

EXHIBITS E-N

EXHIBIT E

MIAMI BEACH

LAND USE BOARDS

DESIGN REVIEW BOARD AGENDA 1700 CONVENTION CENTER DRIVE 3RD FL. Tuesday, July 2, 2019, 8:30 AM | City Commission Chambers

- I. ATTENDANCE
 - II. APPROVAL OF MINUTES
 - III. CITY ATTORNEY UPDATES
 - IV. SWEARING IN OF PUBLIC
 - V. REQUESTS FOR CONTINUANCES/WITHDRAWALS
 - VI. REQUESTS FOR EXTENSIONS OF TIME
 - VII. DISCUSSION ITEMS
 - VIII. PROGRESS REPORT
 - IX. MODIFICATION OF PREVIOUSLY APPROVED BOARD ORDER
 - X. CONTINUED ITEMS
 - XI. OPEN AND CONTINUED ITEMS
 - XII. NEW APPLICATIONS
 - XIII. APPEALS (BOA ONLY)
 - XIV. OTHER BUSINESS
 - XV. ADJOURNMENT
-

AGENDA ITEMS

ATTENDANCE

REQUESTS FOR CONTINUANCES/WITHDRAWALS

1. DRB19-0398, 301-317 71st Street.

REQUESTS FOR EXTENSIONS OF TIME

2. DRB19-0406 (DRB17-0189), 205 East San Marino Drive.

NEW APPLICATIONS

3. DRB19-0386, Citywide Distributed Antenna System (DAS) Nodes -4076 Chase Ave.
 4. DRB19-0387, Citywide Distributed Antenna System (DAS) Nodes
 5. DRB19-0388, Citywide Distributed Antenna System (DAS) Nodes
 6. DRB19-0389, Citywide Distributed Antenna System (DAS) Nodes.
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7. DRB18-0358, 320 South Hibiscus Drive (EAST PARCEL).
8. DRB18-0359, 320 South Hibiscus Drive (WEST PARCEL)
9. DRB18-0357, 1050 Stillwater Drive
10. DRB18-0355, 555 17th Street, 1701-1799 Convention Center Drive—Convention Center Hotel.
11. DRB19-0385, 5th Street Pedestrian Bridge
12. DRB19-0384, 11 Century Lane
13. DRB18-0337, 1614-1634 Alton Road "1212" Lincoln Road
14. DRB19-0373, 2726 Alton Road.
15. DRB19-0390, 2324 Bay Avenue
16. DRB19-0392, 1201 20th Street—Palau Condominium Penthouse 04.
17. DRB19-0394, 3167 Royal Palm Avenue.
18. DRB19-0396, 1570 Alton Road
19. DRB19-0397, 5245 North Bay Road.
20. DRB19-0410, 4495 North Jefferson Avenue.

ADJOURNMENT

Applications listed herein have been filed with the Planning Department for review by the Design Review Board, pursuant Section 118-252, and 118-71 of the City's Land Development Regulations. All persons are invited to attend this meeting or be represented by an agent, or to express their views in writing addressed to the Design Review Board c/o the Planning Department, 1700 Convention Center Drive, 2nd Floor, Miami Beach, Florida 33139. Applications for items listed herein are available for public inspection at the following link: or during normal business hours at the Planning Department, 1700 Convention Center Drive, 2nd Floor, Miami Beach, Florida 33139. Inquiries may be directed to the Department at (305) 673-7550.

Any items listed in this agenda may be continued. Under such circumstances, additional legal notice would not be provided. Please contact the Planning Department at (305) 673-7550 for information on the status of continued items.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: Appeals of any decision made by this Board with respect to any matter considered at its meeting or hearing, such person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in alternate format, sign language interpreter (five-business day notice is required), information on access for persons with disabilities, and accommodation to review any document or participate in any city-sponsored proceedings, call 305.604.2489 and select 1 for English or 2 for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

EXHIBIT F

MIAMI BEACH

LAND USE BOARDS

DESIGN REVIEW BOARD MINUTES 1700 CONVENTION CENTER DRIVE 3RD FL. Tuesday, July 2, 2019, 8:30 AM | City Commission Chambers

- I. ATTENDANCE
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AGENDA ITEMS

ATTENDANCE

REQUESTS FOR CONTINUANCES/WITHDRAWALS

1. DRB19-0398, 301-317 71st Street.

CONTINUED to 10/01/19 meeting

Motion to Continue
Moved By: Michael Steffens
Supported By: Marsh Kriplen

Ayes: Bodnar, Delgado, Kriplen, Steffens

Absent: Sheldon, Weinstein
Abstain: Camargo

MOTION Passed

REQUESTS FOR EXTENSIONS OF TIME

2. DRB19-0406 (DRB17-0189), 205 East San Marino Drive.
-

APPROVED

Motion to Approve
Moved By: Sam Sheldon
Supported By: Elizabeth Camargo

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

NEW APPLICATIONS

3. DRB19-0386, Citywide Distributed Antenna System (DAS) Nodes -4076 Chase Ave.

APPROVED

Motion to Approve
Moved By: Michael Steffens
Supported By: Sam Sheldon

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

4. DRB19-0387, Citywide Distributed Antenna System (DAS) Nodes

CONTINUED to 09/03/19 meeting

Motion to Continue
Moved By: Michael Steffens
Supported By: Marsh Kriplen

Ayes: Bodnar, Camargo, Delgado, Kriplen , Steffens

Absent: Sheldon, Weinstein

MOTION Passed

5. DRB19-0388, Citywide Distributed Antenna System (DAS) Nodes

CONTINUED to 09/03/19 meeting

Motion to Continue
Moved By: Sam Sheldon
Supported By: Marsh Kriplen

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

6. DRB19-0389, Citywide Distributed Antenna System (DAS) Nodes.

APPROVED

Motion to Approve

Moved By: Elizabeth Camargo

Supported By: Michael Steffens

Ayes: Bodnar, Camargo, Delgado, Kriplen, Sheldon, Steffens

Absent: Weinstein

MOTION Passed

7. DRB18-0358, 320 South Hibiscus Drive (EAST PARCEL).

VARIANCES APPROVED

Motion to Approve

Moved By: Michael Steffens

Supported By: Sam Sheldon

Ayes: Bodnar, Camargo, Delgado, Sheldon, Steffens

Absent: Kriplen, Weinstein

MOTION Passed

DRB APPROVED w/ Conditions

Motion to Approve w/ Conditions

Moved By: Sam Sheldon

Supported By: Annabel Delgado

Ayes: Bodnar, Camargo, Delgado, Sheldon

Nays: Steffens

Absent: Kriplen, Weinstein

MOTION Passed

8. DRB18-0359, 320 South Hibiscus Drive (WEST PARCEL)

VARIANCES APPROVED

Motion to Approve

Moved By: Michael Steffens

Supported By: Sam Sheldon

Ayes: Bodnar, Camargo, Delgado, Sheldon, Steffens

Absent: Kriplen , Weinstein

MOTION Passed

DRB APPROVED

Motion to Approve
Moved By: Sam Sheldon
Supported By: Annabel Delgado

Ayes: Bodnar, Camargo, Delgado, Sheldon
Nays: Steffens
Absent: Kriplen , Weinstein

