



To: Kara Kautz, Interim Historical Resources and
Cultural Arts Director for the City of Coral Gables

From: Gustavo Ceballos, Assistant City Attorney for the City of Coral Gables

Approved: Miriam Soler Ramos, City Attorney for the City of Coral Gables *MSR*

RE: Legal Opinion Regarding 247 Malaga Avenue - Non-Conforming Setback

Date: January 30, 2020

I have reviewed the matter and the site plan for the proposed renovations and additions to the building, located at 247 Malaga Avenue, Coral Gables, Florida, 33134 (the "Property"), and the proposed setback will not require a variance. The Property currently has an existing non-conforming rear setback of 5' due to the placement of the original detached garage structure. The proposed addition to the Property will maintain the existing 5' setback and align the rear wall of the addition with the existing non-conforming detached garage structure.

This falls within prior legal opinions given by the City Attorney's Office relating to historically designated structures and Article VI of the Zoning Code. If otherwise in conformity with the Zoning Code, the addition can be done along the established legally non-conforming setback line as long as (1) there is not further encroachment beyond the established legally non-conforming setback line, in this case the proposed 5' setback maintains the current legally non-conforming setback and does not increase the non-conformity, and (2) the Historic Preservation Board approves a Special Certificate of Appropriateness in a publicly noticed, quasi-judicial hearing. See, e.g., CAO 2015-048. The City Commission would also have authority to review the matter if any affected party appeals. As indicated in CAO 2015-048, "one purpose of Article VI is to ensure that properties are not penalized for legal non-conformities. This is particularly true for historic properties where the City has made a policy decision that these properties should be historically preserved as originally built, which substantially restricts an applicant from being able to modify the structure to comply with the current setback in an historically appropriate manner."

This opinion is based on the specific facts of this matter and the proposed plans and pursuant to Section 2-252(e)(1) and (8) of the City Code and Section 2-702 of the City's Zoning Code, authorizing the City Attorney's Office to issue opinions and interpretations on behalf of the City.

SITE DATA	
ZONING	CL- COMMERCIAL LIMITED & C- COMMERCIAL
GROSS LOT AREA	8,000 sf (0.18 acres)
LEGAL DESCRIPTION	CORAL GABLES CRAFTS SEX PB 10-40 LOTS 26 & 27 BLK 29 LOT SIZE 80 000 X 100 OR 20797-0103-05-07 0802 1
FLOOD ZONE	
PROPOSED USE	OFFICE

PROPOSED BUILDING AREAS		
1st FLOOR TOTAL		5,952 S.F.
EXISTING TO REMAIN		3,079 S.F.
NEW CONSTRUCTION		2,873 S.F.
OFFICE / NET RENT	1,946 S.F.	
STAIR / ELEV	448 S.F.	
LOBBY	479 S.F.	
2nd FLOOR TOTAL		2,873 S.F.
OFFICE / NET RENT	2,425 S.F.	
STAIR / ELEV	448 S.F.	
3rd FLOOR TOTAL		2,873 S.F.
OFFICE / NET RENT	2,425 S.F.	
STAIR / ELEV	448 S.F.	
4th FLOOR TOTAL		2,380 S.F.
OFFICE / NET RENT	2,121 S.F.	
STAIR / ELEV	239 S.F.	

TOTAL NEW NET RENTABLE	8,917 S.F.
TOTAL NEW CONSTRUCTION	10,979 S.F.
TOTAL GROSS BUILDING AREA	14,058 S.F.
GROSS TOTAL AREA BEFORE NEW CONSTRUCTION	4,704 S.F.
DIFFERENCE	9,354 S.F.

