct views of all internal light sources from either the street or adjacent properties, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - d. The final design and details of all exterior lighting shall be provided, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. Exterior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding historic district. No florescent or intensive 'white' lighting (or similar intensive lighting) visible from the adjacent public rights-of-way or adjacent properties shall be permitted.
  - e. All kitchen venting and other venting shall be chased to the roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.
  - f. A fully enclosed air conditioned trash room that is sufficiently sized to handle the entire trash load of the building at all times shall be required, located within the envelope of the building, in a manner to be approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
2. 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. The sidewalk along Collins Avenue shall be increased in width to provide for a minimum 10' pedestrian path, clear from any tree pits or street light poles, in a manner to be approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board and the Public Works Department.
  - b. The existing Mahogany trees proposed to be relocated to the north interior side yard shall be instead relocated to the sidewalk along Collins Avenue or 4<sup>th</sup> Street, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board and the Public Works Department.

- c. The right-of-way adjacent to Collins Avenue shall contain trees and sod, in a manner that allows substantial transparency into the site, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board and the Public Works Department.
- d. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the final revised landscape plan.
- e. 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. Right-of-way areas shall also be incorporated as part of the irrigation system.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s) which were either approved by the Board with modifications, or denied:

The following variance was **approved** by the Board:

- 1. A variance to reduce 1'-0" from the minimum required width of 11'-0" for a one-way driveway, in order to construct a portion of the ingress and egress driveways at 10'-0" in width for a new parking garage.

The following variance was **denied** by the Board:

- 2. A variance to exceed by 3'-0" the maximum allowed building height of 75'-0" in order to construct a new parking garage building up to 78'-0" as measured from 9.0' NGVD.

- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variance #1, as noted above, 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, only as it relates to variance #1, as noted above, 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 requested variance #1 and **Denies** the requested variance(s) #2 and imposes the following condition 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.

**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. Certificate of Appropriateness' and 'II. Variances' noted above.**

- A. 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.
- B. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- C. 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.

- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.
- F. The 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 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.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. 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.
- I. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

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 amended and adopted by the Board, that the application is GRANTED 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 **entitled "Torino Garage" as prepared by Brandon Haw Architecture LLP dated May 6, 2019**, as approved by the Historic Preservation 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 set forth in this Order. No building permit may be issued unless and until all 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 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 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 should 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.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT  
CHIEF OF HISTORIC PRESERVATION  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida



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HPB19-0295  
Meeting Date: July 9, 2019

My commission expires: \_\_\_\_\_

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ (                      )

Filed with the Clerk of the Historic Preservation Board on \_\_\_\_\_ (                      )