

# MIAMIBEACH

## PLANNING DEPARTMENT

**City of Miami Beach**, 1700 Convention Center Drive, Miami Beach, Florida 33139  
Tel: (305) 673-7550, Fax: (305) 673-7559

November 15, 2022

Paul A. Shelowitz  
Strook & Strook & Lavan LLP  
200 South Biscayne Blvd, Suite 3100  
Miami, FL 33131

**Subject: Request for Zoning Determination  
153 Collins Avenue (Folio 02-4203-003-0290) & 157 Collins Avenue (Folio 02-4203-003-0300), Miami Beach, Florida**

Dear Mr. Shelowitz:

This correspondence is in response to your September 8, 2022 request (attached) for a written determination regarding the properties located at 153 Collins Avenue and 157 Collins Avenue. Specifically, you have requested a determination pertaining to the following:

1. Whether the property located at 153 Collins Avenue (the "Strip") and the property located at 157 Collins Avenue ("157 Collins") constitute "one building site" pursuant to Section 114-1 of the City Code.<sup>1</sup>
2. Whether a lot split would be required to develop the Strip, including erecting a fence immediately adjacent to 157 Collins.

### **Property Description and Ownership**

For purposes of this determination letter, the following are the applicable properties and ownership:

1. 153 Collins Avenue (the "Strip"), which is legally described as the North ½ of Lot 15 of Block 2 in the Ocean Beach Subdivision. Lawrence F. Kaine purchased the Strip in 1986. The current owner of the Strip, 125 Collins LLC, purchased the property from the Patricia M Kaine Trust and Lawrence F Kaine Living Trust in 2022.
2. 157 Collins Avenue ("157 Collins"), which is legally described as Lot 16 of Block 2 in the Ocean Beach Subdivision. Lawrence F. Kaine purchased 157 Collins in 1983. In 2008, 157 Collins was sold to the current owner, 157 Collins Ave LLC.

The determination herein is specific to the Strip and 157 Collins, and does not include or provide any conclusions regarding the properties to the immediate south of the Strip. As more specifically noted herein, it appears that the Strip is not currently part of a unified development site or single

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<sup>1</sup> While on page 3 of the letter dated September 8, 2022 addressed to the Planning Director, the applicant references Section 118-564 of the City Code, the term "building site" is defined in Section 114-1 of the City Code.

building site with the properties to the immediate south (i.e., the lots at 137 - 151 Collins Avenue, which have a combined legal description of the South ½ of Lot 15 and Lots 12 - 14 of Block 2 in the Ocean Beach Subdivision).

### **Building Site Analysis**

In accordance with Section 114-1 of the City's Land Development Regulations (LDRs), a building site is defined as follows:

*"...Building site means any improved lot, plot, or parcel of land where there may exist a main permitted structure and any accessory/auxiliary building or structure including, but not limited to, swimming pools, tennis courts, walls, fences, **or any other improvement which was heretofore constructed on property containing one or more platted lots or portions thereof shall constitute one building site.**" (Emphasis added).*

The subject site consists of two abutting lots on the east side of Collins Avenue, between 1<sup>st</sup> Street and 2<sup>nd</sup> Street. Both lots are zoned R-PS3 and located in the Ocean Beach Historic District.

The Strip was initially developed in the 1920s with a one-story hotel building. According to City Building Department records, a permit was issued for the total demolition of this structure on May 21, 1971. Shortly thereafter, a permit to pave the lot and install a ten (10') foot driveway was issued.

157 Collins was first developed in 1925 when a building permit was issued for the construction of a two-story commercial building. This building remains substantially intact and is occupied by two commercial tenants at the ground level: (i). Big Pink Restaurant, located within the western portion of the building; and (ii). Ted's Hideaway, located within the eastern portion of the building.

On September 6, 1994, the City issued a building permit for "Renovations to Big Pink".<sup>2</sup> The approved plans include the construction of a one-story addition located along the south property line of 157 Collins, immediately abutting the north property line of the Strip. As shown on Sheet A-1 the addition contained a foyer, trash room and storage room. Access to the foyer is provided via a single door located on the south property line and internally through the kitchen and back of house area of the restaurant. The trash room is accessible only from the Strip via a roll-up gate.

Also, on February 10, 1998, the City issued a building permit for the buildout of Ted's Hideaway.<sup>3</sup> Sheet P.1 of the approved plans includes the installation of a grease trap within the Strip. A sub permit was issued for the new grease trap (BP980583) on March 13, 1998 and a Certificate of Completion was issued for the project on March 4, 1999 after City inspections were performed.

The aforementioned improvements were constructed when the previous property owner (Lawrence F. Kaine) was the sole owner of the Strip. Additionally, gas meters and electrical service panels are shown encroaching into the Strip on the property survey submitted by the current owner of 157 Collins.<sup>4</sup>

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<sup>2</sup> Building Permit plans B9400397 entitled "Renovations for Big Pink" are attached as **Exhibit A**.

<sup>3</sup> Building Permit plans B9801070 entitled "Interior Renovations for Ted's Hideaway" are attached as **Exhibit B**.

<sup>4</sup> Property Survey dated 10-05-22 is attached as **Exhibit C**.

The Strip serves as a means of ingress and egress to 157 Collins and contains improvements critical to the operations of the restaurant and bar located within 157 Collins. Consequently, 157 Collins and the Strip, together, meet the definition noted above pertaining to a “building site” and therefore constitute one building site.

### **Lot Split Requirements**

In accordance with Section 118-321 of the LDRs, a lot split is required as follows:

*“.....wherever there may exist a main permitted structure and any accessory/auxiliary building or structure including, but not limited to, swimming pools, tennis courts, walls, fences, or any other improvement that was heretofore constructed on property containing one or more platted lots or portions thereof, such lots shall thereafter constitute only **one building site** and no permit shall be issued for the construction of more than one main permitted structure on the site unless the site is approved for the division or lot split by the planning board.”* (Emphasis added).

As noted above, the Strip and 157 Collins together constitute one building site. As such, any modifications to, or development of the Strip, including, but not limited to, site improvements (e.g., fencing), as well as new construction, would require a joint application by both the owner of the Strip and the owner of 157 Collins for permit approval. Additionally, the separation of the Strip from 157 Collins would require lot split approval from the Planning Board.

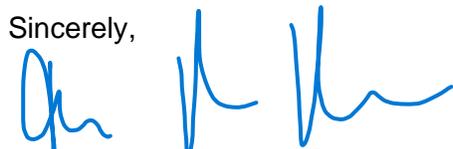
### **Conclusion**

Based upon the foregoing, the following is noted regarding the requested determination:

1. The property located at 153 Collins Avenue (the “Strip”) and the property located at 157 Collins Avenue (“157 Collins”) constitute “one building site”, in accordance with the regulations of the City Code. Any modifications to, or development of the Strip, including, but not limited to, site improvements (e.g., fencing), as well as new construction, would require a joint application by both the owner of the Strip and the owner of 157 Collins for permit approval
2. To develop the Strip independently from 157 Collins, including the erection of a fence, a lot split approval by the Planning Board would be required. The request for a lot split would require a joint application by both the owner of the Strip and the owner of 157 Collins.

In accordance with City Code Section 118-9, this administrative determination will be published on the City’s website for a period of at least 30 days. An eligible party, as defined in Section 118-9 of the City Code, shall have up to 30 days from the posting on the web page to appeal this administrative determination.

Sincerely,



Thomas R. Mooney, AICP  
Planning Director

TRM/DJT