MOTION Passed

9. DRB18-0357, 1050 Stillwater Drive

APPROVED w/ Conditions

Motion to Approve w/ Conditions
Moved By: Michael Steffens
Supported By: Elizabeth Camargo

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

10. DRB18-0355, 555 17th Street, 1701-1799 Convention Center Drive—Convention Center Hotel.

APPROVED w/ Conditions

Motion to Approve w/ Conditions
Moved By: Michael Steffens
Supported By: Elizabeth Camargo

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein ,

MOTION Passed

11. DRB19-0385, 5th Street Pedestrian Bridge

CONTINUED to 09/03/19 meeting

Motion to Continue
Moved By: Michael Steffens
Supported By: Marsh Kriplen

Ayes: Bodnar, Camargo, Delgado, Kriplen , Steffens

Absent: Sheldon, Weinstein

MOTION Passed

12. DRB19-0384, 11 Century Lane

CONTINUED to 09/03/19 meeting

Motion to Continue

Moved By: Michael Steffens

Supported By: Sam Sheldon

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

13. DRB18-0337, 1614-1634 Alton Road "1212" Lincoln Road

VARIANCES #1-#12 (1st Floor) DENIED

Motion to Deny

Moved By: Marsh Kriplen

Supported By: Sam Sheldon

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

VARIANCES #13-#17 (Directory) CONTINUED to 09/03/19 meeting

Motion to Continue

Moved By: Marsh Kriplen

Supported By: Michael Steffens

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

VARIANCES #18-#44 (2nd Floor) and VARIANCES #57-#64 (2nd Floor) APPROVED
w/conditions / VARIANCES #47-#54 (2nd Floor) DENIED

Motion to Approve w/ Conditions

Moved By: Michael Steffens

Supported By: Sam Sheldon

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

VARIANCES #45 and #46 ('PARKING') and VARIANCES #55 and #56 ('PARKING')
CONTINUED to 09/03/19 meeting

Motion to Continue

Moved By: Marsh Kriplen

Supported By: Michael Steffens

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

VARIANCES #68-#70 ('1212') APPROVED w/ Conditions

Motion to Approve w/ Conditions

Moved By: Marsh Kriplen

Supported By: Sam Sheldon

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

DRB APPROVED for Ratification to Electronic Graphic location and other modifications

Motion to Approve

Moved By: Michael Steffens

Supported By: Marsh Kriplen

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

14. DRB19-0373, 2726 Alton Road.

APPROVED w/ Conditions

Motion to Approve w/ Conditions

Moved By: Michael Steffens

Supported By: Elizabeth Camargo

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

15. DRB19-0390, 2324 Bay Avenue

APPROVED

Motion to Approve

Moved By: Sam Sheldon

Supported By: Elizabeth Camargo

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon, Steffens

Absent: Weinstein

MOTION Passed

16. DRB19-0392, 1201 20th Street—Palau Condominium Penthouse 04.

APPROVED w/ Conditions

Motion to Approve w/ Conditions

Moved By: Sam Sheldon

Supported By: Marsh Kriplen

Ayes: Bodnar, Camargo, Delgado, Kriplen , Sheldon

Absent: Steffens, Weinstein

MOTION Passed

17. DRB19-0394, 3167 Royal Palm Avenue.

APPROVED

Motion to Approve

Moved By: Sam Sheldon

Supported By: Marsh Kriplen

Ayes: Bodnar, Delgado, Kriplen , Sheldon

Absent: Camargo, Steffens, Weinstein

MOTION Passed

18. DRB19-0396, 1570 Alton Road

CONTINUED to 09/03/19

Motion to Continue

Moved By: Marsh Kriplen

Supported By: Sam Sheldon

Ayes: Bodnar, Delgado, Kriplen , Sheldon

Absent: Camargo, Steffens, Weinstein

MOTION Passed

19. DRB19-0397, 5245 North Bay Road.

CONTINUED to 09/03/19

Motion to Continue

Moved By: Marsh Kriplen

Supported By: Sam Sheldon

Ayes: Bodnar, Delgado, Kriplen , Sheldon

Absent: Camargo, Steffens, Weinstein

MOTION Passed

20. DRB19-0410, 4495 North Jefferson Avenue.

APPROVED

Motion to Approve

Moved By: Marsh Kriplen

Supported By: Annabel Delgado

Ayes: Bodnar, Delgado, Kriplen , Sheldon

Absent: Camargo, Steffens, Weinstein

MOTION Passed

ADJOURNMENT

Applications listed herein have been filed with the Planning Department for review by the Design Review Board, pursuant Section 118-252, and 118-71 of the City's Land Development Regulations. All persons are invited to attend this meeting or be represented by an agent, or to express their views in writing addressed to the Design Review Board c/o the Planning Department, 1700 Convention Center Drive, 2nd Floor, Miami Beach, Florida 33139. Applications for items listed herein are available for public inspection at the following link: or during normal business hours at the Planning Department, 1700 Convention Center Drive, 2nd Floor, Miami Beach, Florida 33139. Inquiries may be directed to the Department at (305) 673-7550.

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EXHIBIT G

Sec. 118-251. - Design review criteria.

- (a) 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 any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and design guidelines adopted and amended periodically by the design review board and/or historic preservation board. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department. If the board determines that an application is not consistent with the criteria, it shall set forth in writing the reasons substantiating its finding. The criteria referenced above are as follows:
- (1) The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
 - (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.
 - (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.
 - (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.
 - (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 article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and historic preservation board and all pertinent master plans.
 - (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.
 - (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.
 - (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 safety 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.
 - (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.
 - (10) Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.
 - (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.

- (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).
- (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.
- (14) The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
- (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).
- (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.
- (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.
- (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.
- (19) The structure and site complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

(Ord. No. 89-2665, § 18-2(A), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 98-3107, § 6, 1-21-98; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2015-3924, § 4, 2-11-15; Ord. No. 2017-4123, § 3, 7-26-17)

EXHIBIT H

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: July 02, 2019
FILE NO: DRB19-0392 (aka DRB File No. 22889)
PROPERTY: 1201 20th Street, PH 4
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 architect shall explore combining the rooftop trellis elements, 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 architect shall widen the rooftop planter to a minimum 5'-0" width along the north edge of the railing, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. 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.
 - e. 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.



