

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

PROPERTY: 400-420 Collins Avenue

FILE NO. PB 0416-0012, F.K.A., File No. 2333

IN RE: The applicant, Savoy Hotel Partners, LLC requested Conditional Use Approval for the construction of a new 7-story mixed-use development exceeding 50,000 square feet including a parking garage pursuant to Section 118, Article IV of the City Code.

LEGAL DESCRIPTION: Lots 5, 6, and 7, Block 6, of "OCEAN BEACH SUBDIVISION", according to the Plat thereof, as recorded in Plat Book 2, Page 38 of the Public Records of Miami-Dade County, Florida.

MEETING DATE: June 28, 2016 and September 27, 2016

CONDITIONAL USE PERMIT

The applicant, Savoy Hotel Partners, LLC requested Conditional Use Approval for the construction of a new 7-story mixed-use development exceeding 50,000 square feet including a parking garage pursuant to Section 118, Article IV of the City Code.

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-2 – Commercial Performance Standards District, General Mixed-Use Commercial;

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 the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

1. This Conditional Use Permit is issued Savoy Hotel Partners, LLC, as owners of the property. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest, or the equivalent, shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
2. This Conditional Use Permit is issued for the construction of a 7-story Main Use Commercial Parking Garage with accessory residential and commercial uses.
3. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
4. As part of the Building Permit plans for the project, the applicant shall submit revised architectural drawings, and landscape drawings, which shall be subject to the review and approval of staff; at a minimum, such plans shall satisfy the following:
 - a. Any roof-top lighting shall be shielded from nearby residential uses, and shall not exceed 42" in height above the roof deck.
 - b. A mountable curb shall be utilized for vehicles to enter the garage in order to improve pedestrian flow along 4th Street, in a manner to be reviewed and approved by staff.
 - c. Any exterior mechanical devices must be low noise emitting equipment and must be screened from view. Any fan/exhaust for the garage shall be located substantially in compliance with the plans as approved or in the alternative along the west side of the property, and not directly adjacent to the southernmost or northernmost property line. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and the complaints are determined to be valid, even if the equipment is operating pursuant to manufacturers' specifications, the applicant shall take such reasonable steps to mitigate the noise with noise attenuating materials as reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - d. Signs prohibiting tire-screeching and unnecessary horn-honking shall be posted at the garage entrance (see attached).
5. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment.
 - a. In order to contain patron noise within the site, the storefront at the ground level shall consist of fixed glass and swing doors, in a manner to be reviewed and approved by staff.

- b. Tinting, paper, blackout, or similar treatments shall be prohibited on the interior or the exterior of all glass located at the first level, unless the space is vacant. Sheer drapes may be proposed at the first level, in a manner to be reviewed and approved by staff.
- c. The interior of the restaurant shall close by 2:00 AM and any outdoor component of the restaurant shall close no later than 12 AM, seven days per week. After normal operating hours the establishment shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein between closing and 7 am.
- d. No alcoholic beverage service may be provided in the exterior open-air restaurant unless accompanied by food service.
- e. No sidewalk cafe permit shall be sought or utilized by the applicant or any lessees.
- f. No exterior loudspeakers shall be permitted except those necessary for fire and life safety purposes.
- g. Background music may be provided in the non-residential interior areas of the building, provided it is limited to background music that does not interfere with normal conversation. This restriction does not apply to the interior of residential units.
- h. Patrons shall not be allowed to queue on public rights-of-way, or the exterior of the premises along 4th Street or Collins Avenue.
- i. Special events pursuant to the Miami Beach City Code, associated with the proposed establishment, may not be held on the premises and the applicant agrees that it will not seek or authorize applications for such permits.
- j. Delivery trucks shall only be permitted to park within the loading area within the ground floor parking area or the designated loading zone for the property.
- k. Delivery trucks shall not be allowed to idle in the loading zone area.
- l. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
- m. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
- n. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
- o. Garbage dumpster covers shall be closed at all times except when in active use.

