

Bueno, Lizbeth

From: Tackett, Deborah
Sent: Tuesday, December 7, 2021 7:28 AM
Cc: Gonzalez, Jessica; Bueno, Lizbeth; Seiberling, James
Subject: FW: HPB21-0457, 1 Lincoln Road and 1671 Collins Avenue.
Attachments: W Tucker Gibbs.vcf; HPB Letter 12-06-21.pdf

Good Morning Members of the HPB,

Please see public comment attached.

Have a great day,

MIAMIBEACH

Debbie Tackett, *Historic Preservation & Architecture Officer*
PLANNING DEPARTMENT
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It's easy being Green! Please consider our environment before printing this email.

From: W. Tucker Gibbs <tucker@wtgibbs.com>
Sent: Monday, December 6, 2021 3:46 PM
To: Tackett, Deborah <DeborahTackett@miamibeachfl.gov>
Cc: Seiberling, James <JamesSeiberling@miamibeachfl.gov>
Subject: HPB21-0457, 1 Lincoln Road and 1671 Collins Avenue.

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Hi Debbie,

Please see attached my letter to the Chairman and members of the Historic Preservation Board regarding the referenced matter (HPB Agenda Item 3, December 13, 2021). Would you please forward the letter to the Chairman and members of the board at your earliest convenience and let me know by email when the document was sent?

Thank you for your help.

Regards,
Tucker

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December 6, 2021

VIA EMAIL

Honorable Jack Finglass, Chairperson
and Members of the Miami Beach
Historic Preservation Board
c/o Deborah Tackett
Historic Preservation
& Architecture Officer
Planning & Zoning Department
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

**Re: HPB 21-0457 -- Ritz/Sagamore Certificate of
Appropriateness Application for Properties
at 1 Lincoln Road and 1671 Collins Avenue.**

Dear Chairperson Finglass and Board Members:

I represent New National, LLC, the owner of the National Hotel ("National") property at 1677 Collins Avenue, Miami Beach, regarding the referenced application. My client opposes the application because the proposed 121,326 square-foot, 17-story, 200-foot-tall condominium tower would be too tall, too big and out of scale with the surrounding contributing historic structures. These adjacent and nearby structures make up the Ocean Drive/Collins Avenue Historic District and the National Register Architectural District ("Historic and Architectural districts" or "districts").

My client also supports and adopts the arguments of the Delano Hotel made in its attorney's letter to the Chairman and Members of the City of Miami Beach Historic Preservation Board ("HPB" or "board") dated December 4, 2021.

Approval of this application by the HPB would set a harmful precedent of lowering, if not practically eliminating, any serious application of the standards for historic preservation in Miami Beach. Allowing this intrusion of a high-rise condominium into the heart of the historic district, which includes some of the most well-known Art Deco hotels in the world, would diminish the city's historic

December 6, 2021

Page 2

preservation ordinance. The city preservation regulations not only incorporate the U.S. Secretary of Interior Standards for Rehabilitation, ("Secretary of Interior Standards "), but they also set forth additional rigorous compatibility requirements.

As presented, the proposed project fails to satisfy both the Secretary of Interior Standards as well as the Miami Beach certificate of appropriateness compatibility requirements.

New National, LLC, as the abutting property owner to the Sagamore Hotel, has a recognized, legitimate and protectable property interest in the preservation of the character of its neighborhood against unlawful zoning actions taken by local government. *Friedland v. City of Hollywood*. 130 So. 2d 306, 310 (Fla. 2d DCA. 1961 It received mailed written notice of the HPB public hearing on the application at issue here from the city.

For the reasons stated above, and because of its recognizable property interest set out in *Friedland*, my client would be impacted by the approval and implementation of the requested certificate of appropriateness to a greater extent than that of the community at large.

The introduction of the proposed non-contributing and massively oversized residential tower would negatively impact the historic character of the site, its neighbors and the historic district, including but not limited to the National and the Delano hotels. This warrants a strict application of the HPB's certificate of appropriateness review criteria.