- f. 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.
 - 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.
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.

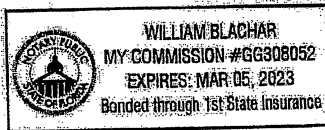
Dated this 15th day of July, 2019.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

By *James G. Murphy*
JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 15th day of July 2019 by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



William Blachar
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: March 5th, 2023

Approved As To Form: *Dick Vallejos* (7/15/2019)
City Attorney's Office:

Filed with the Clerk of the Design Review Board on *Jessie Gully* (7/15/19)

[Handwritten signature]

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.

EXHIBIT I

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.



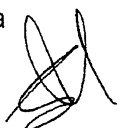
- g. Meet water/sewer concurrency requirements including a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.
 - h. Payment of City utility impact fees for water meters/services.
 - 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



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. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit should 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 Design Review Approval will expire and become null and void.

In accordance with Section 118-264 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.

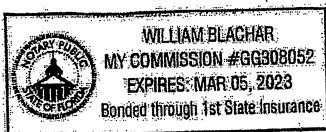
Dated this 15th day of July, 2019.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
THOMAS R. MOONEY AICP
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 15th day of July, 2019 by Thomas R. Mooney, Design and Preservation Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



[Signature]
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: March 5th, 2023

Approved As To Form: [Signature] (7/15/2019)
Legal Department:

Filed with the Clerk of the Design Review Board on [Signature] 7/15/19)

[Signature]

EXHIBIT J

Sec. 118-9. - Rehearing and appeal procedures.

The following requirements shall apply to all rehearings and appeals to or from the city's boards unless otherwise more specifically provided for in these land development regulations, and applicable fees and costs shall be paid to the city as required under section 118-7 and appendix A to the City Code. As used herein, "land use board(s)" shall mean the board of adjustment, design review board, historic preservation board and planning board.

(a) *Rehearings.*

- (1) The types of land use board decisions eligible for a rehearing are as follows:
 - A. Historic preservation board. Historic preservation board order relating to the issuance of a certificate of appropriateness, dig or demolition. Bert J. Harris rehearing is separately addressed at subsection (a)(6), below.
 - B. Design review board. Design review board final order relating to design review approval, only.
 - C. Except as delineated above. Rehearings are not available for any other application, or for any other land use board action without a final order.
 - D. There shall only be allowed one rehearing for each final order arising from an application, although multiple persons may participate in or request the rehearing.
- (2) Eligible rehearing applications shall be filed in accordance with the process as outlined in subsections A through D below:
 - A. *Timeframe to file.* A petition for rehearing shall be submitted to the planning director on or before the 15th day after the rendition of the board order. Rendition shall be the date upon which a signed written order is executed by the board's clerk.
 - B. *Eligible parties.* Parties eligible to file an application for rehearing are limited to:
 - (i) Original applicant(s);
 - (ii) The city manager on behalf of the city administration;
 - (iii) An affected person, which for purposes of this section shall mean either a person owning property within 375 feet of the applicant's project reviewed by the board, or a person that appeared before the board (directly or represented by counsel), and whose appearance is confirmed in the record of the board's public hearing(s) for such project;
 - (iv) Miami Design Preservation League;
 - (v) Dade Heritage Trust.
 - C. *Application requirements.* The petition to the board shall be in a writing that contains all facts, law and argument, by or on behalf of an eligible party, and demonstrate the following:
 - (i) Newly discovered evidence which is likely to be relevant to the decision of the board, or
 - (ii) The board has overlooked or failed to consider something which renders the decision issued erroneous.
 - D. *Notice requirements.* All land use board applications eligible to request a rehearing are subject to the same noticing requirements as an application for a public hearing, in accordance with section 118-8, "Notice Procedures for Quasi-Judicial Land Use Board Actions and for Administrative Decisions Requiring Notice". The rehearing applicant shall be responsible for all associated costs and fees.

- (3) Outside counsel to the planning department. In the event of a rehearing to the applicable land use board, the planning director may engage the services of an attorney, or utilize a separate, independent, attorney from the city attorney's office, for the purpose of representing the administrative officer and planning staff during the rehearing.
 - (4) Actions by the applicable land use board. After the rehearing request is heard, the applicable land use board may take the actions outlined in subsections (i) through (v) below:
 - (i) Rehear or not rehear a case,
 - (ii) If the decision is to rehear the application, the board may take additional testimony,
 - (iii) Reaffirm their previous decision,
 - (iv) Issue a new decision, and/or
 - (v) Reverse or modify the previous decision.
 - (5) Stay of work. A rehearing application to the applicable land use board stays all work on the premises and all proceedings in furtherance of the board action; however, nothing herein shall prevent the issuance of building permits or partial building permits necessary to prevent imminent peril to life, health or property, as determined by the building official.
 - (6) Tolling. See tolling provision under (c)(6).
 - (7) Rehearings due to Bert J. Harris Claim. A petition for rehearing pursuant to a Harris Act claim, the petition shall include the following documentation which shall be submitted no later than 15 days after the submission of the petition for rehearing:
 - A. A bona fide, valid appraisal supporting the claim of inordinate burden and demonstrating the loss, or expected loss, in fair market value to the real property as a result of the board's action;
 - B. All factual data described in subsection 118-564(c), "Decisions on certificates of appropriateness"; provided, however, in the event all or any portion of the factual data was available to the applicant prior to the conclusion of the public hearing before the historic preservation or joint design review board/historic preservation board and the applicant failed to furnish same to the board's staff as specified in subsection 118-564(c), "Decisions on certificates of appropriateness" then, the board may, in its discretion, deny the applicant's request to introduce such factual data;
 - C. A report prepared by a licensed architect or engineer analyzing the financial implications of the requirements, conditions or restrictions imposed by the board on the property or development proposed by the applicant with respect to which the applicant is requesting a rehearing;
 - D. A report prepared by a licensed architect or engineer analyzing alternative uses for the real property, if any;
 - E. A report prepared by a licensed architect or engineer determining whether, as a result of the board action, the owner is permanently unable to attain the reasonable, investment-backed expectation for the existing use of the real property or a vested right to a specific use of the real property with respect to the real property as a whole, or that the property owner is left with existing or vested uses that are unreasonable; and
 - F. A report prepared by a licensed architect or engineer addressing the feasibility, or lack of feasibility, of effectuating the board's requirements, conditions or restrictions and the impact of same on the existing use of the real property or a vested right to a specific use of the real property.
- (b) *Board of adjustment—Administrative appeal procedures:*
- (1) The board of adjustment shall have the exclusive authority to hear and decide all administrative appeals when it is alleged that there is error in any written planning order,



EXHIBIT K

Sec. 114-1. - Definitions.

