



NUNEZ & FLEISCHER

Jacob H. Nunez, Esq.  
303 SW 6<sup>th</sup> Street  
Fort Lauderdale, Florida 33315  
Tel: 954-336-3006  
Email: [Jacob@nunezandfleischer.com](mailto:Jacob@nunezandfleischer.com)

October 7, 2024

**VIA ELECTRONIC SUBMITTAL (CSS)**

The Chairperson and Members of the  
City of Miami Beach Planning Board  
City of Miami Beach Planning Department  
1700 Convention Center Drive,  
2nd Floor,  
Miami Beach, Florida 33139

**RE:** *Letter of Intent for a Modification of a Previously Approved Conditional Use Permit Under Planning Board File No. 2000 to Reflect a New Owner and New Operator In Connection with the Parking Garage at the Property Located at 49 Collins Avenue, Miami Beach, Florida 33139 (the "Property").*

Dear Chairperson and Members of the Planning Board,

This firm represents **49 COLLINS AVENUE REALTY LLC**, a Florida limited liability company (the "Owner" or "Applicant") and **UNITY PARKING LLC**, a Florida limited liability company (the "Operator") and in connection with the subsequent land development and zoning matters set forth herein relating to the Property.

Please accept this Letter of Intent in connection with Applicant's Application, for a minor modification to the existing Modified Conditional Use Permit (the "CUP"), to reflect Applicant as owner of the Property and Operator as the operator in connection with the CUP for the Property. A copy of the recorded CUP is set forth as **Exhibit A** hereto, which was issued to the previous owner and applicant, Southpointe Heights, LLC, a Florida limited liability.

Specifically, the CUP requires that:

"Any change in of operator or fifty percent (50%) or more of 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.”

As a result of the change in ownership and operator under the CUP, the Applicant, as Owner of the Property, and Operator, as new operator, are required to appear before the Planning Board to affirm their understanding of the conditions and requirements of the CUP. Applicant also requests that staff consider the addition of the following language relating to subsequent owners/operators of the Property to the CUP, which is consistent with recent conditional use permit approvals:

“any change of operator or fifty percent (50%) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by the City, to the City of Miami Beach Planning Department, transferring approval of the new operator or owner acknowledging acceptance of all conditions established herein prior to the issuance of new Certificate of Use/Business Tax Receipt.”

The Applicant and Operator are not requesting any other changes to the CUP. In accordance with the foregoing, the Applicant and Owner agree to comply with all terms and conditions of the CUP.

Accordingly, the Applicant requests a minor modification of the CUP to reflect 49 Collins Avenue Realty LLC as Owner of the Property and Unity Parking LLC as Operator. Applicant is not requesting any additional modifications of this Application. We respectfully request your recommendation of approval of this request.

Sincerely,



Jacob H. Nunez, Esq.

# EXHIBIT

A



CFN 2014R0243162  
OR Bk 29096 Pgs 1007 - 1013f (7pgs)  
RECORDED 04/04/2014 10:51:17  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

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

**PROPERTY:** 49 Collins Avenue

**FILE NO.** 2000

**IN RE:** The application by Southpointe Heights, LLC, requesting a Modification to an existing Conditional Use Permit pursuant to Chapter 118, Article IV in order to reduce the number of parking spaces in the garage.

**LEGAL**

**DESCRIPTION:** Lots 14 and 15 Block 1 "Ocean Beach Florida Subdivision, according to the Plat thereof recorded in Plat Book 2, page 38 of the Public Records of Miami-Dade County, Florida

**MEETING DATE:** March 25, 2014

**MODIFIED CONDITIONAL USE PERMIT**

The applicant, Southpointe Heights, LLC filed an application with the Planning Director requesting a Modification to an existing Conditional Use Permit pursuant to Chapter 118, Article IV in order to reduce the number of parking spaces in the garage.