The certificate of approval should be denied because it fails to satisfy the:

1. Secretary of Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as required by section 118-564(a)(1)(a) of the City of Miami Beach Land Development Regulations.
2. Compatibility requirements in section 118-564(a)(2).
3. Review criteria in section 118-564(a)(3) regarding aesthetics, appearance, safety and function of new structures, and physical attributes of the project, among other matters, "in relation to the site, adjacent structures and properties, and surrounding community."

**Secretary of Interior
Standards for Rehabilitation
Not Satisfied**

In the HPB's compatibility review, pursuant to section 118-564(a)(1)a, the board applies each of the Secretary of the Interior Standards for Rehabilitation (36 CFR Ch. 1 67.7) and Guidelines for Rehabilitating Historic Buildings in its evaluation of the compatibility of the application with surrounding properties.

The application fails to meet the following Secretary of Interior Standards:

Sec. 67.7(b)(1). *A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.*

Placing a 121,000-plus square-foot, 17-story, 200-foot-tall residential condominium immediately to the east of the 61,291 square-foot, six-story, 72-foot tall Sagamore Hotel would constitute a major change in the use of the Sagamore and Ritz properties. With the construction of the proposed tower, the defining characteristic of the Sagamore property would not be the contributing Sagamore Hotel but the massive, contemporary-designed condominium that would loom over not only the Sagamore and Ritz but the adjacent National Hotel site as well. This would be a critical change to the defining characteristics of the Sagamore and Ritz site, the National and Delano hotels, and the historic environment that the Historic and Architectural districts were created to preserve. See also findings in Heritage Architectural Associates Report provided to the Miami Beach Historic Preservation and Architecture Officer on October 19, 2021 ("Heritage Report").

Sec. 67.7(b)(2). *The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*

The addition of the out-of-scale 200-foot-tall non-contributing residential tower on the Sagamore Hotel site immediately to east of the of the Sagamore Hotel could not, and would not, retain and preserve the historic character of

the Sagamore site. The placement of a too-tall, massive and non-contributing building immediately to the east of the Sagamore Hotel would effectively replace the hotel as the defining structure on the Sagamore site. This, coupled with the introduction of 121,000-plus square feet of a new, residential component on the property, would further diminish the historic context of the Sagamore Hotel within its own property. Additionally, the proposed replacement of the non-contributing hotel cabana structure with the proposed non-contributing residential condominium tower would replace a space that characterizes this heretofore historic hotel site.

Sec. 67.7(b)(9). *New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*

The proposed 121,000-plus square-foot, 17-story tower, while differentiated from the architectural design within the site and the historic district, by no means would be "compatible with the massing, size, and scale" of the 61,291 square-foot, six-story, 72-foot tall Sagamore Hotel building or its neighbors. The large, massive, out-of-scale tower would dwarf every adjacent and nearby contributing building. This modern tower would become the center and focal point of this part of the historic district because of its incompatible massing, size and scale in relation to its neighbors. There is no evidence in the record that shows how this building would protect the historic integrity of the Sagamore property or its environment.

General Considerations on Compatibility

1. Factors to be Considered When Applying Compatibility Criteria

Section 118-564(a)(2) provides specific matters to consider when addressing the compatibility of an application for certificate of appropriateness:

In determining whether a particular application is compatible with surrounding properties the historic preservation board shall consider the following:

- a. *Exterior architectural features.*
- b. *General design, scale, massing and arrangement.*
- c. *Texture and material and color.*
- d. *The relationship of subsections a., b., c., above, to other structures and features of the district...*
(emphasis added)

The Heritage Report finds that the proposed tower would be out of scale with its surroundings and would dwarf the historic Sagamore hotel. Not only would the tower obscure the view of the Sagamore from the beach, it would also negatively impact the recognized Collins Avenue skyline formed by the National, Delano and SLS (Ritz Plaza) hotels. This report concludes that the proposed tower would not meet the criteria for compatibility in Section 118-564(a)(1), (2) and (3).

2. This Tower is Not an Entitlement

The applicant is not entitled to build this proposed massive, too-tall and out-of-scale residential tower in the Historic and Architectural districts. While a "maximum" 200-foot height is allowed in the district, the applicable certificate of appropriateness criteria permits the board to reject the proposal to ensure compliance with those criteria in section 118-564(a)(3).

