

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: July 02, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB19-0392  
**1201 20<sup>th</sup> Street, Unit 404**

**DRB19-0392, 1201 20<sup>th</sup> Street—Palau Condominium Penthouse 04.** An application has been filed requesting Design Review Approval for exterior alterations to an existing five-story building including exterior design modifications to an existing private outdoor rooftop terrace, including new decking, new shade structures, a new stairwell bulkhead, new outdoor cooking areas, landscaping and installation of additional outdoor features, and including the deletion of conditions of the original Final Order, in order to accommodate the exterior improvements to the rooftop penthouse deck and to permit outdoor cooking and to allow other Penthouse owners and the Palau Sunset Harbor Condominium Association to do similar rooftop improvements, subject to staff review and approval, and permit outdoor cooking. This item was originally approved in 2012, pursuant to DRB File No. 22889.

#### **RECOMMENDATION:**

Approval of the design

#### **LEGAL DESCRIPTION:**

See attached Exhibit 'A'

#### **EXISTING STRUCTURE:**

The subject building, known as Palau, was originally approved by the Design Review Board on October 02, 2012, pursuant to DRB File No. 22889.

#### **SITE DATA:**

Zoning: CD-2  
Future Land Use: CD-2  
Lot Size: 54,765 SF  
Existing FAR : 108,269 SF / 1.98  
Proposed FAR: 109,100 SF / 1.98  
Existing Height: Penthouse Level 46'-4"

Proposed Height: Penthouse Deck 46'-8"

Proposed Height of Encroachment: 54'-8"

#### **SURROUNDING PROPERTIES:**

North: Waterway/ Sunset Island residences

South: Commercial

West: Townhomes At Sunset Harbour

East: Residences

Existing uses: Mixed-Use – 50 Residential Units, 11,325 S.F. of Commercial Space, and 153 parking spaces (140 required)

#### **THE PROJECT:**

The applicant has submitted plans entitled "Nahmad Residence Roof Terrace" as designed by **blue a design company, inc.**, signed, sealed, and dated May 04, 2019.

The applicant is requesting Design Review Approval for exterior design modifications to an existing private outdoor rooftop terrace, including new decking, new shade structures, landscaping and installation of additional outdoor features. The proposed modifications require the deletion and modification of the following conditions of the original final order:

Deletion of Condition B.4.c.

*The roof top, including any canopies, and stairwell or elevator bulkheads, shall be further developed and detailed to include any and all such elements that may be proposed above the main roof level, and shall be lowered in height to the extent possible, not to exceed a clear height of 8'-6" between any finished floor and the underside of the roof slab structure above, subject to the review and approval of staff. No roof-top elements that are not explicitly shown on the roof plans and elevations presented to the Board shall be approved at a later date by staff.*

Modification of Condition B.13.b.vi.

*Outdoor cooking anywhere on the premises is prohibited, except rooftop terraces of the penthouse units and the Association's rooftop pool deck. Kitchen and other cooking odors from non-rooftop terraces and the Association's non-rooftop pool deck will be contained within the premises. All kitchens and other venting shall be chased to the roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.*

**COMPLIANCE WITH ZONING CODE**

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the City Code. The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**CONSISTENCY WITH COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **residential use** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan.

**COMPLIANCE WITH DESIGN REVIEW CRITERIA:**

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Not Applicable**
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Satisfied**
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.  
**Satisfied**

4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.  
**Satisfied**
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.  
**Satisfied**
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.  
**Satisfied**
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.  
**Satisfied**
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.  
**Not Applicable**
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.  
**Not Satisfied; a lighting plan has not been submitted.**
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.  
**Satisfied**
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.  
**Not Satisfied**
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

**Satisfied**

13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Not Applicable**

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Not Applicable**

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

**Satisfied**

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

**Not Applicable**

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

**Not Applicable**

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.

