

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: January 07, 2020

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB19-0465
6605 Collins Avenue—Temporary Parking Lot

DRB19-0465 6605 Collins Avenue. An application has been filed Design Review Approval for the construction of a temporary parking lot including a variance from the surface material requirements.

RECOMMENDATION:

Denial of variance request.

Continue the Application to a future date.

LEGAL DESCRIPTION:

Lot 43 of Lot 1 of Block 7 of the "Amended Plat of Second Front Subdivision" according to Plat thereof as recorded in Plat Book 28, Page 28 of the Public Records of Miami-Dade County, Florida.

BACKGROUND:

On May 8, 2019, the City Commission adopted amendments to the temporary parking lot standards, pursuant to Ordinance 2019-4258.

HISTORY:

At the December 13, 2019 Design Review Board meeting, the application was continued to the January 07, 2020 DRB meeting at the request of the applicant.

SITE DATA:

Zoning: RM-3
Future Land Use: RM-3
Lot Size: 24,825 SF
Proposed Parking Spaces: 57 Total (3 ADA)

SURROUNDING PROPERTIES:

North: Deauville Resort
South: Sherry Frontenac Hotel
West: One-story retail
East: Ocean

THE PROJECT:

The applicant has submitted plans entitled "6605 Collins Avenue" as prepared by **Beilinson Gomez** signed sealed and dated 10-08-19.

The applicant is proposing a new temporary parking lot on an existing vacant site. Scope of work includes resurfacing and installing new landscaping, fencing and new light fixtures.

The applicant is requesting the following variance(s):

1. A variance to use concrete, asphalt and pavers as a surface material instead of pavers set in sand, grass pavers, or similar semi-pervious material for the hardscape of the temporary parking lot.

- Variance requested from:

Sec. 130- 70. - Temporary parking lot standards.

(10) Hardscape Materials. All surfaces over the required lime- rock base, including, but not limited to, driveways, drive aisles, parking spaces and walkways, shall consist of pavers set in sand, grass pavers, or similar semi- pervious material. The use of asphalt, concrete or similar impervious surfaces shall be prohibited. However, concrete ribbons, in conjunction with a paver and landscape system, may be utilized to delineate drive aisles, parking spaces, or to contain paver fields, subject to the review and approval of the planning department. In no instance shall the use of concrete ribbons exceed 20% of the lot area.

The subject property is an RM-3 zoned oceanfront parcel north of the historic Sherry Frontenac Hotel on Collins Avenue. The applicant is proposing to develop the vacant site as a temporary parking lot, which requires both Planning Board approval for its operations and use and Design Review Board for its design (and variance). In addition to the general design of the lot, the applicant is seeking variance relief from the exterior design requirement for the hardscape material, in order to provide the entirety of the ground cover with asphalt and concrete rather than pavers.

As a resiliency initiative, the recently adopted modifications to the temporary parking lot requirements focused on landscape and surface finish requirements, tree mitigation and timeframes for temporary parking lots. The new regulations require that all surfaces over the required lime-rock base, including, but not limited to, driveways, drive aisles, parking spaces and walkways, consist of pavers set in sand, grass pavers, or similar semi-pervious material, as opposed to asphalt. The importance of on-site water retention and enhanced higher quality design standards are critical components of future surface parking lots, particularly for a beachfront site. Based on the fact that the proposal is for a new parking lot, staff has concluded that there are no practical difficulties or hardship related to the variance requested. Staff does not support the variance and recommends **denial** of the request.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that **do not** satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also **do not** indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. Sec. 130-69.5. - Additional requirements.

In addition to any other requirements regarding parking garages and parking lots contained herein, and except where a parking garage or lot is accessory to a residential use and located on the same lot, all parking garages and lots located within 100 feet of a residential use or district that intend to operate after midnight, shall obtain conditional use approval from the planning board before obtaining a building permit or occupational license. **The applicant has submitted an application for Conditional Use approval from the Planning Board (PB19-0323) and obtained approval at the November 19, 2019 meeting.**

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; see variance analysis.
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.
Not Satisfied; see variance analysis
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.
Not Satisfied; see variance analysis
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.
Not Satisfied; see variance analysis
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.
Not Satisfied; see variance analysis
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.
Not Satisfied; as proposed, the design of the proposed surface lot is wholly incompatible with the surrounding area, and would have a detrimental impact on the beachfront site, as viewed from the beachwalk and Collins Avenue.
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.

