

SHERBROOKE APTS., INC.

901 Collins Avenue
Miami Beach, Florida 33139
Telephone: (305) 532-0958
Facsimile: (305) 532-1660
Email: mitch@sherbrookehotel.com

MITCH NOVICK, PRESIDENT

April 27, 2011

By Federal Express
& By Email to: mary-kathryn.smith@dca.state.fl.us

Mary-Kathryn Smith
Department of Community Affairs
Florida Building Commission
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: Application of Sherbrooke Apts., Inc.
Request for Waiver from Accessibility Requirements

Dear Ms. Smith:

I am enclosing the following in support of Sherbrooke Apts., Inc.'s complete application for a Request for Waiver from Accessibility Requirements, for consideration by the Accessibility Advisory Council and the Florida Building Commission:

1. The application, signed by Architect William Lane of William Lane Architect, Inc. (AA14247) and by the undersigned as President of Sherbrooke Apts., Inc.
2. Review and Recommendation by Local Building Department.
3. March 14, 2011 letter from the Miami Beach Planning and Zoning Director, Richard Lorber.
4. A historic postcard showing the Sherbrooke and referencing the solarium on the reverse side.
5. The architectural drawing of the proposed rooftop deck modification showing the placement of the Solarium deck and second means of egress stairway to rooftop.
6. A photograph of the existing solarium area on the rooftop.

7. A photograph of the existing elevator tower and stairway egress.
8. A photograph of the existing rooftop condition facing east viewed from the current stairway access.
9. A survey of 901 Collins Avenue.
10. A photograph of the Sherbrooke at night.

A CD of this complete application and attachments will be included in the Federal Express package being sent today for delivery tomorrow.

Sincerely,

SHERBROOKE APTS., INC.

By: 

Mitch Novick, President

Enclosures

**Department of Community Affairs
FLORIDA BUILDING COMMISSION
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100**

NOTICE TO WAIVER APPLICANTS


Please make certain you comply with the following:

- X The person submitting the waiver request application as the Applicant **MUST** sign the application. Should you fail to do so, your application will be returned.
- X If a licensed design professional (architect or engineer) has designed the project, his or her comments **MUST** be included as a part of this application.
- X Be as explicit as possible. The more information provided to the Florida Building Commission, the more informed its decisions can be. If you are claiming financial hardship, please specify why and to what degree.
- X If at all possible, **PLAN TO ATTEND the Accessibility Advisory Council and the Florida Building Commission meetings**. Sometimes pertinent facts are inadvertently omitted, or information provided/presented in the Request for Waiver application is not clear. Your attendance at the meetings to answer questions will enhance the possibility of the waiver being approved, since the Council and the Commission will receive the most complete information – from you. When we receive the completed application, we will send you a notice of the time, date, and place for both the Council and the Commission meetings.

Enclosed is a **List of Required Information** and the **Request for Waiver** application.

If you have any questions or would like additional information, please call the Codes and Standards Section at (850) 487-1824.

Please mail this application to the Department of Community Affairs at the address above. **As well as a hard copy, please include a copy of the application and drawings or plans on a CD in PDF format. NOTE: Please do not send CAD files, but rather scan the CAD files and save as a pdf. Must be in Microsoft Compatible format.**

 NOTE: Failure to submit electronically will not have any bearing on whether your petition is heard by the Commission, however, electronic filing will facilitate the Commission's movement toward utilizing CD technology to display the waiver application and attached floor plans to the Counsel and Commission.

This application is available in alternate formats upon request.

LIST OF REQUIRED INFORMATION:

1. **ON CD** Drawings that will clearly present your project and that identify the issue(s) that relate to the waiver you are requesting. As a minimum, the following drawings must be submitted:
 - a. Project site plan
 - b. 24" x 36" minimum size drawings
 - c. Building/project sections (if necessary to assist in understanding the waiver request)
 - d. Enlarged floor plan(s) of the area in question
2. **NA** One set of reduced scale (11" x 17") versions of the drawings submitted in item one above.
3. **NA** One set of overhead transparencies (8 ½" x 11") of the drawings submitted in item one above. When numerous features are shown on the drawings, please designate the location of the waiver items by highlighting or outlining in color the affected areas.
4. **NA** When substantial financial cost of compliance is alleged, supporting cost estimates with quotes from at least two vendors or contractors and catalog information.
5. **ON CD** If you feel photographs and/or renderings are necessary for your presentation, provide 40 legible color photocopies of the photographs and/or renderings. If color photocopies of photographs are provided, use a minimum size of 4" x 6" photographs with a maximum of two photographs per photocopied page.
6. **RULES CHANGED- ON CD** Please submit a hard copy of this application to the Department of Community Affairs. PLEASE NOTE: Although not required by Rule 9B-7, F.A.C., in addition to the hard copy please include a copy of the application and drawings or plans on a CD in PDF format.