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-1, Commercial Limited Mixed Use 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;

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 staff

recommendations, as may have been modified by the Planning Board, 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. This Conditional Use Permit is issued to Southpointe Heights, LLC as owner 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. ~~The subject parking garage shall consist of 263 spaces, as proposed.~~ The number of parking spaces in the subject parking garage shall be no less than 10% of the spaces shown in the plans submitted with this application. Prior to the issuance of a building permit for the project, the applicant shall submit an operational plan and narrative for the operation of the mechanical parking system and the parking garage area as a whole. This operational plan and narrative shall be subject to the review and approval of staff and, at a minimum, shall satisfy the following:
  - a) 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 manufacturer's specifications, and as detailed in the operations plan, as proposed by the applicant.
  - b) An emergency procedure that includes a quick-response service contract with the mechanical lifts and manual operations service provider. Repair personnel for the mechanical lifts shall be on call 24 hours per day seven days per week.
  - c) All free-standing mechanical parking lifts shall be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage; robotic garages and vehicle elevators must have backup generators sufficient to power the system.
  - d) All mechanical lifts shall be designed to prevent lowering of the lift when a vehicle is parked below the lift.
  - e) The ceiling heights of any parking level with parking lifts within the parking garage shall be a minimum of 11 feet by six inches.
  - f) All parking lifts shall only be operated using a spring loaded underwriters laboratories (UL) approved key switch control. No push button systems shall be permitted. Additionally, all electrical components of the lifts shall be underwriters laboratories (UL) approved.
  - g) The garage operation shall be 24 hours per day, seven days a week, as proposed by the applicant, including parking for the general public by valet attendants. The facility shall be equipped with closed circuit recording monitors to assure the safety and security of the public. There shall be security personnel of at least one person monitoring the garage operation 24 hours a day, seven days a week.
  - h) The facility shall ensure that noise or vibration from the operation of the parking garage and car elevators shall not be plainly audible or felt by any individual

standing outside an apartment or hotel unit at any adjacent or nearby property. Noise and vibration barriers shall be incorporated into the final design to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage.

- i) 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.
- j) The facility must maintain adequate backup generators sufficient to power the car elevators and vehicle lifts. The generator 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 floodplain criteria.
- k) In order to confirm the need for the installation of two stop signs at each of the intersections of First Street/Collins Avenue and First Street/Ocean Drive, the applicant shall complete a warrant analysis that confirms the need for the additional signs; the study shall be submitted to Planning Department staff to be forwarded to Miami-Dade County Public Works for review and approval prior to implementation by the County's Signs and Signals Division.
- l) The mechanical parking system and vehicle elevators shall be inspected and serviced at least once per year with an annual safety report signed by a Licensed Mechanical Engineer submitted to the Planning Department.
- m) The applicant shall ensure that no queuing occurs, with the exception of within the areas shown on the plans, and that vehicular traffic is not blocked in the alley.
- n) The proposed garage shall be used for valet storage of vehicles by valet operators only. No self-parking shall be permitted.
- o) The off-street parking requirements for the accessory commercial space shall be satisfied within the garage.
- p) When construction has been completed, but before the commencement of the garage operations authorized by this Conditional Use Permit and before the issuance of a Business Tax Receipt, the garage operations shall be fully tested under the supervision of one of the noise consultants currently approved by the City to ensure that all aspects of the garage operation fully comply with applicable codes and this approval with respect to noise. The garage shall not begin operating until staff has received and approved in writing a final written report. Thereafter, all aspects of the garage operation shall fully and continuously comply with the parameters of said testing.
- q) Warning signs prohibiting horn honking or car alarm sounding shall be posted prominently by the applicant or valet operator, and valet attendants shall be instructed to observe them strictly, subject to the review and approval of staff.
- r) The applicant shall install "DO NOT ENTER" signs at the First Street/Alleyway intersection to discourage wrong-way traffic subject to the review and approval of staff.



