

CFN 20120298939 DR BK 28088 Pgs 3729 - 3733 (5pgs)
RECORDED 04/26/2012 15:45:39
HARVEY RUVIN, CLERK OF COURT, MIAMI-DADE COUNTY, FLORIDA

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

PROPERTY: 3925 Collins Avenue

FILE NO. 1985

IN RE: The Application by Beta Epsilon/Cadillac, LLC requesting a Conditional Use Permit for a single basement level, valet only, mechanical lift parking garage with 68 spaces located in a new ground floor addition with 84 hotel units at the rear of the property.

LEGAL DESCRIPTION: Lots 1 through 8 inclusive, and the 16.00 foot Alley bounded on the West by the Easterly lines of Lots 5 through 8; Bounded on the East by the Westerly lines of Lots 1 through 4; Bounded on the North by the Southerly line of 40th Street, and Bounded on the South by the Northerly line of 39th Street, all in Block 31, AMENDED PLAT OF OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, a subdivision recorded in Plat Book 5, Pages 7 and 8, of the Public Records of Miami-Dade County, Florida.

MEETING DATE: January 25, 2011

CONDITIONAL USE PERMIT

The applicant, Beta Epsilon/Cadillac, LLC, filed an application with the Planning Director for a Conditional Use Permit for a single basement level, valet only, mechanical lift parking garage with 68 spaces located in a new ground floor addition with 84 hotel units at the rear of the property. Notice of the request for Conditional Use 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 RM-3, Residential multifamily high intensity 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;

CERTIFICATION

THIS IS TO CERTIFY THAT THE ATTACHED DOCUMENT IS A TRUE AND ACCURATE COPY OF THE ORIGINAL ON FILE IN THE OFFICE OF THE PLANNING DEPARTMENT.

CITY OF MIAMI BEACH

(Signature of Planning Director or Designee)

9/25/12
(Date)

Personally known to me or Produced ID:

(Signature of Notary Public)

Notary Public, State of Florida at Large

Printed Name: TERESA MARIA

My Commission Expires: (Seal)

This document contains 5 pages.



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

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 recommendation, 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 Beta Epsilon/Cadillac, LLC as owner of the property. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
3. 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.
4. The Final Order for File No. 7194 issued by the Historic Preservation Board on October 12, 2010 is hereby adopted and incorporated into this Order by reference.
5. Any 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.
6. Valet storage of vehicles shall be exclusively for the Cadillac Hotel's use, as proposed by the applicant.
7. Valet staff shall adhere to traffic pattern submitted by the applicant. No pick-up or drop-off shall be permitted on 40th Street.
8. The sounding of car alarms, automobile horns, playing of radios or any kind of audio system and screeching of tires shall be prohibited.
9. The mechanical lifts and vehicle elevators must be inspected and serviced at least once per year with an annual safety report signed by a Licensed Mechanical Engineer and submitted to the Planning Department.
10. The parking garage shall consist of 68 spaces. The garage operation shall be 24 hours per day, seven days a week. There shall be security personnel of at least one person monitoring the garage operation 24 hours a day, 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 as proffered by the applicant.

11. The facility shall ensure that noise or vibration from the operation of the mechanical lifts and car elevators shall not be plainly audible or felt by any individual standing outside an apartment or hotel unit at the property or at any adjacent or nearby property. Noise and vibration barriers shall be incorporated into the final design of the basement parking level of the concrete building to ensure that surrounding walls prevent any sound and vibration from emanating outside the parking level.
12. The parking platforms must be sealed and of a sufficient width and length (minimum of 7.5' by 16') to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below.
13. The facility must maintain adequate backup generators sufficient to power the car elevators. The 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. Repair personnel for the mechanical lifts shall be on call 24 hours per day seven days per week.
15. Deliveries and trash pick-up shall continue to take place at the northwest corner of the property by the original building, not at or through the valet-only parking level further to the east. The trash/garbage container shall have rubber wheels and shall not be permitted to be wheeled to curbside for pick-up.
16. 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.
17. 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.
18. 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.
19. A final determination of the required parking spaces and the associated calculation of any payment of the parking fee in-lieu of providing all the spaces on site shall be made prior to the issuance of a building permit.
20. As per Section 130-251 of the City Code, a declaration of restrictive covenants running with the land stipulating that a valet service or operator must be provided for such parking for so long as the use continues, in a form acceptable to the City Attorney and the Planning Director, and recorded in the official records of Miami-Dade County, shall be submitted prior to the issuance of a building permit.
21. 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.

22. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the parking facility.
23. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation be valid complaints about loud, excessive, unnecessary, or unusual late night noise.
24. 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.
25. 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.
26. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a Building Permit.
27. 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.
28. 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 16th day of March, 2011.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: 

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

STATE OF FLORIDA)

#1985 -- 3925 Collins Ave. -- Cadillac Hotel Garage

Page 4 of 5

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 16th day of March, 2011, 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

[NOTARIAL SEAL]



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

Notary:

Print Name:

Teresa Maria

Notary Public, State of Florida

My Commission Expires:

12-2-2013

Commission Number:

DD 928148

Approved As To Form:

Legal Department

(March 2-24-11)

F:\PLAN\PLB\2010\9-28-2010\1734 - 1801 Collins Ave Mod CU\1734 - 1801 Collins Ave-NIE mod CU.doc