General Information:

- a. **Equipment:** A CD projector is provided at the Accessibility Advisory Council and Florida Building Commission meetings. Any other equipment necessary for your presentation, such as an overhead projector, TV/VCR, slide or LCD projectors, etc., is the responsibility of the applicant.
- b. **Verbal Descriptions:** Presentations may be to sight or hearing impaired persons; visual presentations should consider adequate verbal and text descriptions of charts and pictures.

Your application will be reviewed by the Accessibility Advisory Council. You will have the opportunity to answer questions and/or make a short presentation **not to exceed 15 minutes**. The Council will provide recommendations to the Florida Building Commission. The Commission will review the application. You will have another opportunity to answer questions and /or give a short presentation **not to exceed 15 minutes**. The Commission will consider all information and the Council's recommendation before voting on the waiver.

This application is available in alternate formats upon request.

**REQUEST FOR WAIVER FROM ACCESSIBILITY REQUIREMENTS
OF CHAPTER 553, PART V, FLORIDA STATUTES**

Your application will be reviewed by the Accessibility Advisory Council and its recommendations will be presented to the Florida Building Commission. You will have the opportunity to answer questions and/or make a short presentation, not to exceed 15 minutes, at each meeting. The Commission will consider all information presented and the Council's recommendation before voting on the waiver request.

1. Name and address of project for which the waiver is requested.

Name: Sherbrooke Apts.Inc. c/o Mitch Novick

Address: 901 Collins Avenue, Miami Beach, Florida 33139

2. Name of Applicant. If other than the owner, please indicate relationship of applicant to owner and written authorization by owner in space provided:

Applicant's Name: Sherbrooke Apts., Inc. c/o Mitch Novick

Applicant's Address:901 Collins Avenue, Miami Beach, Florida 33139

Applicant's Telephone: 305 532 0958 **FAX:** 305 532 1660

Applicant's E-mail Address: mitch@sherbrookehotel.com

Relationship to Owner: President: Sherbrooke Apts. Inc.

Owner's Name: same as above

Owner's Address: same as above

Owner's Telephone: same as above **FAX** same as above

Owner's E-mail Address: same as above

Signature of Owner: same as above

Contact Person: same as above

Contact Person's Telephone: same as above **E-mail Address:** same as above

This application is available in alternate formats upon request.

Form No. 2001-01

3. Please check one of the following:

[] New construction.

Addition to a building or facility.

Alteration to an existing building or facility.

Historical preservation (addition).

Historical preservation (alteration).

4. **Type of facility.** Please describe the building (square footage, number of floors). Define the use of the building (i.e., restaurant, office, retail, recreation, hotel/motel, etc.)

The 1948 historic Sherbrooke Apts./Hotel is a 3 story, 17,000 square foot structure with 33 apartment and hotel units restored to its original design and use.

5. **Project Construction Cost (Provide cost for new construction, the addition or the alteration):**

Preliminary Estimate of \$100,000.

6. **Project Status:** Please check the phase of construction that best describes your project at the time of this application. Describe status.

Under Design Under Construction*

In Plan Review Completed*

* Briefly explain why the request has now been referred to the Commission.

The rooftop solarium which consisted of a deck on the rooftop is being restored. To provide a second means of egress from the roof to meet life safety code requirements, the existing East stairway is also being extended to the rooftop. The Miami Beach Planning and Zoning Director has opined on March 14, 2011 that the Miami Beach Zoning Code, as applied to the project, would not allow the construction of an elevator landing on the roof level for the purpose of providing vertical accessibility for the users of the Solarium in addition to having access by two stairways. A copy of the March 14, 2011 letter is attached.

The Miami Beach Planning and Zoning Director determined that the existing floor area at the Sherbrooke now exceeds the permissible floor area allowed under the current zoning code. The zoning code requires the inclusion of the proposed extended elevator shaft in the calculation of permissible floor area under FAR zoning requirements. Therefore, the adding of additional floor area necessary for the elevator to have a stop on the roof would exceed the permissible floor area allowed. Further, the Miami Beach Planning and Zoning Director determined that the Miami Beach City Code does not allow variances for FAR. Thus, he opined that the Sherbrooke could not build an elevator stop for the roof under any circumstances.