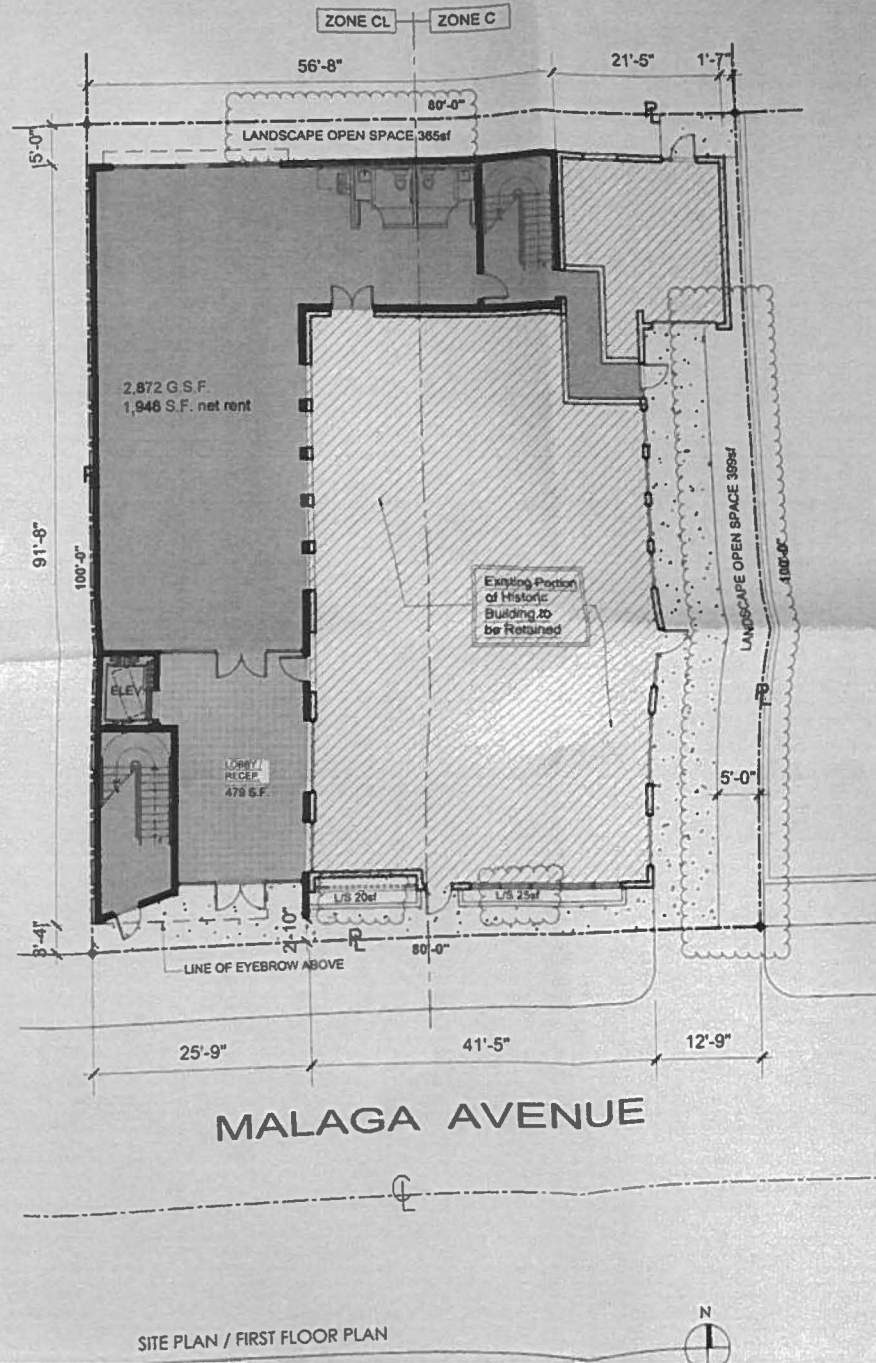
	ALLOWED / REQ.	PROVIDED
MAX F.A.R. 3 PER FUTURE LAND USE MAP PLATE 4	24,000 S.F.	14,058 S.F. (1.8)
LANDSCAPE OPEN SPACE (10%)	800 S.F.	812 S.F. (10%)

PARKING	REQUIRED	PROVIDED
OFFICE = 8,917 sf (1/300sf)	297	0
TOTAL	30	0
(*) HISTORIC VARIANCE FOR PARKING BEING REQUESTED		

SETBACKS - CL	REQUIRED	PROVIDED
FRONT	0'	2'-10"
STREET SIDE	0'	NA
INTERIOR SIDE	0'	0
REAR	10'	5'

SETBACKS - C	REQUIRED	PROVIDED
FRONT	0' UP TO 15H 10' ABOVE 15H	5' EXISTING (NO CHANGE)
STREET SIDE	15'	NA
INTERIOR SIDE	0' UP TO 45H 15' ABOVE 45H + 1' EVERY 3' ABOVE 45H	12'-8" EXISTING (NO CHANGE)
REAR	10'	5'

HEIGHT - CL	ALLOWED	PROVIDED
MAX 50' PER FUTURE LAND USE MAP PLATE 6	LESSER OF 3 FLOORS OR 45H WITHIN 100' OF SFR and/or MF1	4 FLOORS / 45' 140' from SFR
HEIGHT - C	ALLOWED	PROVIDED
MAX 50' PER FUTURE LAND USE MAP PLATE 6	LESSER OF 3 FLOORS OR 45H WITHIN 100' OF CSD and/or MF1	4 FLOORS / 45' 140' from SFR