- s) Deliveries and garbage pickup shall be conducted from the alley and directly within the garage structure and not on the street. Trash/garbage containers shall have rubber wheels and shall not be permitted to be wheeled to curbside for pick-up. Deliveries and pickups shall be handled and managed by a dock master supervisor who shall be responsible for controlling traffic when these activities are scheduled in order to minimize the disruption of traffic in the alleyway and the surrounding neighborhood. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
3. 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) The final details and plans for the proposed mechanical parking system shall be made part of the building permit plans for the project and shall be subject to the review and approval of staff. Such plans shall comply with all applicable regulations and requirements of the City Code.
    - b) The applicant shall install any sound attenuating design devices that may be required, throughout the property, in order to minimize any spillover of sound to adjacent properties, which may be generated by the mechanical parking system, in a manner consistent with the requirements of the City Code and subject to the review and approval of staff.
    - c) The site plan shall clearly indicate the location, design and quantity of all exterior bike racks. Such bike racks shall be located within those areas of the property that are easily accessible. The final design details, dimensions, location and quantity of exterior bike racks shall be subject to the review and approval of staff. Such plans shall also comply with all applicable regulations and requirements of the City Code.
    - d) A landscape plan for the entire site, prepared by a Professional Landscape Architect, inclusive of street trees as per the City of Miami Beach Master Street Tree Plan, shall be submitted to and approved by staff before a building permit is issued for construction.
  4. The following shall apply to the restaurant portion of the project:
    - a) "Entertainment," as defined in the City Code shall be prohibited within the site, inclusive of the accessory use restaurant, rooftop and any outdoor area.
    - b) No commercial uses shall be permitted to use the rooftop. The restaurant seating shall be contained inside the premises and restricted to no more than 240 seats and an occupant load that shall not exceed 299 persons or any lesser number as may be determined by the Chief Fire Marshal.
    - c) Restaurant security personnel and other staff shall take measures to enforce the Patron Age Restriction of the City Code in reference to alcoholic beverages.
    - d) Street flyers and handouts shall not be permitted, including handbills from third-party promotions.

- e) The applicant shall obtain a Certificate of Occupancy or a Certificate of Completion prior to the issuance of a Business Tax Receipt.
  - f) The applicant shall satisfy outstanding liens and past due City bills, if any, as well as any outstanding code and building violations, including any fines, to the satisfaction of the City prior to the issuance of an occupational license to operate the proposed restaurant.
5. Pursuant to Section 130-251 of the City Code, a declaration of restrictive covenants, running with the land, and stipulating that a valet operator shall be provided for such parking for so long as the use continues, shall be provided by the applicant in a form acceptable to the City Attorney and the Planning Director, and recorded in the official records of Miami Dade County. Such covenant shall be fully executed and recorded prior to the issuance of a building permit.
6. 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.
7. 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, as may be determined as determined by the Concurrency Management Division.
  - 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 or in combination with an annual fee, as determined by staff, shall be paid prior to the issuance of the Certificate of Occupancy.
8. The applicant is subject to all conditions of DRB Order No. 22841, as may be amended, as well as any other lawful orders, now in effect or hereafter issued, by the Historic Preservation Board, the Design Review Board, and/or the Board of Adjustment.
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 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.
11. 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).
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, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans.
14. 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.
15. 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.
16. In the event the Code Compliance Department receives complaints about unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.
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 executed Modified Conditional Use Permit be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
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 31<sup>st</sup> day of MARCH, 2014

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]  
Thomas R. Mooney, AICP,  
Acting Planning Director  
For Chairman

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of MARCH, 2013, by Thomas R. Mooney, 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.

[Signature]

Notary:  
Print Name: TERESA MARIA  
Notary Public, State of Florida  
My Commission Expires: 12-2-17  
Commission Number: FF042188

[NOTARIAL SEAL]



TERESA MARIA  
MY COMMISSION # FF 042188  
EXPIRES: December 2, 2017  
Bonded Thru Budget Notary Services

Approved As To Form: [Signature]  
Legal Department (3-31-2014)

Filed with the Clerk of the Planning Board on 04/02/14 [Signature]

F:\PLAN\PLB\2014\03-25-14\2000 - 49 Collins Ave\2000 MCUP.docx

[Signature]