7. **Requirements requested to be waived.** Please reference the applicable section of Florida law. Only Florida-specific accessibility requirements may be waived.

Issue

1: Whether the Florida Statute Sec. 553.509(1) and 2007 FBC 11-4.1.6 (iii)(1)(f) requiring vertical accessibility to the roof top level may be waived when the alterations involving the restoration of an historic solarium and the addition of a second means egress by adding stairway are completed.

Issue

2: _____

Issue

3: _____

8. Reason(s) for Waiver Request: The Florida Building Commission may grant waivers of Florida-specific accessibility requirements upon a determination of unnecessary, unreasonable or extreme hardship. Please describe how this project meets the following hardship criteria. Explain all that would apply for consideration of granting the waiver.

[X] The hardship is caused by a condition or set of conditions affecting the owner which does not affect owners in general.

The Miami Beach zoning code and City Charter prohibit variances to allow for construction that exceeds the Floor Area Ratio under the zoning district regulations. The elevator stop to add vertical accessibility to the rooftop solarium would require the extension of the elevator shaft to the roof. Under the Miami Beach zoning code, elevator shafts are included in Floor Area Ratio calculations. The existing building currently exceeds the existing Floor Area Ratio limits because the zoning district in which it is located was down zoned after the building was constructed. Therefore, this legal, but non-conforming, building cannot add any additional structure which would increase the Floor Area Ratio of the building. As a result, the elevator stop cannot be added to the rooftop because the extension of the elevator shaft would increase the Floor Area Ratio. Thus, as a result of this hardship, a waiver of vertical accessibility is requested in order for the Sherbrooke to restore its historic solarium and add the secondary means of egress stairway.

A March 14, 2011 letter from the Miami Beach Planning and Zoning Director confirms that the existing floor area at the Sherbrooke now exceeds the permissible floor area allowed under the current zoning code. The zoning code requires the inclusion of the proposed elevator shaft in the calculation of permissible FAR. Therefore, the adding of additional floor area necessary for the elevator to have a stop on the roof would exceed the permissible floor area allowed. Further, the Miami Beach Planning and Zoning Director determined that the Miami Beach City Code does not allow variances for FAR. Thus, the Miami Beach Planning and Zoning Director opined that the Sherbrooke could not build an elevator stop for the roof under any circumstances.

[] Substantial financial costs will be incurred by the owner if the waiver is denied.

[] The owner has made a **diligent investigation** into the costs of compliance with the code, but cannot find an efficient mode of compliance. Provide detailed cost estimates and, where appropriate, photographs. Cost estimates must include bids and quotes.

9. **Provide documented cost estimates for each portion of the waiver request and identify any additional supporting data which may affect the cost estimates.** For example, for vertical accessibility, the lowest documented cost of an elevator, ramp, lift or other method of providing vertical accessibility should be provided, documented by quotations or bids from at least two vendors or contractors.

a. NOT APPLICABLE AS SPECIAL CIRCUMSTANCES OF BUILDING DO NOT ALLOW THE CONSTRUCTION OF AN ELEVATOR TO STOP AT THE ROOFTOP AS EXPLAINED ABOVE.

b. _____

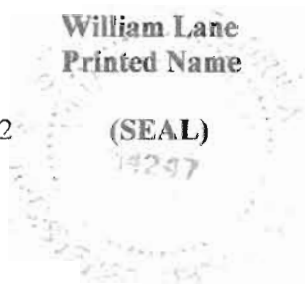
c. _____

10. **Licensed Design Professional:** Where a licensed design professional has designed the project, his or her comments **MUST** be included and certified by signature and affixing of his or her professional seal. The comments must include the reason(s) why the waiver is necessary.

The adding of additional floor area necessary for the elevator to have a stop on the roof would exceed the permissible floor area allowed under the Miami Beach City Code. The Miami Beach City Code does not allow variances for FAR. The Sherbrooke could not build an elevator stop for the roof under any circumstances. See March 14, 2011 from Miami Beach Planning and Zoning Director Letter.

William Lane Architect, Inc.

W. Lane
Signature



Phone number _ (305) 531-5292

AA 14247

4.27.11

CERTIFICATION OF APPLICANT:

I hereby swear or affirm that the applicable documents in support of this Request for Waiver are attached for review by the Florida Building Commission and that all statements made in this application are to the best of my knowledge true and correct.