In *Euroamerican Group, Inc. v. City of Miami Beach*, the circuit court appellate division panel addressed a Miami Beach Design Review Board approval that was conditioned on a reduction in height. That court determined that the DRB compatibility criteria is not trumped by the zoning code height limits and that the zoning code height limit "is not an entitlement." This court decision is based on the board's ability under the land development regulations to approve, approve with conditions or to deny a given application based on the board's review criteria. *Euroamerican Group, Inc. v. City of Miami Beach* at p. 10 (11th Cir. Appellate Case No. 10-561 AP 2012).

The 200-foot height, massing and scale of the proposed tower would not be compatible with the surrounding historic properties. Pursuant to the certificate of appropriateness criteria, the HPB is not required to issue a certificate of appropriateness for this 121,000-plus square-foot, 17-story, massive and out-of-scale structure where it would tower over the adjacent and nearby contributing buildings in the

historic district. The tower the applicant seeks to build should be rejected because the height, massing and scale of the tower would be incompatible with the surrounding properties in the historic district under sections 118-564(a)(1), (2) and (3).

**Certificate of Appropriateness Criteria
Not Satisfied**

Section 118-564(a)(3) states that the HPB in its certificate of appropriateness review examines the plans for consistency with 17 criteria. Those criteria are applied "with regard to the aesthetics, appearances, safety, function of any new or existing structure, public interior space and physical attributes of a project in relation to the site, adjacent structures and properties and surrounding community."

The application fails to meet the following certificate of appropriate criteria:

Section 118-564(a)(3)d. *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, or the purposes for which the district was created.* (emphasis added).

The Heritage Report states in its analysis of this application that:

- The proposed residential tower would be out of scale with its surroundings.
- The tower would dwarf the Sagamore Hotel because the tower would be almost three (3) times the height of the Sagamore.
- The tower would create shade that would adversely impact adjacent contributing buildings, including the National and Delano Hotels, that were designed to be seen and function in light.
- The applicant's tower is proposed to be located in the "HEART OF THE [HISTORIC] DISTRICT," adjacent to three contributing hotel buildings -- the National, Delano and SLS (former Ritz Plaza) -- that have iconic visual significance and integrity.

- A 200-foot tall tower in this location would adversely impact this "postcard" skyline. (Heritage Report, pages 36-37).

The applicant proposes its 121,000-plus square-foot, 17-story, 200-foot-tall residential condominium on the ocean, immediately to the east of the Sagamore Hotel. This physical arrangement would overpower any visual relationship between the hotel and the ocean, its immediate contributing neighbors and the rest of the historic district. This out-of-scale, massive tower in the heart of this historic district would be incompatible with surrounding properties and adjacent structures, and would offer nothing to *enhance* the historic context of the surrounding properties, or the purposes for which the district was created, as required by this criterion.

Section 118-564(a)(3)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.*

The proposed tower would be shoehorned into the southeast corner of the Sagamore property and cantilevered over the northeast corner of the Ritz property. No other property on this block has such a tall, massive structure so close to the beach. The placement of the 17-story tower to the easternmost portion of the Sagamore property would create a problematic spatial relationship with its abutting and nearby contributing properties and other neighbors. The tower's placement would do nothing to preserve the historic character of the abutting and nearby contributing properties and district, pedestrian sight lines or the view corridor along the beach. (See also Heritage Report, pages 35-37).

Section 118-564(a)(3)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).*

December 6, 2021

Page 8

According to the Heritage Report examination of the project plans, the proposed tower would be too tall, and out-of-scale in relation to its abutting and nearby neighbors. (Heritage Report, page 36). Furthermore, in the fall and winter, the tall and bulky residential tower would create a shadow that extends as far north as the Delano Hotel and to the along the western portion of the beach. The National and Delano pools would be particularly impacted. (Heritage Report, pages 18-33). This shows a lack of sensitivity to the building site and to the surrounding area -- including the public beach. The tower would loom over the Sagamore, the National and the Delano. (Heritage Report, pages 18-19).