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a detached subordinate building or portion thereof, the use of which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use. Where there is no main building on the lot, an accessory building shall be considered as a main building for the purpose of the height, area, and bulk regulations.

Accessory use means a subordinate use which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use.

Adult congregate living facility means any state licensed institution, building, residence, private home, boarding home, home for the aged, or other place whether operated for profit or not, which undertakes through its ownership or management to provide for a period exceeding 24 hours, one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services. A facility offering personal services for fewer than four adults shall be within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Adult congregate living facility unit means any room, or inter-connected rooms with one main entrance, in an adult congregate living facility, containing one or more beds.

Aggregate area or aggregate width means the sum of two or more designated areas or widths to be measured, limited, or determined under these regulations.

Alcoholic beverage shall be as defined by F.S. § 561.01(4).

Alcoholic beverage establishment means any commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises.

Alcoholic beverage establishment (midnight to 2 a.m.) means a commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises, up until 2:00 a.m.

Alcoholic beverage establishment (midnight to 5 a.m.) means a commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises, up until 5:00 a.m.

Alley means a public or private thoroughfare which affords only a secondary means of access to abutting property and which is not otherwise designated as a street.

Alternative modes of transportation means a method of commuting in any way other than driving in single-occupancy vehicles. Examples include biking, walking, carpooling, and taking public transportation.

Apartment building means a building with or without resident supervision occupied or intended to be occupied by more than two families living separately with separate cooking facilities in each unit.

Apartment hotel means a building containing a combination of suite hotel unit, apartment units and hotel units, under resident supervision, and having an inner lobby through which all tenants must pass to gain access. An apartment hotel must contain at least one unit apartment.

Apartment unit means a room, or group of rooms, occupied or intended to be occupied as separate living quarters by one family and containing independent cooking and sleeping facilities. (Term includes condominium.)

Applicant means any person seeking to undertake any development as defined in this section.

Archeological site means a specific location which has yielded or is likely to yield information about local history or prehistory. Archeological sites may be found within archeological zones, historic sites, or historic districts.



of service standards at the time that the impact of development occurs, as specified in chapter 122 of this Code.

Conditional use means a use that would not be appropriate generally or without restriction throughout a particular zoning district, but would be appropriate if controlled as to number, area, location, or relation to the neighborhood.

Conditional use permit means a permit issued by the planning and zoning director and recorded in the public records of the county allowing a specific conditional use that was approved for a particular property pursuant to procedures set forth in chapter 118, article IV.

Consistency or consistent means compatible with the principles of, and furthering the objectives, policies, land uses, and intensities of the city comprehensive plan.

Construction vehicle means any vehicle or motorized equipment utilized for the manufacture of a structure, and not utilized as a dwelling.

Contributing building, structure, improvement, site, or landscape feature means one which by location, scale, design, setting, materials, workmanship, feeling or association adds to a local historic district's sense of time and place and historical development. A building, structure, improvement, site or landscape feature may be contributing even if it has been altered if the alterations are reversible and the most significant architectural elements are intact and repairable.

Convenience store means a retail store with direct access from the street or sidewalk containing less than 6,000 square feet of floor area that is designed and stocked to sell primarily food (packaged and/or prepared), beverages, newspapers, magazines, and other household supplies to customers who generally purchase a relatively few number of items (in contrast to a "grocery store" or "super market"). It is designed to attract and depends upon a large turnover of customers. A store that markets itself as a "pharmacy store" or "pharmacy" in addition to selling the goods described above, but that does not provide pharmacy services, including the dispensing of medicinal drugs by a pharmacist shall be considered a convenience store and not a pharmacy or pharmacy store.

Court means an open space which may or may not have direct street access and around which is arranged a single building or a group of related buildings.

Courtyard, internal means that portion of a lot whether sodded, landscaped or paved, unoccupied by any part of a structure and open to the sky, which is substantially surrounded by a single building or group of buildings on three or more sides.

Crown of road shall be as defined in section 54-35.

Crown of road, future shall be as defined in section 54-35.

Currently available revenue sources means an existing source and amount of revenue presently available to the city. It does not include the city's present intent to increase the future level or amount of a revenue source which is contingent on ratification by public referendum or the present intent to increase revenue sources which may require future action by the city commission.

Dance hall means a commercial establishment where dancing by patrons is allowed, including, but not limited to, restaurants, alcoholic beverage establishments and entertainment establishments.

Day care facility means any establishment other than a family day care facility providing care during the day, but not at night, of children under the age of six who are not attending a school in grade kindergarten or higher, and who are not related to the resident family.

Demolition means the partial, substantial, or complete removal or destruction of any structure, building or improvement.

Design review means the process set forth in chapter 118, article VI.

Development means the undertaking of any building or construction, including new construction, rehabilitation, renovation or redevelopment, the making of any material changes in the use or appearance of property or structures, the subdivision of land, or any other action for which development approval is necessary.



EXHIBIT L

ARTICLE IV. - CONDITIONAL USE PROCEDURE

Sec. 118-191. - Purpose.

The purpose of this article is to establish a process which is designed to determine if certain uses, referred to as conditional uses in this article, should be permitted, at a given location. Special review of conditional uses is required not only because these generally are of a public or semi-public character and are essential and desirable for the general convenience and welfare of the community, but also because the nature of the uses and their potential impact on neighboring properties, requires the exercise of planning judgment as to location and site plan.

(Ord. No. 89-2665, § 17-4(A), eff. 10-1-89)

Sec. 118-192. - Review guidelines.

- (a) Conditional uses may be approved in accordance with the procedures and standards of this article provided that:
- (1) The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.
 - (2) The intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.
 - (3) Structures and uses associated with the request are consistent with these land development regulations.
 - (4) The public health, safety, morals, and general welfare will not be adversely affected.
 - (5) Adequate off-street parking facilities will be provided.
 - (6) Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.
 - (7) The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.
 - (8) The structure and site complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.
- (b) In reviewing an application for conditional use for new structures 50,000 square feet and over, the planning board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines listed in subsection a. above:
- (1) Whether the proposed business operations plan has been provided, including hours of operation, number of employees, goals of business, and other operational characteristics pertinent to the application, and that such plan is compatible with the neighborhood in which it is located.
 - (2) Whether a plan for the mass delivery of merchandise has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhood.
 - (3) Whether the scale of the proposed use is compatible with the urban character of the surrounding area and create adverse impacts on the surrounding area, and how the adverse impacts are proposed to be addressed.
 - (4) Whether the proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking and operational needs of the structure and proposed uses.