BLITSTEIN DESIGN
 288 Seville Avenue
 Coral Gables, FL 33134
 Ph (305) 444-4433
 Fax (305) 444-0181
 PETER BLITSTEIN
 LIC. No. - AR0007879

Proposed Development Concept for:
247 MALAGA, INC.
 247 Malaga Ave.
 Coral Gables, FL 33134

Developer:
Hajjar Development
 48 Valencia Ave.
 Coral Gables, FL 33134

DATE

PROJECT

SCALE

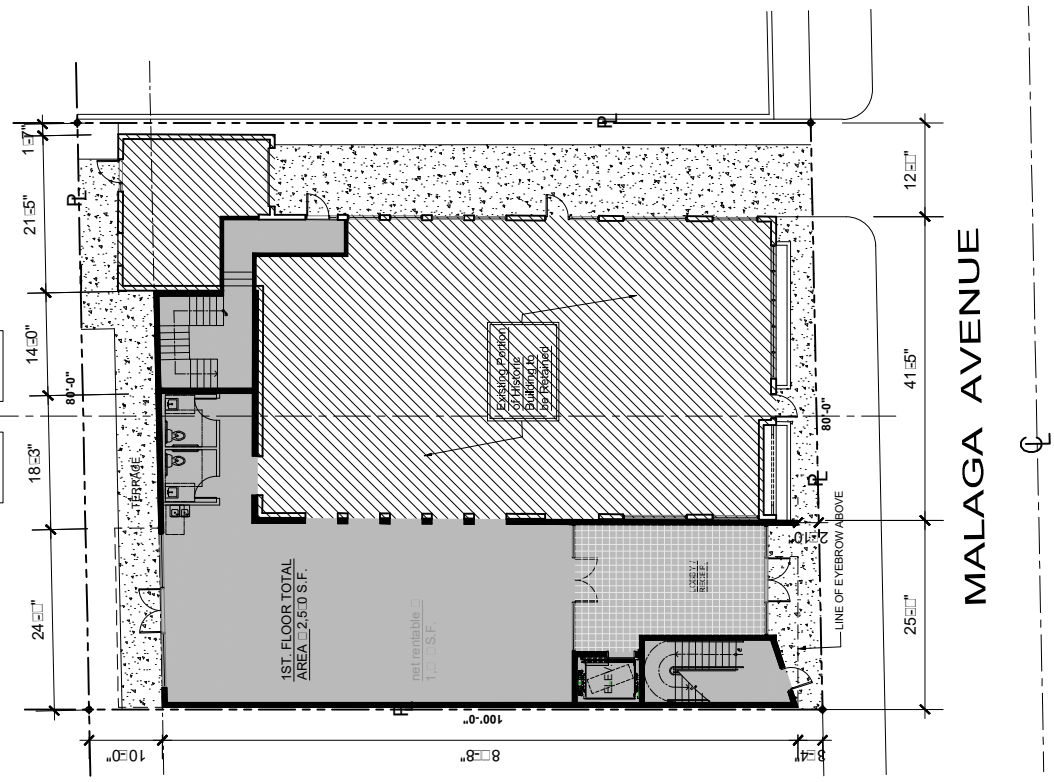
F.P./O.M./M.S.

SHEET NO.

SITEPLAN / 1ST FLOOR PLAN

SCALE AS SHOWN

SITE PLAN / FIRST FLOOR PLAN



SITE PLAN / FIRST FLOOR PLAN

NEW ADDITION

SITE DATA	
ZONING	CL - COMMERCIAL LIMITED C - COMMERCIAL
GROSS LOT AREA	8,000 sf (0.18 acres)
LEGAL DESCRIPTION	CORAL GABLES CRAFTS SEX/PB 10-40
LOT SIZE	27 BL/21
LOT SIZE	60,000 X 100
OR	207.7-0103-05-07 0802 1
FLOOD ZONE	
PROPOSED USE	OFFICE

PROPOSED BUILDING AREAS	ALLOWED	PROVIDED
1st FLOOR TOTAL	2,510 S.F.	
2nd FLOOR TOTAL	2,510 S.F.	
3rd FLOOR TOTAL	3,083 S.F.	
4th FLOOR TOTAL	3,083 S.F.	
TOTAL GROSS BUILDING AREA	11,344 S.F.	