**Not Applicable**

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

**Satisfied**

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

1. A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Applicable**
2. Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not Applicable**

3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Not Applicable**
4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.  
**Satisfied**
5. Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.  
**Not Applicable**
6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.  
**Not Applicable**
7. Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.  
**Not Applicable**
8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.  
**Not Applicable**
9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.  
**Not Applicable**
10. Where feasible and appropriate, water retention systems shall be provided.  
**Not Applicable**

**STAFF ANALYSIS:**  
**DESIGN REVIEW**

The applicant is proposing exterior design modifications to an existing rooftop terrace at one of the penthouse units (unit 404) for 'Palau Condominium', a five-story residential building approved by the Design Review Board on October 2, 2012, pursuant to DRB File No. 22889. As part of the exterior improvements to the private rooftop penthouse deck, the applicant is proposing to modify two conditions of the original Final Order, to permit additional rooftop projecting elements and to allow outdoor cooking. Specifically, the following is proposed:

1. Deletion of Condition B.4.c.  
*The roof top, including any canopies, and stairwell or elevator bulkheads, shall be further developed and detailed to include any and all such elements that may be proposed above the main roof level, and shall be lowered in height to the extent possible, not to exceed a clear height of 8'-6" between any finished floor and the underside of the roof slab structure above, subject to the review and approval of*



*staff. No roof-top elements that are not explicitly shown on the roof plans and elevations presented to the Board shall be approved at a later date by staff.*

2. Modification of Condition B.13.b.vi.

*Outdoor cooking anywhere on the premises is prohibited, except rooftop terraces of the penthouse units and the Association's rooftop pool deck. Kitchen and other cooking odors from non-rooftop terraces and the Association's non-rooftop pool deck will be contained within the premises. All kitchens and other venting shall be chased to the roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.*

Palua is a contemporary waterfront residential building containing ground floor retail and 50 residential units. Parking is provided at the first floor and part of the second floor in the center of the project. Residential units are located on the upper four (4) floors, with a central landscaped courtyard provided above the parking garage, surrounded by residential units. A common pool and pool deck, as well as private roof-top terraces are also part of the approved project.

There are a total of eight penthouse units with private roof terraces; two face 20<sup>th</sup> Street, two face Sunset Drive, and four face the Sunset Islands waterway. The subject application is the largest of the eight, and is situated at the NE corner roof terrace unit fronting both Sunset Islands waterway and 20<sup>th</sup> Street. None of the four penthouse units facing Sunset Islands waterway currently have private vertical access directly from the interior of the units below.



Access to the subject property's rooftop is currently gained through a common stair and outdoor corridor that lines the south edge of the private terrace and leads to the communal pool and amenity deck at a higher level.

The original Palau development had a contentious path to its final approval. One of the more sensitive aspects of the discussions between the development team and the neighboring residents from the Sunset Islands was the reduction of the overall mass, height and encroachment elements on the line of sight from Sunset Island 4. The final approved plans



contained roof-top elements that had been further setback from the north elevation of the building, substantially reducing their visibility as viewed from the rear yards of the residential properties on Sunset Island 4.



The applicant is proposing to improve the existing 4,000 SF private rooftop terrace with new finishes, including new wood decking, artificial grass covering. The applicant is also proposing built-in cabinetry, a covered wood trellis with retractable sun shade, dumbwaiter, outdoor kitchen furniture, as well as a planter with expansive landscaping with salt tolerant and native Florida species. The perimeter northeast edge will be improved with a 2'-0" high continuous white fiberglass planter along the existing glass railing that will provide much needed landscaping on the barren rooftop. Most significantly, the applicant is proposing a new private enclosed stair that will lead directly from the interior of the penthouse to the roof.

Condition B.4.c. of the 2012 Final Order prohibits any new roof-top elements that were not explicitly shown on the approved roof plans and elevations. As such, the applicant seeks to delete this condition in order to modify the private terrace and introduce the proposed stair bulkhead, the dumbwaiter, trellis, and kitchen apparatus. The proposed dumbwaiter and exterior cabinetry and kitchen equipment is 3'-8" high, the proposed trellis is 8'-4" high and the new stairwell bulkhead is 8'-6". With the exception of the continuous edge planter, all of the projecting elements have been configured as far away from the north edge of the building as possible, in an effort to minimize any new projecting profile in a line of sight.

The building is under the maximum height permitted for the zoning district, and all of the projecting encroachments above the maximum height are allowable height exceptions. Staff is sensitive to and considered the analysis and recommendations in the original approval, which resulted in the conditions of the current final order. However, as buildings and neighborhoods evolve, staff is also open to new proposals and revisions for previously approved projects. In this regard, staff toured the entire property, including the subject rooftop terrace and we have concluded that the modifications proposed herein due not adversely affect the design vision of the original architecture and will not negatively impact any surrounding properties. As such, staff recommends that the design of the rooftop terrace be approved and the conditions of the original final order be amended as proposed.