- (5) Whether an indoor and outdoor customer circulation plan has been provided that facilitates ingress and egress to the site and structure.
 - (6) Whether a security plan for the establishment and supporting parking facility has been provided that addresses the safety of the business and its users and minimizes impacts on the neighborhood.
 - (7) Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.
 - (8) Whether a noise attenuation plan has been provided that addresses how noise will be controlled in the loading zone, parking structures and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.
 - (9) Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.
 - (10) Whether the proximity of the proposed structure to similar size structures and to residential uses creates adverse impacts and how such impacts are mitigated.
 - (11) Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect will be addressed.
- (c) In reviewing an application for a religious institution, the planning board shall apply the following review criteria instead of the standard review guidelines listed in subsection (a) above:
- (1) Whether a proposed operations plan has been provided, including hours of operation, number of employees, and other operational characteristics pertinent to the application, and that such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhoods.
 - (2) Whether a plan for the delivery of supplies has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhoods.
 - (3) Whether the design of the proposed structure is permitted by the regulations in the zoning district in which the property is located, and complies with the regulations of an overlay district, if applicable.
 - (4) Whether a proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking for the use in the zoning district in which the property is located.
 - (5) Whether an indoor and outdoor congregant/parishioner circulation plan has been provided that facilitates ingress and egress to the site and structure.
 - (6) Whether a security plan for the establishment and supporting parking facility, if any, has been provided that addresses the safety of the institution and its users and minimizes impacts on the neighborhood.
 - (7) Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.
 - (8) Whether a noise attenuation plan has been provided that addresses how noise will be controlled in and around the institution, parking structures or areas, and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.
 - (9) Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.



EXHIBIT M



CFN 2012R0436322
 DR Bk 28157 Pgs 1693 - 1698 (6pgs)
 RECORDED 06/20/2012 15:41:43
 HARVEY RUVIN, CLERK OF COURT
 MIAMI-DADE COUNTY, FLORIDA

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

PROPERTY: 1201, 1225 & 1237 20 Street - Palau Sunset Harbor

FILE NO. 2043

IN RE: The application by Palau Sunset Harbor, LLC., requesting Conditional Use approval under City Code Chapters 142, Article IV, Section 118-192, Conditional Use to construct new structures 50,000 square feet and over; and Chapter 130 Article II, Section 130-38, Mechanical and Robotic Parking Systems, for a 5-story mixed use structure consisting of up to 50 residential units, and approximately 13,056 square feet of commercial space, with mechanical parking lifts.

LEGAL DESCRIPTION: All of lots 22, 23, and 24, and the North 70.00 feet of lots 25, and 26, Block 15A, of Island View Addition of Miami Beach Bay Shore Company, according to the plat thereof 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 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.

MEETING DATE: May 22, 2012

CONDITIONAL USE PERMIT

The applicant, Palau Sunset Harbor, LLC., filed an application with the Planning Director requesting a Conditional Use Permit pursuant to Sections 118-192 and 130-38 of the Land Development Regulations of the City Code, for a Conditional Use Permit. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the CD-2 Commercial Medium Intensity zoning district;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

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That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including staff recommendations, as modified by the Planning Board, that a Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Conditional Use Permit is issued to Palau Sunset Harbor, LLC, as applicant and owner of the property. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
4. The proposed project shall go before the Design Review Board for approval of the proposed project, and also for approval of the modification of the site plan associated with the restrictive covenant as required by that document.
5. The applicant shall work with Design Review staff to further modify the proposal to address the following, subject to review and approval by the Design Review Board:
 - a. Pulling back the massing, east of the World Savings Bank property, with emphasis on upper floor setback and the northeast corner of the building, and adding more green space.
 - b. Further modifying the ground floor area along the canal (terraces) to minimize the hardscape and increase the amount of open, landscaped area at grade level.
 - c. Adding more canopy trees for increased shade to the landscape plan, particularly along Sunset Drive. Also work with Sheryl Gold on this item.
 - d. Removing parking spaces on Sunset Drive.
 - e. Reducing encroachment on the line of sight from Sunset Island 4.
 - f. Working with Public Works staff to limit u-turns at the guardhouse.

6. Any substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans.
7. The total number of residential units shall be limited to a maximum of 50, as proffered by the applicant.
8. Valet storage of vehicles shall be exclusively for the use of Palau at Sunset Harbor, as proposed by the applicant.
9. Valet drop-off and pick-up for all uses, residential, commercial and visitor, shall take place inside the garage.
10. The applicant shall work with the City to designate the use of 2 parking spaces on 20th Street for delivery by larger vehicles, as proposed by the applicant.
11. The parking garage shall consist of approximately 153 spaces, as proposed. The garage operation shall be 24 hours per day, seven days a week. There shall be security personnel of at least one person on-site monitoring the garage operation 24 hours a day, seven days a week. The structure, operation, procedures, maintenance, service response procedures, remote technical service team, local, on-site service team, and spare parts inventory shall be in accordance with the manufacturer specifications, as proposed by the applicant.
12. The noise or vibration from the operation of mechanical parking lifts, car elevators, or robotic parking systems shall not be plainly audible to or felt by any individual standing outside an apartment or hotel unit at any adjacent or nearby property. In addition, noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage.
13. For mechanical lifts, the parking lift platform must be sealed and of a sufficient width and length (minimum of eight feet by 16 feet) to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below.
14. All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage; robotic garages and vehicle elevators must have backup generators sufficient to power the system.
15. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift.
16. The ceiling heights of any parking level with parking lifts within the parking garage shall be a minimum of 11 feet by six inches.
17. All parking lifts shall only be operated using a spring loaded underwriters laboratories (UL) approved key switch control. No push button is allowed.
18. All electrical components of the lifts shall be Underwriters Laboratories (UL) approved.
19. All mechanical parking systems, including lifts, elevators and robotic systems must be inspected and serviced at least once per year with an annual safety report signed by a licensed mechanical engineer.