MAX F.A.R.	PERMITTED LAND USE MAP	PLATE
3	24,000 S.F.	11.34 S.F. (1.4)

PAR-ING	REQUIRED	PROVIDED
OFFICE (1/2009)	35	0
TOTAL	35	0 (1)

SETBACK - S - CL	REQUIRED	PROVIDED
FRONT	0'	2'-10"
STREET SIDE	0'	NA
INTERIOR SIDE	0'	0
REAR	10'	10'
SETBACK - S - C	REQUIRED	PROVIDED
FRONT	0' TO 15H 10' ABOVE 15H	5-EXISTING (NO CHANGE)
STREET SIDE	15'	NA
INTERIOR SIDE	0' TO 45H 15' ABOVE 45H (SEE 3-3 ABOVE 45H)	12'-7- EXISTING (NO CHANGE)
REAR	10'	10'

HEIGHT - CL	ALLOWED	PROVIDED
MAX 50' PER FUTURE LAND USE MAP	LESSER OF 3 FLOORS OR 45H WITHIN 100' OF SFR and/or MFI	4 FLOORS / 42' 140' from SFR
HEIGHT - C	ALLOWED	PROVIDED
MAX 50' PER FUTURE LAND USE MAP	LESSER OF 3 FLOORS OR 45H WITHIN 100' OF SFR and/or MFI	4 FLOORS / 42' 140' from SFR

From: [Ramos, Miriam](#)
To: [Paulk, Enga](#)
Cc: [Ceballos, Gustavo](#)
Subject: FW: 247 Malaga Avenue
Date: Thursday, January 30, 2020 2:11:37 PM
Attachments: [opinion - CAO 247 Malaga Avenue - Non-conforming Setback.docx](#)
[247 Malaga A-1.jpg](#)
[247 Malaga - DRC Siteplan.pdf](#)
[image005.png](#)
[image007.png](#)

Enga, please publish.

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

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City of Coral Gables*

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From: Ceballos, Gustavo
Sent: Thursday, January 30, 2020 1:17 PM
To: Kautz, Kara <KKautz@coralgables.com>
Cc: Ramos, Miriam <mramos@coralgables.com>; Guin, ElizaBeth <eguina@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>
Subject: RE: 247 Malaga Avenue

Good afternoon Kara,

Attached is the memo as discussed. I have spoken with Devin and suggested that this will likely need to go back to DRC. The plans that are on legistar for DRC do not show this new setback. I have

attached the Site plan from DRC and the image of the new site plan which you provided.

Gustavo J. Ceballos, Esq., B.C.S.

Assistant City Attorney

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From: Kautz, Kara <KKautz@coralgables.com>
Sent: Thursday, January 30, 2020 10:04 AM
To: Ceballos, Gustavo <gceballos@coralgables.com>
Cc: Ramos, Miriam <mramos@coralgables.com>; Guin, ElizaBeth <eguin@coralgables.com>
Subject: Re: 247 Malaga Avenue

Thank you

Sent from my iPhone

On Jan 30, 2020, at 9:51 AM, Ceballos, Gustavo <gceballos@coralgables.com> wrote:

I will draft today.

Gustavo J. Ceballos, Esq., B.C.S.

Assistant City Attorney

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City of Coral Gables

405 Biltmore Way, 3rd Floor

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From: Kautz, Kara <KKautz@coralgables.com>
Sent: Thursday, January 30, 2020 9:38 AM
To: Ramos, Miriam <mramos@coralgables.com>
Cc: Ceballos, Gustavo <gceballos@coralgables.com>; Guin, ElizaBeth <eguain@coralgables.com>
Subject: Re: 247 Malaga Avenue

Hi,
Any update on this? Trying to set our February HPB agenda.

Sent from my iPhone

On Jan 22, 2020, at 7:51 PM, Kautz, Kara
<KKautz@coralgables.com> wrote:

Thank you

Sent from my iPhone

On Jan 22, 2020, at 7:11 PM, Ramos, Miriam
<mramos@coralgables.com> wrote:

Kara, we will review and get back to you.

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

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City of Coral Gables

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Coral Gables, FL 33134

(305) 460-5084 direct dial

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From: Kautz, Kara

Sent: Wednesday, January 22, 2020 12:54 PM

To: Ramos, Miriam <mramos@coralgables.com>

Cc: Ceballos, Gustavo <gceballos@coralgables.com>; Guin, ElizaBeth <eguina@coralgables.com>

Subject: 247 Malaga Avenue

Good Afternoon,
Please see attached site plan. The owner is requesting a legal opinion that the proposed addition be allowed to line up with the 5'-0" rear setback of the existing historic building. This is consistent with opinions issued on other historic properties.

Thank you,
Kara

Kara Kautz
City of Coral Gables
Historical Resources and Cultural Arts
Department

kkautz@coralgables.com
305-460-5090

<image006.jpg>

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