Dated this 26th day of APRIL, 2011



Signature

Mitch Novick, President Sherbrooke Apts., Inc.
Printed Name

By signing this application, the applicant represents that the information in it is true, accurate and complete. If the applicant misrepresents or omits any material information, the Commission may revoke any order and will notify the building official of the permitting jurisdiction. Providing false information to the Commission is punishable as a misdemeanor under Section 775.083, Florida Statutes.

REVIEW AND RECOMMENDATION BY LOCAL BUILDING DEPARTMENT.

Please state why the issue is being referred to the Florida Building Commission as well as a recommendation for disposition. The Building Official or his or her designee should review the application and indicate that to the best of his or her knowledge, all information stipulated herein is true and accurate. Further, if this project is complete, explain why it is being referred to the Commission. The Building Official or his or her designee should sign a copy of the plans accompanying this application as certification that such plans are the same as those submitted for building department review. Please reference the applicable section of the Accessibility Code.

a. Florida statutes 553.509 Vertical Accessibility to all levels requirement. / 2007 FBC 11-4.1.6(1)(f)

b. _____

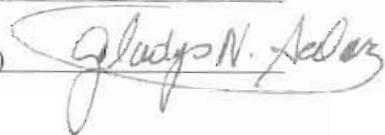
c. _____

Has there been any permitted construction activity on this building during the past three years? If so, what was the cost of construction?

Yes No Cost of Construction: According to the owner, Mr. Mitch Novick, the cost of doing the roof solarium is estimated to be \$100,000.00.

Comments/Recommendation: Prior to submit a permit drawings Mr. Novick met with us to discuss accessibility requirements to build a new roof solarium. We advice that he will need to comply with the vertical accessibility requirement or obtain a waiver from the Florida Building commission. Since the estimated cost of extending the elevator to the roof will be disproportionate to the cost of construction we recommend that the waiver be granted.

Jurisdiction City Of Miami Beach

Building Official or Designee Gladys N. Salas, PE (B.O. Designee)
Signature 

Gladys N. Salas, PE
Printed Name

PX0001401
Certification Number

305-673-7610 ext. 6888/ 786-394-4087
Telephone/FAX

Address: 1700 Convention Center Dr. Miami Beach, FL 33139, 2ND Floor.



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139. www.miamibeachfl.gov

PLANNING DEPARTMENT
Tel: 305-673-7550, Fax: 305-673-7559

March 14, 2011

Mitch Novick
President, Sherbrooke Hotel & Apartments
901 Collins Avenue
Miami Beach, FL 33139

RE: Sherbrooke Hotel & Apartments – Accessibility Waiver Application
901 Collins Avenue, Miami Beach FL 33139

Dear Mr. Novick:

I am writing to you in reference to the accessibility waiver application for 901 Collins Avenue, which consists of an existing three story building located in Miami Beach, Florida. The subject 3-story structure, which was designed by Mackay & Gibbs and constructed in 1947, is classified as a 'Contributing' building in the Miami Beach Historic Properties Database and is located within the Ocean Drive / Collins Avenue Local Historic District and the National Register Architectural District. The subject structure is a qualified historic building under the federal ADA regulations, the ADA Accessibility Guidelines (ADAAG) and Chapter 11 of the Florida Building Code.

According to City records, the building contains a lobby on the first floor along with apartment and hotel units. Apartment and hotel units are also located on the second and third floors. An elevator in the lobby area, along with a stairwell at both the east and west ends of the building provide vertical access throughout the first, second and third floors.

The subject property is zoned MXE (Mixed-Use Entertainment) which allows a maximum Floor Area Ratio (F.A.R.) of 2.0. In reviewing plans on file with the City, along with a recent survey, the subject property contains 7,000 square feet, and the size of the existing building is approximately 17,700 square feet. Because, as per City Code, the maximum F.A.R. (the maximum size of a building on the property) is 14,000 square feet, the current structure exceeds the maximum square footage that can be constructed on the property by approximately 3,700 square feet. As the property is considered 'nonconforming' with regard to F.A.R., no square footage which is considered part of the F.A.R. can be added to the subject building. A nonconforming building or structure means a building or structure or portion thereof which was designed, erected or structurally altered prior to the effective date of the land development regulations in such a manner that characteristics of the building or structure, other than its use, do not comply with the restrictions of these land development regulations.

As you have indicated, the building is about to undergo a proposed alteration that is the subject of the waiver application. Included in this alteration is the construction of a new roof-top deck to restore the use of a Solarium at the roof level. Currently, the only means of access to the roof-top deck is from the stairwell located at the west end of the building. The stairwell on the east end of the building is proposed to be extended upward to access the roof deck in order to provide a second means of egress. As long as this extended stair is open to the sky, with no roof enclosure, this extension would not constitute additional square footage and thus would not be calculated in the F.A.R. for the building. However, the extension of the elevator vertically to

create a stop at the roof level would constitute additional square footage to be counted in the F.A.R. for the property. Accordingly, as is the case with any construction that is not exempt from the F.A.R. requirements of the City Code, such construction would not be permitted. Further, the City Code does not allow variances to exceed the maximum F.A.R.