20. All mechanical lifts shall be maintained and kept in good working order.
21. The mechanical lifts and vehicle elevators must be inspected and serviced at least once per year with an annual safety report signed by a Licensed Mechanical Engineer and submitted to the Planning Department.
22. The generators shall be maintained in proper operating condition. The location of the generators shall be submitted for the review and approval by staff to ensure that any negative impacts associated with the operation or testing of the equipment are minimized. The generators shall be installed in accordance with Code requirements regarding minimum flood plain criteria.
23. Deliveries and trash pick-up shall take place alongside the curb on 20th Street as depicted on the plans. The trash containers shall have rubber wheels. Delivery hours shall be limited to between 7:00 AM and 9:00 AM, as proposed. The applicant shall work with the City to designate that area a commercial loading zone with applicable signage.
24. No commercial marina or docks shall be permitted on or adjacent to the subject property.
25. No residential condominium unit shall be used for commercial purposes, except for home-based businesses, as permitted by Section 142-1411 of the City Code.
26. Except as may be required for Fire or Building Code/Life Safety Code purposes, no speakers shall be affixed to or otherwise located on the exterior of the subject property.
27. The applicant shall include bicycle parking for patrons of the retail businesses and visitors in the plaza at the southwest corner of the project on 20th Street, as well as at the corner of 20th Street and Sunset Drive subject to the review and approval of staff.
28. The applicant shall submit an MOT (Method of Transportation) to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
29. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Concurrency Management Division.
30. The applicant shall submit to staff a restrictive covenant stipulating that the commercial spaces shall be used exclusively for retail, or a small restaurant limited to a maximum of 30 seats in the southeast corner of the site, provided parking requirements are met. No nightclub or bar uses shall be permitted.
31. The applicant shall submit to staff a restrictive covenant stipulating that a valet service operator would be provided for the mechanical parking for as long as the use continues.
32. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit.
33. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and the work shall proceed in accordance with the Florida Building Code.

Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.

34. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the subject development project.
35. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation if there are valid complaints, as determined by Code Compliance, about loud, excessive, unnecessary, or unusual noise.
36. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
37. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
38. Within a reasonable time after applicant's receipt of this Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County, at applicant's expense, and then return the recorded instrument to the Planning Department. No building permit or certificate of completion shall be issued until this requirement has been satisfied.
39. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a modification or revocation of this Conditional Use.
40. 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.
41. Pursuant to City Code section 118-137(2)(b), this final Order is stayed until the final resolution of all administrative and court proceedings arising from any appeal filed to the Board of Adjustment on this project. No building permit, or certificate of occupancy, or business tax receipt, dependent upon this hearing approval, shall be issued until the final resolution of all administrative and court proceedings as certified by the city attorney. The applicant shall hold the city harmless and agree to indemnify the city from any liability or loss resulting from such proceedings. Notice of the final resolution of administrative and court proceedings shall be provided as required for notice of hearings under these land development regulations.

Dated this 13th day of June, 2012

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
Richard G. Lorber, AICP, LEED AP
Acting Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 13th day of June, 2012 by Richard G. Lorber, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



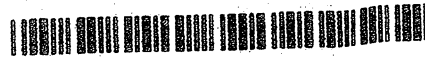
TERESA MARIA
MY COMMISSION # DD 926148
EXPIRES: December 2, 2013
Bonded Thru Budget Notary Services

[NOTARIAL SEAL]

[Signature]
Notary: TERESA MARIA
Print Name: TERESA MARIA
Notary Public, State of Florida
My Commission Expires: 12-2-2013
Commission Number:

Approved As To Form:
Legal Department (WCS 6-13-12)

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 HARVEY RUVIN, CLERK OF COURT
 MIAMI-DADE COUNTY, FLORIDA

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

PROPERTY: 1201, 1225 & 1237 20 Street - Palau Sunset Harbor

FILE NO. 2043

IN RE: The application by Palau Sunset Harbor, LLC, requesting a one (1) year Extension of Time to obtain a full building permit for a previously approved 5-story mixed use building, pursuant to Section 118, Article IV of the Miami Beach City Code, and Condition 33 of the Conditional Use Permit.

LEGAL DESCRIPTION: All of lots 22, 23, and 24, and the North 70.00 feet of lots 25, and 26, Block 15A, of Island View Addition of Miami Beach Bay Shore Company, according to the plat thereof 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 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.

MEETING DATE: June 24, 2014

EXTENSION OF TIME FOR CONDITIONAL USE PERMIT

The applicant, Palau Sunset Harbor, LLC., filed an application with the Planning Director requesting an extension of a previously issued Conditional Use Permit pursuant to Section 118-193 of the Land Development Regulations of the City Code. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the CD-2 Commercial Medium Intensity zoning district;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected;

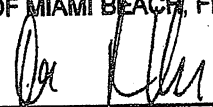
That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including staff recommendations, as modified by the Planning Board, that the extension of the Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed:

1. A full building permit, not a foundation or shell permit, for the project shall be obtained by November 22, 2014.
2. Construction shall commence and continue in accordance with the applicable Building Code.
3. This extension of time shall run concurrent with any other extensions of time that may be provided to the property owner as a result of actions of non-City authorities with jurisdiction over such matters.
4. The applicant has voluntarily proffered to contribute up to \$125,000.00 to the undergrounding of two FP&L poles located between the subject property and the bridge to the Sunset Islands, pursuant to a private agreement with the Sunset Islands 3 & 4 Homeowners Association. Proof of such contribution shall be submitted to Planning Staff prior to the issuance of a TCO or CO.
5. The original Conditional Use Permit shall remain in full force and effect, except as modified by the conditions herein.

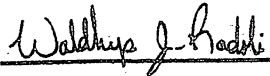
Dated this 27th day of June, 2014

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: 
Thomas R. Mooney, AICP,
Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

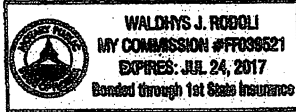
The foregoing instrument was acknowledged before me this 27th day of June, 2014, by Thomas R. Mooney, AICP, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



PB 2043 - 1201, 1225 & 1237 20 Street - Palau Sunset Harbor
June 24, 2014

2

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LAST PAGE



[NOTARIAL SEAL]

Notary:
Print Name: Waldhys J. Rodoi
Notary Public, State of Florida
My Commission Expires: 7-24-17
Commission Number: FF039621

Approved As To Form: Weld 6-27-14
Legal Department

Filed with the Clerk of the Planning Board on (6/30/14) [Signature]

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PB 2043 - 1201, 1225 & 1237 20 Street - Palau Sunset Harbor
June 24, 2014

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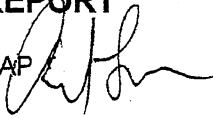
EXHIBIT N



MIAMI BEACH

PLANNING DEPARTMENT

DESIGN REVIEW BOARD STAFF REPORT

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

DATE: October 2, 2012 Meeting

RE: Design Review File No. 22889
1201-1237 20th Street – Palau at Sunset Harbor

The applicant, Palau Sunset Harbor, LLC., is requesting Design Review Approval for the construction of a new 5-story mixed-use building, which will replace all existing structures on the subject site, to be demolished. The applicant is also requesting Design Review Board approval for modifications to a previously approved site plan, which is the subject of a Declaration of Restrictive Covenants in Lieu of Unity of Title.