Not Satisfied; as proposed, the design of the proposed surface lot is wholly incompatible with the surrounding area, and would have a detrimental impact on the beachfront site, as viewed from the beachwalk and Collins Avenue.

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Not Satisfied; the east and west sides of the parcel have not been adequately developed and fail to properly engage the street or beachwalk.
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied; a detailed lighting plan has not been provided.
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Not Satisfied; the applicant is requesting a variance from the Board.
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Not Satisfied; the landscape plan has not been adequately developed.
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).
Not Satisfied; as proposed, the design of the proposed surface lot is wholly incompatible with the surrounding area, and would have a detrimental impact on the beachfront site, as viewed from the beachwalk and Collins Avenue.
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Not Applicable

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Not Applicable
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
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.
Not Applicable
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied; see below

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Satisfied
A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Not Applicable
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Not Applicable
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.

Satisfied

- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

Satisfied

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.

Satisfied

- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

Not Applicable

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

Not Applicable

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

- (10) In all new projects, water retention systems shall be provided.

Not Satisfied

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Not Satisfied

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Not Satisfied

STAFF ANALYSIS:

Staff must preface this analysis by expressing serious concern with the proposal to introduce a surface parking lot on an oceanfront property. Over the long term, vehicular storage lots have an exceedingly adverse impact on the developed context of the surrounding area and do not contribute anything to the urban fabric of the neighborhood. In this instance, the impacts will be even more egregious, as the proposed temporary parking lot is sandwiched between two iconic oceanfront hotels (the Sherry Frontenac to the south and the Deauville to the north), both of which are located within the North Beach Resort

Local Historic District.

Staff believes that a more appropriate use of the property would be a well-designed residential or hotel structure (commercial structures are not permitted). However, temporary parking lots are not prohibited in the district, and the proposed use requires conditional use approval from the Planning Board. On November 19, 2019, the Planning Board approved an application for a Conditional Use Permit for the subject permanent parking lot since the lot is located within 100'-0" of a residential building and will be operated past midnight. The Planning Board review addressed all important issues related to the operation of the project, including parking, traffic, and valet.; specifically, for the 24-hour use of the parking lot.

In January of 2019, the City Commission amended Chapter 130 of the Code by significantly strengthening the minimum landscape and surface material requirements for temporary parking lots. These changes included a requirement that all surfaces over the required lime-rock base, including, but not limited to, driveways, drive aisles, parking spaces and walkways, consist of pavers set in sand, grass pavers, or similar semi-pervious material.

The applicant is proposing a temporary parking lot containing 57 parking spaces (with an entrance and exit drive from Collins Avenue), landscaping, fencing and lighting fixtures. Currently, the 75' wide by 333'-0" deep site is vacant, and a large concrete slab is located within the rear 83'-0" of the site. Previously a two-story apartment building occupied the site, demolished in 2019 pursuant to demolition permit BC1909769.

As indicated under the variance analysis, staff strongly recommends that the proposed surface lot fully comply with all of the provisions of the code mandated temporary parking lot standard. This is the most critical part of this application, both from a hardship and resiliency standpoint, as well as to maintain a high visual aesthetic. In this regard, the use of pavers would provide superior site drainage and urban heat island benefits, a significant upgrade in terms of aesthetics and longer lasting performance. Since aesthetics are a priority, interlocking pavers would provide a visually superior and functional paving option as opposed to the excessive and unsightly array of asphalt that is proposed.

It has been clearly evidenced that pavers set in sand provide superior heat island mitigation, as opposed to asphalt that exacerbates the heat island effect. The reduction of the urban heat island effect is in full alignment with the City's resiliency strategy and other recently adopted ordinances. Furthermore, run-off water from paved surfaces can cause environmental damage, such as erosion and silt build-up in our waterways. By allowing rain to infiltrate on site, permeable paver systems reduce or eliminate runoff problems and is much better for the environment because it helps cut down on storm runoff, which picks up motor oil and other pollutants associated with parking lots, overburdens water treatment facilities, and can ultimately end up in local waterways

While staff would prefer that the applicant withdraw this proposal, and consider a more appropriate use for the site, if the intention is to move forward, the following mitigation measures are strongly recommended:

1. All existing concrete on the site shall be removed and all parking space and driveway surfaces shall consist of pavers set in sand.