#### **RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and Sea Level Rise criteria.

**Exhibit A - Legal Description**  
**1201 20th Street**  
**Miami Beach, FL**

**Condominium:**

All of Lots 22, 23 and 24, and the North 70.00 feet of Lots 25 and 26 in Block 15A of "ISLAND VIEW ADDITION" according to the plat thereof recorded in Plat Book 9, Page 144, of the Public Records of Miami—Dade County, Florida.

AND:

That portion of upland adjoining Lots 22 through 26, Block 15-A, of "ISLAND VIEW ADDITION" according to the plat thereof as recorded in Plat Book 9, Page 144, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Lot 22, Block 15-A; thence North 09°18'22" West along the East line of said Lot 22 for 228.50 feet to the Northeast corner of said Lot 22 and the Point of Beginning of the hereinafter described upland parcel of land, said point also being a point on a circular curve, concave to the Northwest and whose radius point bears North 16°48'30" West; thence Southwesterly along the Northerly line of said Lots 22 and 23 being a 675.00 foot radius curve, leading to the right, through a central angle of 11°05'59" for an arc distance of 130.77 feet to a point on a non-tangent line, said point being the Northwest corner of said Lot 23; thence West along said North lines of said Lots 24, 25 and 26, for 195 feet to the Northwest corner of said Lot 26; thence North along the Northerly extension of the West line of said Lot 26, for 3.00 feet to the Mean High Water Line, as located on October 18, 2011; the following 10 courses following said Mean High Water Line; (1) thence North 88°55'29" East for 28.76 feet; (2) thence North 85°49'32" East for 7.87 feet; (3) thence North 89°01'45" East for 75.86 feet; (4) thence North 89°07'14" East for 71.58 feet; (5) thence North 85°29'42" East for 68.93 feet; (6) thence North 86°27'11" East for 6.16 feet; (7) thence South 12°58'09" East for 0.50 feet; (8) thence North 79°20'39" East for 5.84 feet to a point of curvature; (9) thence Northeasterly along a 277.00 foot radius curve, leading to the left, through a central angle of 10°53'54" for an arc distance of 52.69 feet to a point of tangency; (10) thence North 68°26'45" East for 7.52 feet to a point on the Northerly extension of the East line of said Lot 22; thence South 09°18'22" East along said Northerly extension for 4.81 feet to said Northeast corner of Lot 22 and the Point of Beginning.

**Unit PH 04:**

Condominium Unit No. PH04, of PALAU SUNSET HARBOR, A CONDOMINIUM, together with an undivided Interest in the common elements, according to the Declaration of Condominium thereof, recorded July 27, 2016, in Official Records Book 30168, at Page 4010, of the Public Records of Miami-Dade County, Florida.



**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: July 02, 2019

FILE NO: DRB19-0392 (aka DRB File No. 22889)

PROPERTY: **1201 20<sup>th</sup> Street, Unit 404**

APPLICANT: Aaron and Erica Nahmad

LEGAL: See Exhibit 'A'

IN RE: The application has been filed requesting Design Review Approval for exterior alterations to an existing five-story building including exterior design modifications to an existing private outdoor rooftop terrace, including new decking, new shade structures, a new stairwell bulkhead, new outdoor cooking areas, landscaping and installation of additional outdoor features, and including the deletion of conditions of the original Final Order, in order to accommodate the exterior improvements to the rooftop penthouse deck and to permit outdoor cooking and to allow other Penthouse owners and the Palau Sunset Harbor Condominium Association to do similar rooftop improvements, subject to staff review and approval, and permit outdoor cooking. This item was originally approved in 2012, pursuant to DRB File No. 22889.

**SUPPLEMENTAL ORDER**

The City of Miami Beach Design Review Board 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 record for this matter:

**I. Design Review Approval**

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/or Section 133-50(a) if the following conditions are met:

1. All of the original conditions of approval by this Board shall remain in full force and effect under the Final Order dated October 02, 2012 for DRB File No. 22889 except as modified herein:

Condition B.4.c.

~~The roof top, including any canopies, and stairwell or elevator bulkheads, shall be further developed and detailed to include any and all such elements that may be proposed above the main roof level, and shall be lowered in height to the extent possible, not to exceed a clear height of 8'-6" between any finished floor and the underside of the roof slab structure above, subject to the review and approval of staff. No roof-top elements that are not explicitly shown on the roof plans and elevations presented to the Board shall be approved at a later date by staff.~~

Condition B.13.b.vi.