LEGAL DESCRIPTION:

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.

HISTORY:

The application came before the Board on August 7, 2012, and was continued to a date certain of October 2, 2012, in order to address the concerns expressed by the Board and Staff, as well as to fully re-notice the application.

SITE DATA:

Zoning -	CD-2 (Commercial, Medium Intensity)
Future Land Use Designation-	CD-2 (Commercial, Medium Intensity)
Lot Size -	54,765 SF
Existing FAR -	Not Provided
Proposed FAR -	108,269 SF / 1.98 (Max FAR = 2.0)
Existing Height -	Not Provided
Proposed Height-	5-stories / 50 feet, 60 feet to highest non-habitable projection
Existing Use/Condition -	Vacant construction site and vacant dry cleaners
Proposed Use -	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 "Palau at Sunset Harbour", as prepared by Kobi Karp Architecture, Interior Design & Planning, dated August 2012.

There is a restrictive covenant on the southern portion of the property, tying the former Cypress Bay property to the "World Savings Bank property", currently owned by MAC SH, LLC. These two properties were at one time one single property, and were split at the time of the proposed construction of the former Cypress Bay project, which required a covenant in-lieu of unity of title.

The applicant is proposing the construction of a new 5-story mixed-use building on the site currently occupied by the abandoned 'Cypress Bay' development as well as the now vacant Mark's Cleaners site. The ground floor is comprised of commercial units facing the majority of Sunset Drive as well as 20th Street. Vehicular entrance to the property is located at the south west corner of the site. Parking is provided at the first floor and part of the second floor in the center of the project, utilizing vehicular lifts in most areas. Residential units are located on the upper five 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 proposed.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates the following:

1. As required by the City Code, Conditional Use approval from the Planning Board was approved on May 22, 2012.

This 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, including final parking calculations and a concurrency review.

ACCESSIBILITY COMPLIANCE:

Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, section 11 (Florida Accessibility Code for Building Construction.) The above noted comments shall not be considered final accessibility review or approval. These and all accessibility matters shall require final review and verification by the Building Department prior to the issuance of a Building Permit.

PRELIMINARY CONCURRENCY DETERMINATION:

In accordance with Chapter 122 of the Code of the City of Miami Beach, the Transportation and Concurrency Management Division has conducted a preliminary concurrency evaluation and determined that the project does meet the City's concurrency requirements and level-of-service standards. The City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division will make the determination of the project's fair-share mitigation cost.

A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.

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 is 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.
Satisfied
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.

Satisfied

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.

Satisfied

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.

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.

Satisfied

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

Satisfied

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).

Not Applicable

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.

Satisfied

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.

Satisfied

STAFF ANALYSIS:

As indicated previously, the applicant is proposing a well conceived and highly desirable mixed residential and commercial plan for the redevelopment of the subject site. Staff is very pleased with the modern design vocabulary proposed, which will help form an iconic gateway to the Sunset Harbor neighborhood. At this point the plans have been reviewed extensively by the Planning Board and the Design Review Board with considerable input from the surrounding neighborhood. Important issues related to the operation of the valet (which will be completely internal to the property), as well as the garage entrance/exit location, have been extensively evaluated, and approved as outlined in the requirements of the Planning Board's Conditional Use approval, which was also included for reference in the original application provided. It should be noted that the applicant could have proposed an entirely commercial development of this site, which would have had a much higher impact upon the adjacent residential neighborhoods.

On May 22, 2011, the project received Conditional Use approval from the Planning Board. As part of that approval the Planning Board imposed the following condition related to the Design Review Board approval:

5. *The applicant shall work with Design Review staff to further modify the proposal to address the following, subject to review and approval by the Design Review Board:*
 - a. *Pulling back the massing, east of the World Savings Bank property, with emphasis on upper floor setback and the northeast corner of the building, and adding more green space.*
 - b. *Further modifying the ground floor area along the canal (terraces) to minimize the hardscape and increase the amount of open, landscaped area at grade level.*
 - c. *Adding more canopy trees for increased shade to the landscape plan, particularly along Sunset Drive. Also work with Sheryl Gold on this item.*
 - d. *Removing parking spaces on Sunset Drive.*
 - e. *Reducing encroachment on the line of sight from Sunset Island 4.*
 - f. *Working with Public Works staff to limit u-turns at the guardhouse.*

Staff has reviewed the revised plans for compliance with the above conditions and has the following comments and recommendations:

5.a – *Pulling back the massing, east of the World Savings Bank property, with emphasis on upper floor setback and the northeast corner of the building, and adding more green space.*

Staff believes this condition has been **satisfied**. Since the previous DRB meeting, the massing at the northeast corner of the building has been further reduced with an increased setback of approximately ten (10') feet for the entire portion of the building located north of the northeast stairwell, as previously recommended by staff. The reduction in massing at this corner is important so as not to overwhelm the historic Sunset Island bridge. To the neighborhoods benefit, however, it is also important to note that the massing of the building facing north has also been further broken down with additional modulation in plan of the residential units and balconies facing the waterway, compared to the plans previously reviewed. The previously proposed continuous balconies have been replaced with individual balconies at most levels.

5.b. – *Further modifying the ground floor area along the canal (terraces) to minimize the hardscape and increase the amount of open, landscaped area at grade level.*

Staff believes this condition has been **substantially satisfied**. Based upon the plans provided (Sheet L-1) the terraces of the ground floor units facing the waterway have been reduced in size and the area for at-grade landscaping has been substantially increased. Further, additional understory planting and groupings of shade trees (green buttonwood), have been incorporated into the design. Clustered groupings of shade trees, as previously recommended by staff are now located in a variety of locations, which will provide the shade canopy desired while also allowing views to the waterway from the residential units. This will benefit both the condo units as well as the single family homes across the waterway. Staff would further recommend that in the areas where the stairway access to the first floor of residential units is not in conflict with the partially underground parking, that these stairs be set into the terraces, rather than projecting further into the available common landscaped areas, in order to further increase the area available for at-grade landscaping. As the drive aisle on the north side of the site exceeds the minimum 22'-0" by 1'-10", staff would recommend that the entire north wall of the garage structure, along with the adjacent stairway access to the residential terraces above be setback an additional 1'-10" from the north property line. This will allow for more landscaping along the entire north side of the site.

5.c. – *Adding more canopy trees for increased shade to the landscape plan, particularly along Sunset Drive. Also work with Sheryl Gold on this item.*

Staff believes this condition is **satisfied**. Since the previous meeting, the applicant has increased the building setback along the ground floor of the south elevation facing 20th Street, resulting in a total sidewalk width with minimum of 12'-0". This additional setback now allows for the placement of more canopy trees within the sidewalk along the entire south side of the property, which will greatly enhance the pedestrian character of the street. A combination of green buttonwood trees and live oak trees is now proposed.