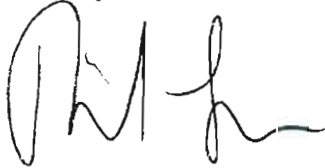
As per Section Sec. 118-395(b)(2)(c) of the City Code (**Repair and/or rehabilitation of nonconforming buildings and uses**):

"The entire building and any new addition shall comply with the current development regulations in the zoning district in which the property is located. No new floor area may be added if the floor area ratio is presently at maximum or exceeded."

The City has a long history of supporting accessible facilities and has always worked with property owners to be able to provide accessibility in historic properties in a manner that preserves the historic experience for both the disabled and non-disabled members of the public and this building is no exception. However, due to the F.A.R. issues outlined above, an elevator stop at the roof-top level could not be permitted on the subject structure.

If you should have any questions regarding the zoning or historic characteristics and attributes of the property, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Lorber', written in a cursive style.

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



SHERBROOKE HOTEL APARTMENTS

901 Collins Ave.—Cor. 9th St.
Miami Beach, Florida
Phone JE 8-7242

Modern 100% air-cooled, 3-room Efficiencies, Elevator, Complete Hotel Service, Phone in each Apt. Solarium, Television & Card Room. Centrally located. Ocean bathing from your apartment.

SK941G

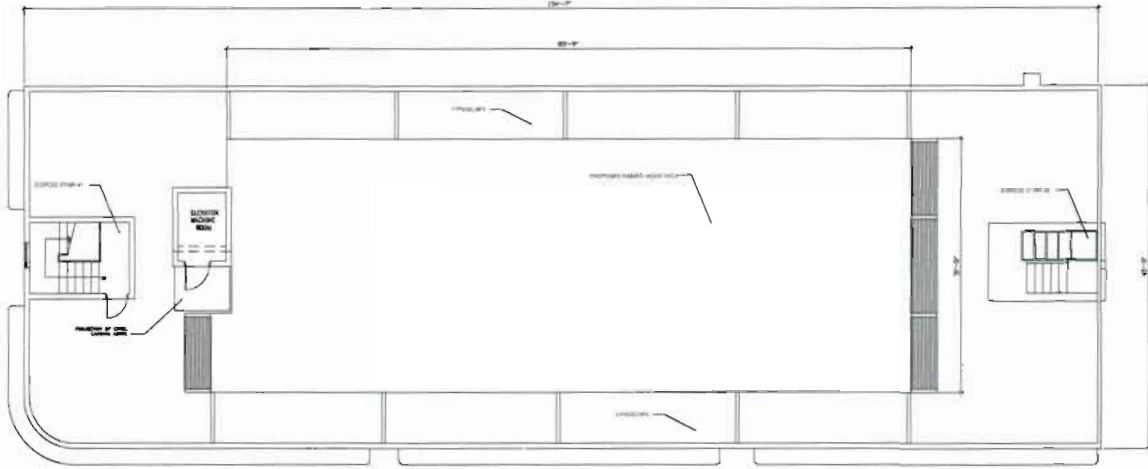
A "MiniColor" by "Colourpicture", Boston 15, Mass., U.S.A.

PLACE
STAMP
HERE

POST CARD

3-3

Mitch Novick P69918 #3 10070



ROOF DECK PLAN
 1/4" = 1'-0"

WILLIAM LANE ARCHITECT, INC.
 901 COLLINS AVENUE, SUITE 1000
 MIAMI BEACH, FL 33139
 P: 305.531.5000
 F: 305.531.5001
 E: WLA@WLA.COM

SHERBROOKE APTS, INC.
 ROOF DECK MODIFICATION
 901 COLLINS AVENUE
 MIAMI BEACH, FL 33139

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	08/14/18
2	ISSUED FOR PERMIT	08/14/18
3	ISSUED FOR PERMIT	08/14/18
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50	ISSUED FOR PERMIT	08/14/18

DATE: 08/14/18
 DRAWN: J. L. SMITH
 CHECKED: J. L. SMITH
 PROJECT: SHERBROOKE APTS, INC.
 ROOF DECK MODIFICATION
 ROOF DECK PLAN

A-1