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- p. Garbage pickups and service deliveries shall not take place between 7:00 PM and 8:00AM.
 - q. Applicant shall ensure that restaurant personnel do not place trash or recycling into any exterior dumpsters or receptacles between 8:00 PM and 8:00 AM, seven days a week.
 - r. Outdoor cooking anywhere on the premises by commercial establishments or for commercial use is prohibited. Kitchen and other cooking odors shall be contained within the premises to the greatest extent reasonably feasible. Owner agrees to install an exhaust system, if required by code, for the kitchens of any commercial restaurants on the premise that will substantially reduce grease and smoke that would otherwise escape to the surrounding area. This may include the installation of a fan in connection with kitchen exhaust systems within the interior of the building in order to reduce noise levels at the exhaust outlet substantially in compliance with the plans as approved or in the alternative any such exhaust system shall be located along the west side of the property not directly adjacent to the southernmost or northernmost property lines.
 - s. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings
 - t. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue, 4th Street and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
 - u. The rooftop decks shall not have any commercial uses. Nor shall any commercial bar counter or bar counter used for commercial purposes be placed on any portion of the property's exterior, including the rooftop, terraces, private decks, and balconies.
 - v. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - w. The applicant shall obtain a Certificate of Occupancy or a Certificate of Completion prior to the issuance of a Business Tax Receipt.
 - x. All Commercial uses shall be subject to the review and approval of the Planning Board, as a modification to this Conditional Use Permit, prior to the issuance of a TCO or CO for such use.
 - y. The entire valet operation shall require the review and approval of the Planning Board prior to any valet operation on site.
- 6. Prior to the issuance of a Temporary Certificate of Occupancy (TCO) or Certificate of Occupancy (CO), the operational conditions as referenced above (to be determined by staff), shall be posted on site, in a location and manner to be reviewed and approved by staff.
 - 7. The Planning Board shall retain the right to call the owner or operator, both now and in the future, back before the Board and modify this Conditional Use Permit, including the hours of

- operation and/or the occupant load of the accessory restaurant, as well as modifications to the parking operations, should there be valid complaints or violations (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise.
8. The applicant shall address the following Concurrency and Parking requirements, as applicable:
 - a. A Method of Transportation (MOT) shall be submitted 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.
 - b. 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.
 - c. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.
 - d. Prior to the issuance of a Building Permit, calculations for required parking for the project shall be determined by the Planning Department. A final determination for the required parking shall be conducted prior to the issuance of a Certificate of Occupancy or Business Tax Receipt, whichever comes first. If required, a one-time fee in lieu of providing the required parking on site, as determined by staff, shall be paid prior to the issuance of the Certificate of Occupancy.
 9. The applicant, operator and/or owner, both now and in the future, shall abide by all the documents and statements submitted with this application, as well as all conditions of this Order.
 10. 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 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).
 11. The Planning Board shall retain the right to call the owner or operator back before them and make modifications to this Conditional Use Permit should there be valid complaints about loud, excessive, unnecessary, or unusual noise. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.
 12. 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.
 13. Any substantial modifications to the plans submitted and approved as part of this application or an application to another to another land use board for the same development, as determined by the Planning Director or designee, may require the applicant to return to the Planning Board for approval of the modified plans.

14. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.
15. The applicant shall resolve all outstanding violations and fines on the property, if any, prior to the issuance of a building permit for the project.
16. 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, of the City Code.
17. 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.
18. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
19. 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 City Code, and shall be subject to enforcement procedures set forth in Section 114-8 of the Code and such other enforcement procedures as are permitted by law. 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.
20. 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 _____ day of _____, 2016.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____

Michael Belush, Planning and Zoning Manager
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Michael Belush, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

{NOTARIAL SEAL]

Notary:
Print Name
Notary Public, State of Florida
My Commission Expires:
Commission Number:

Approved As To Form:
Legal Department ()

Filed with the Clerk of the Planning Board on _____ ()

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