Outdoor cooking anywhere on the premises is prohibited, except rooftop terraces of the penthouse units and the Association's rooftop pool deck. Kitchen and other cooking odors from non-rooftop terraces and the Association's non-rooftop pool deck will be contained within the premises. All kitchens and other venting shall be chased to the roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.

2. Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
  - a. The final design and details of the proposed pergola/shade structures shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - b. The final design and details of the proposed exterior lighting shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - c. The final design and details of the proposed new planters, decking, and materials and finishes shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - d. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
  - e. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
  - a. The final landscape selection, which shall include increasing the overall installed size for portions of the landscaping, location, quantity, and specifications of all existing and proposed new landscaping, shall be required, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - b. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

**In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission.**

## **II. Variance(s)**

- A. No variance(s) were filed as part of this application.

## **III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.**

- A. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- B. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- E. The Final 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.

- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. 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.

IT IS HEREBY 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 are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Nahmad Residence Roof Terrace" as designed by **blue a design company, inc.**, signed, sealed, and dated May 04, 2019, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.



Filed with the Clerk of the Design Review Board on \_\_\_\_\_ ( )

**Exhibit A - Legal Description**  
**1201 20th Street**  
**Miami Beach, FL**

**Condominium:**

All of Lots 22, 23 and 24, and the North 70.00 feet of Lots 25 and 26 in Block 15A of "ISLAND VIEW ADDITION" according to the plat thereof recorded in Plat Book 9, Page 144, of the Public Records of Miami—Dade County, Florida.

AND:

That portion of upland adjoining Lots 22 through 26, Block 15-A, of "ISLAND VIEW ADDITION" according to the plat thereof as recorded in Plat Book 9, Page 144, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Lot 22, Block 15-A; thence North 09°18'22" West along the East line of said Lot 22 for 228.50 feet to the Northeast corner of said Lot 22 and the Point of Beginning of the hereinafter described upland parcel of land, said point also being a point on a circular curve, concave to the Northwest and whose radius point bears North 16°48'30" West; thence Southwesterly along the Northerly line of said Lots 22 and 23 being a 675.00 foot radius curve, leading to the right, through a central angle of 11°05'59" for an arc distance of 130.77 feet to a point on a non-tangent line, said point being the Northwest corner of said Lot 23; thence West along said North lines of said Lots 24, 25 and 26, for 195 feet to the Northwest corner of said Lot 26; thence North along the Northerly extension of the West line of said Lot 26, for 3.00 feet to the Mean High Water Line, as located on October 18, 2011; the following 10 courses following said Mean High Water Line; (1) thence North 88°55'29" East for 28.76 feet; (2) thence North 85°49'32" East for 7.87 feet; (3) thence North 89°01'45" East for 75.86 feet; (4) thence North 89°07'14" East for 71.58 feet; (5) thence North 85°29'42" East for 68.93 feet; (6) thence North 86°27'11" East for 6.16 feet; (7) thence South 12°58'09" East for 0.50 feet; (8) thence North 79°20'39" East for 5.84 feet to a point of curvature; (9) thence Northeasterly along a 277.00 foot radius curve, leading to the left, through a central angle of 10°53'54" for an arc distance of 52.69 feet to a point of tangency; (10) thence North 68°26'45" East for 7.52 feet to a point on the Northerly extension of the East line of said Lot 22; thence South 09°18'22" East along said Northerly extension for 4.81 feet to said Northeast corner of Lot 22 and the Point of Beginning.

**Unit PH 04:**

Condominium Unit No. PH04, of PALAU SUNSET HARBOR, A CONDOMINIUM, together with an undivided Interest in the common elements, according to the Declaration of Condominium thereof, recorded July 27, 2016, in Official Records Book 30168, at Page 4010, of the Public Records of Miami-Dade County, Florida.

**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: July 02, 2019

FILE NO: 22889

PROPERTY: 1201-1237 20th Street Palau at Sunset Harbor

LEGAL: All of Lots 22, 23, and 24, and the north 70 feet of Lots 25 and 26 in Block 15A of "Island View Addition" According to the Plat Thereof, as Recorded in Plat Book 9, Page 144, of the Public Records of Miami-Dade County, Florida.