5.d. – *Removing parking spaces on Sunset Drive.*

Staff believes this condition is **satisfied**, to the extent possible by the applicant. The applicant has removed one (1) perpendicular parking space from the plans along Sunset Drive, near the corner of 20th Street, as it may be too close to the intersection. The Parking Department has indicated that the removal of all parking spaces does not meet City Code requirements, as the removal is not for the sole purpose of creating access to an off-street parking facility. In order to approve such removal, approval from the City Commission would be required, in addition to payment of \$35,000 for each space removed. Staff recognizes the need for street parking in this rapidly developing neighborhood, and believes that the enhanced landscape plan proposed for the area along Sunset Drive will substantially mitigate the retention of the (3) perpendicular parking spaces.

5.e – *Reducing encroachment on the line of sight from Sunset Island 4.*

Staff believes this condition is **satisfied**. In comparing the north-south section line of sight diagram, the roof-top elements in the revised plans have 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. Further the applicant has clarified that there is no internal connection between the top floor units fronting the waterway and the roof-top terraces. Staff would also recommend that the Board **not** approve any roof-top structures that are not specifically called out in the plans and elevations provided.

5.f - Working with Public Works staff to limit u-turns at the guardhouse.

Staff believes that this condition is **satisfied**. After further review with the Public Works Department, both Planning and Public Works staff believe that eliminating the break in the center median south of the new guardhouse would require anyone that made a wrong turn onto Sunset Drive to proceed through the guard gate and across the bridge to Sunset Island 4 in order to turn around. With the elimination of drop-off areas along Sunset Drive for either the residential units or the commercial uses, staff does not believe that u-turns before the guardhouse will be a significant issue.

As previously recommended by staff, the applicant has relocated the landscape buffer from the center of the sidewalk along Sunset Drive to the edge of the curb. This allows for one wider sidewalk adjacent to the commercial spaces and an enhanced landscape buffer. It is also important to note that the transition between the elevated bridge and the sidewalk along the east side of the property has been further developed. The applicant has submitted a photo overlay entitled "Retaining Wall Study", which indicates how the grade will be modified in this location. The applicant has indicated that additional documentation will be submitted at the meeting which visually depicts the proposed new construction at this corner location. Staff is confident that with further development and detailing the extensive grade change can be resolved with a suitable design solution.

However, as per the resolution from the Sunset Islands 3 & 4 Association submitted on 9/26/2012 (**see Attachment 1**), the neighboring residents still have serious concerns. Staff believes that the Planning Board review and Design Review Board review have resulted in significant improvements to the overall design. In comparing the Palau project with the adjacent Sunset Harbor Townhomes project, they are composed of two entirely different architectural vocabularies. The Townhomes incorporate a sixty-five (65') foot height condition along 20th Street with 2-story townhouse units along the canal and an intervening courtyard in-between. The Palau project is characterized by a modern, progressive architectural vocabulary with expansive use of glass and modern materials, however both preserve a similar amount of open sky as viewed from the Public Park across the canal. Staff must also stress that the land area of the Sunset Harbor Townhomes project is approximately three (3) times the area of the Palau project, and the length of Palau along the waterway is less than one-half of the Townhomes project, resulting in substantially less impact. It is also important to note that more than one-half of the Palau site is located directly across the canal from a public park, with two and a half single family home sites directly facing the project to the west of the park.

Lastly, as indicated in the 'City Attorney's Opinion on Applications by Palau Sunset Harbor, LLC to the Planning Board and Design Review Board' (**see Attachment 2**), the property at 1261 20th Street ('Parcel A'), previously owned by World Bank, is owned by MAC. World Bank also owned the adjacent land at 1237 20th Street ('Parcel B'), sold to Lease Florida Sunset Harbor, LLC. Lease Florida began constructing a project called Cypress Bay, which ceased construction prior to completion. World Bank sold Parcel B to Lease Florida without approval of a lot split by the

Planning Board. This was not discovered until the Cypress Bay project was underway. To remedy this situation, and to address a deficiency in parking for the Cypress Bay project, among other issues (cross easements for utilities, access and relief from interior setbacks), MAC and Lease Florida executed a Covenant in Lieu, pursuant to City Code Section 118-5, so Parcels A and B could be considered one site for zoning purposes. The parties also executed the Declaration setting forth the cross-easements between these properties. Palau, the current owner of Parcel B, and the successor under the Covenant in Lie and the Declaration, recently purchased the Mark's Cleaners property at 1201 20th Street ('Parcel C').

Palau's new project on Parcels B and C requires a modification of the site plan attached to the Covenant in Lieu and the Declaration, as provided for in The Covenant in Lieu. The Covenant in Lieu indicates the following:

No modification shall be effectuated in such site plan without the written consent of the then Owner(s) of the Property, whose consent shall not be unreasonably withheld, and the written consent of the Director of the City's Planning Department. ...Should the Director or any Owner(s) of any portion of the Property withhold such approval, the then owner(s) of the phase or portion of the property for which modification is sought shall be permitted to seek such modification by application to modify the plan at public hearing before the appropriate City Board or the City Commission of Miami Beach, Florida, (whichever by law has jurisdiction over such matters).

The City Attorney and the Acting Planning Director have determined that the Design Review Board is the appropriate Board to address a site plan modification.

Accordingly, should the Board approve this application, it will be approving a modification of the site plan, "Exhibit C", of the Declaration of Restrictive Covenants In Lieu of Unity of Title (**see Attachment 3**), which was executed on December 15, 2010, between Lease Florida Sunset Harbor LLC., and MAC SF, LLC, and further amended (Amended and Restated Declaration of Easements and Restrictive Covenants) by the same parties, executed on February 23, 2011 (**see Attachment 4**).

City Code section 118-5 requires the applicant to combine the multiple lots comprising the subject property with a unity of title or covenant in lieu of unity of title before obtaining a building permit. Accordingly, 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.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be approved, subject to the following conditions, which address the inconsistencies with the aforementioned Design Review criteria:

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. 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, 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.

3. 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. 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.
 - b. 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.

- c. 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.
 - d. 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.
 - e. The utilization of root barriers and/or structural soil, as applicable, shall be clearly delineated on the revised landscape plan.
 - f. 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.
 - g. 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.
 - h. 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.
4. 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.
 5. 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.
 6. 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.
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7. 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.
8. 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.
9. All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC).
10. 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.
11. 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. Kitchen and other cooking odors 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.
12. 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.
 13. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
 14. 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.
 15. 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.

16. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
17. 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.

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