**There is No Competent Substantial Evidence in the Record
to Support This Application**

The decision of the HPB must be based on competent substantial evidence. That means that the evidence must be fact-based and relevant to the matter being decided. To be relevant, there must be a showing of a relationship or nexus between the alleged evidence and the applicable certificate of appropriateness criteria.

The staff report is not competent substantial evidence because it presents no facts to show that the applicant has met the requirements set forth in the applicable historic preservation provisions for the requested certificate of appropriateness.

Staff's evaluation of the Secretary of Interior standards is limited to one word: "Satisfied." There is not one word in the staff report that presents a fact to show that the applicant has met any of the ten Secretary of Interior Standards.

The staff report evaluation of the certificate of appropriateness criteria is replete with the same baseless responses to each criterion: "Satisfied." There are 25 certificate of appropriateness criteria that are to be met by an applicant. (Section 118-564(a)(2)a-h and Section 118-564(a)(3)a-q). Here, staff attempted to provide a factual basis for its determination that each criterion is met or "Satisfied" in only two out of the 25 listed criteria.

December 6, 2021

Page 9

Because the staff report includes no facts to show that the applicant has "satisfied" the applicable criteria, the report is not competent substantial evidence for the approval of the application.

The staff report's analysis proves similarly problematic when it incorrectly addresses the tower's "contemporary design language" only in the context of compatibility with its immediate neighbors. (Staff Report, page 11). The report opines that the design of the 121,000-plus square-foot, 17-story, 200-foot-tall tower would be compatible with three on-site Post-War-Modern buildings. But this assessment ignores the requirement that the massive tower be compatible with "surrounding properties" and that its "general design, scale, massing and arrangement" of the tower be evaluated in terms of its "relationship... to other structures and features of the district" (Section 118-564(a)(2)b and d). The staff report does not address tower's compatibility with the Art Deco buildings within the district, such as the adjacent National Hotel and the nearby Delano Hotel. The Ritz/Sagamore properties are not an island that stands alone. The code requires these properties to relate to and be compatible with their abutting neighbors as well as surrounding properties within the district. The staff report's analysis ignores this fundamental requirement and fails to include facts that would support its opinions.

The staff report also claims that the 200-foot-tall tower's 340-foot setback "minimizes its visibility from Collins Avenue" greatly minimizing its impact on "existing Contributing buildings on the site and the surrounding historic district." (Staff Report, page 11). This analysis fails to consider the negative impact of the eastward placement of the tall tower on pedestrian sight-lines from the beach and the beach view corridor. The tower would completely obscure the Sagamore and be a jarring disruption of the famous Art Deco skyline in this part of the Historic and Architectural districts. The analysis fails to present any facts that would support its claims

The staff report further claims that the perpendicular-to-the-ocean-placement of the massive tower would not "obscure any of the original features of the Sagamore hotel." That observation also ignores the tower's impacts on adjacent contributing properties, such as the National Hotel and nearby contributing properties like the Delano Hotel. Again,

December 6, 2021
Page 10

the staff report cannot and does not present a factual basis for its conclusions.

Any claim that the applicant's updated letter of intent is competent substantial evidence fails because that document presents no facts showing that the applicant has met the requirements for the certificate of appropriateness.

The applicant's fact-filled Historic Resources Reports regarding the two contributing buildings on the Ritz/Sagamore properties are not competent substantial evidence that show the application's compliance with the certificate of appropriateness criteria. That is because those reports present no relevant facts showing that the applicant has met the certificate of appropriateness criteria.

This application continues the effort to chip away at historic preservation in the City of Miami Beach. Approving this tall and out-of-scale tower would marginalize and diminish contributing buildings on the Sagamore and Ritz properties as well as the adjacent National and nearby Delano properties by introducing a large, out-of-scale, non-contributing high-rise building with little or no physical or design relationship with its historic neighbors. Denying this application would affirm that a non-contributing, out-of-scale, outsized high-rise building on one lot or several aggregated lots is not acceptable in the heart of the Historical and Architectural districts.

On behalf of the National Hotel and for the reasons stated herein, I urge you to deny the Ritz/Sagamore application. Thank you for your consideration of the information presented herein.

Sincerely,



W. Tucker Gibbs

cc: New National LLC