IN RE: The application has been filed requesting Design Review Approval for exterior alterations to an existing five-story building including exterior design modifications to an existing private outdoor rooftop terrace, including new decking, new shade structures, a new stairwell bulkhead, new outdoor cooking areas, landscaping and installation of additional outdoor features, and including the deletion of conditions of the original Final Order, in order to accommodate the exterior improvements to the rooftop penthouse deck and to permit outdoor cooking and to allow other Penthouse owners and the Palau Sunset Harbor Condominium Association to do similar rooftop improvements, subject to staff review and approval, and permit outdoor cooking. This item was originally approved in 2012, pursuant to DRB File No. 22889.

**MODIFIED ORDER**

The applicant, Palau Sunset Harbor, LLC., filed an application with the City of Miami Beach Planning Department for Design Review Approval.

The City of Miami Beach Design Review Board 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 record for this matter:

- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is consistent with the Design Review Criteria in Section 118-251 of the Miami Beach Code.
- B. The project would remain consistent with the criteria and requirements of section 118-251 if the following conditions are met:
  - 1. The applicant shall comply with City Code section 118-5 by executing and recording in the public records a unity of title or covenant in lieu, subject to the approval of the City Attorney, combining the lots comprising the subject property, before submitting its application for a building permit.
  - 2. The applicant shall execute and record in the public records of Miami-Dade County an easement providing for public access between the hours of sunrise and sunset, over its waterfront walkway, subject to the approval of the City Attorney, prior to the issuance of a Building Permit for the proposed project.

3. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
4. Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
  - a. The drive aisle on the north side of the site shall be reduced from 23'-10" to 22'-0" in width, and the entire garage structure, along with adjoining steps to the residential terraces above shall be setback an additional 1'-10" from the north property line, and the additional area landscaped in a manner to be reviewed and approved by staff.
  - b. The final design and details, including materials, finishes, glazing, railings, and any architectural projections and features, shall be provided in a manner to be reviewed and approved by staff.
  - c. ~~The roof top, including any canopies, and stairwell or elevator bulkheads, shall be further developed and detailed to include any and all such elements that may be proposed above the main roof level, and shall be lowered in height to the extent possible, not to exceed a clear height of 8'-6" between any finished floor and the underside of the roof slab structure above, subject to the review and approval of staff. No roof-top elements that are not explicitly shown on the roof plans and elevations presented to the Board shall be approved at a later date by staff.~~
  - d. The final design and details, including landscaping, walkways, fences, and architectural treatment of west elevation facing the former bank building, shall be provided, in a manner to be reviewed and approved by staff.
  - e. The applicant shall engage a soils engineer to evaluate the former Mark's Cleaners site for possible chemicals contamination, shall provide such report to staff, and shall take any and all necessary action to decontaminate the site, if necessary.
  - f. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view, in a manner to be approved by staff.
  - g. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
5. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and



subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:

- a. The plaza at the northeast corner of the site shall be further studied and enlarged to improve its visibility and functionality, and shall be added to the waterfront walkway easement for public access, subject to the review and approval of staff.
- b. Irrigation, uplighting and the City's standard bound aggregate system with fertilization trench may be required for all street trees located within the sidewalk, subject to the review and approval of staff.
- c. Along the north elevation in the areas where the stairway access to the first level of residential units is not in conflict with the partially underground parking, such stairs shall be relocated to be in-set into the terraces in order to increase the available landscape area for at-grade landscaping in the common outdoor area.
- d. The applicant shall further study and prepare plans, including cross sections, for the transition area from the Sunset Isle bridge approach to the project plaza at the northeast corner of the site. These plans should also include the public access corridor to the canal walk, which may be required by the County's Shoreline Review Board.
- e. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- f. The utilization of root barriers and/or structural soil, as applicable, shall be clearly delineated on the revised landscape plan.
- g. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures; such fixtures and devices shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of backflow preventors, siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- h. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms; such transformers and vault rooms, and all other related devices and fixtures, shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of any exterior transformers, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- i. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

6. All building signage shall be consistent in type, composed of flush mounted, non-plastic individual letters and shall require a separate permit. No illuminated signage shall be permitted facing north.
7. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
8. A traffic mitigation plan, which addresses all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, if required, shall be submitted prior to the issuance of a Building Permit and the final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
9. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required, prior to the issuance of a building permit.
10. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view, in a manner to be approved by staff.
11. All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC).
12. The applicant may be required to submit a separate analysis for water and sewer requirements, at the discretion of the Public Works Director, or designee. Based on a preliminary review of the proposed project, the following may be required by the Public Works Department:
  - a. A traffic and neighborhood impact study shall be conducted as a means to measure a proposed development's impact on transportation and neighborhoods. The study shall address all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, and if required, shall be submitted prior to the issuance of a Building Permit. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code. The developer shall refer to the most recent City of Miami Beach's Traffic and Neighborhood Impact Methodology as issued by the Public Works Department.
  - b. Remove/replace sidewalks, curbs and gutters on all street frontages, if applicable. Unless otherwise specified, the standard color for city sidewalks is red, and the standard curb and gutter color is gray.
  - c. Mill/resurface asphalt in rear alley along property, if applicable.
  - d. Provide underground utility service connections and on-site transformer location, if necessary.
  - e. Provide back-flow prevention devices on all water services.
  - f. Provide on-site, self-contained storm water drainage for the proposed development.

- g. Meet water/sewer concurrency requirements including a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.
  - h. Payment of City utility impact fees for water meters/services.
  - i. Provide flood barrier ramps to underground parking or minimum slab elevation to be at highest adjacent crown road elevation plus 8".
  - j. Right-of-way permit must be obtained from Public Works.
  - k. All right-of-way encroachments must be removed.
  - l. All planting/landscaping in the public right-of-way must be approved by the Public Works and Parks Departments.
13. The Applicant agrees to the following operational conditions for all permitted uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment.
- a. NOISE CONDITIONS
    - i. No commercial outdoor bar counters shall be permitted on the premises.
    - ii. The Design Review Board (DRB) or the Planning Director shall retain the right to call the owners and/or operators back before the DRB, at the expense of the owners and/ or operators, to impose and/or modify the hours of operation, or amend or impose other conditions, should there be a valid violation (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise or other conditions of this approval. An adverse adjudication of a violation against the owner or operator is not necessary for the board to have jurisdiction over the matter under this condition. This condition vests jurisdiction independent of any other condition hereof.
    - iii. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended, shall be deemed a violation of this approval and subject the approval to modification in accordance with the procedures for modification of prior approvals as provided for in the Code, and subject the applicant to the review provided for in the first sentence of this subparagraph.

- iv. Except as may be required for fire or building code/Life Safety Code purposes, no loudspeakers shall be affixed to or otherwise located on the exterior of the premises.
- v. No outdoor live music shall be permitted at any time, inclusive of percussion, musical instrument, or vocal.
- vi. Entertainment establishments, as well as dance halls, as defined in the Miami Beach City Code, shall be prohibited, and the applicant will not seek permits therefore.
- vii. Special events pursuant to the Miami Beach City Code may not be held on the premises and the applicant agrees that it will not seek or authorize applications for such permits.

b. OPERATIONAL CONDITIONS

- i. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
- ii. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
- iii. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that no more than one pick up of garbage per day will be necessary.
- iv. Garbage dumpster covers shall be closed at all times except when in active use.
- v. Garbage pickups and service deliveries shall not take place between 6PM and 8AM.
- vi. *Outdoor cooking anywhere on the premises is prohibited, except rooftop terraces of the penthouse units and the Association's rooftop pool deck. Kitchen and other cooking odors from non-rooftop terraces and the Association's non-rooftop pool deck will be contained within the premises. All kitchens and other venting shall be chased to the roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.*
- vii. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.

- 14. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy.



15. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
16. At the time of completion of the project, only a **Final** Certificate of Occupancy (CO) or **Final** Certificate of Completion (CC) may be applied for; the staging and scheduling of the construction on site shall take this into account. All work on site must be completed in accordance with the plans approved herein, as well as any modifications approved or required by the Building, Fire, Planning, CIP and Public Works Departments, inclusive of all conditions imposed herein, and by other Development Review Boards, and any modifications required pursuant to field inspections, prior to the issuance of a CO or CC. This shall not prohibit the issuance of a Partial or Temporary CO, or a Partial or Temporary CC.
17. The Final 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 conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
19. 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.

IT IS HEREBY 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 are adopted herein, including the staff recommendations which were adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-19, inclusive) hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Design Review Board, as determined by staff, entitled "Palau at Sunset Harbour", as prepared by Kobi Karp Architecture, Interior Design & Planning, dated August 2012, modified in accordance with the conditions set forth in this Order and staff review and approval.

No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance as set forth in this Order have been met. The issuance of Design Review Approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original Design Review Approval was granted, the Design Review Approval will expire and become null and void, unless the applicant makes application to the Board for an

Filed with the Clerk of the Design Review Board on \_\_\_\_\_ ( )