2. Parking spaces 26-29 and 56-57 shall be removed; the entire +/-82 feet of the east portion of the site shall consist of pervious landscape area.
3. All landscaped areas shall be protected from vehicular encroachment through the use of steel or concrete bollards.
4. The first 20 feet of the west portion of the site, facing Collins Avenue, shall be further developed from an architecture, urban design and landscape standpoint. Specifically, the project architect shall develop a more appropriate urban edge along Collins Avenue through the use of undulating fences/walls, sculpture or appropriate topiary.

In order to fully effectuate all of these modifications, staff recommends that the application be continued to a future date.

VARIANCE ANALYSIS:

As identified under the 'Project' section of the report, the proposed parking lot can be redesigned to comply with all design requirements of the temporary parking lot standards. Therefore, staff has concluded the variance request does not satisfy the Practical Difficulty and Hardship Criteria and recommends **denial** of the variance request.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **denial** of the variance request, and that the entire application be continued to a future date. In the event that the Board approves the project, staff recommends that any such approval be subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: January 07, 2020

FILE NO: DRB19-0465

PROPERTY: **6605 Collins Avenue**

APPLICANT: SF Land LLC

LEGAL: Lot 43 of Lot 1 of Block 7 of the "Amended Plat of Second Front Subdivision" according to Plat thereof as recorded in Plat Book 28, Page 28 of the Public Records of Miami-Dade County, Florida.

IN RE: An application has been filed Design Review Approval for the construction of a temporary parking lot including a variance from the surface material requirements.

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

- 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 1, 2, 3, 4, 5, 6, 9 in 12 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 not applicable with Sea Level Rise Criteria 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. Revised elevation, site plan and drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. All existing concrete within the site shall be removed and all new surfaces shall consist of pavers set in sand, in a manner to be reviewed and approved

by staff consistent with the Design Review Criteria and/or the directions from the Board.

- b. A concrete banding shall be provided in order to better define and contain the placement of the pavers within the lot. Any traffic signals that may be required on the parking lot surface, shall be created with pavers of a different color. Painting over the paver field shall not be permitted.
 - c. Parking spaces 26-29 and 56-57 shall be removed; the entire +/-82 feet of the east portion of the site shall consist of pervious landscape area.
 - d. All landscaped areas shall be protected from vehicular encroachment through the use of steel or concrete bollards.
 - e. The first 20 feet of the west portion of the site, facing Collins Avenue, shall be further developed from an architecture, urban design and landscape standpoint. Specifically, the project architect shall develop a more appropriate urban edge along Collins Avenue through the use of undulating fences/walls, sculpture or appropriate topiary.
 - f. Light poles proposed to be installed on site shall not exceed 10'-0" from adjacent grade. At the time of building permit a revised photometric must be provided. The revised photometric must show that all light from the proposed light fixtures will be maintained on site.
 - g. Parking space stripes shall consist of differentiations in material color of finish, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. The use of paint to demarcate individual parking spaces shall be prohibited.
 - h. The surface parking lot shall have a "high albedo surface" in order to minimize the urban heat island effect or utilize "porous pavers" in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - i. The final design and details of the proposed new pavers, 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.
 - j. 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.
 - k. 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. Larger canopy shade trees suitable for the available landscape areas shall be provided subject to the review and approval of staff.
- c. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the final revised landscape plan.
- 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. 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. The applicant filed an application with the Planning Department for the following variance(s):

The following variance(s) was **denied** by the Board:

1. A variance to use concrete, asphalt and pavers as a surface material instead of pavers set in sand, grass pavers, or similar semi-pervious material for the hardscape of the temporary parking lot.
- B. The applicants have submitted plans and documents with the application that **do not** satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicants have submitted plans and documents with the application that also **do not** indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

C. The Board hereby **Denies** the Variance request(s), and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. 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, even if the modifications do not affect variances approved by the Board.
2. The proposed temporary parking lot shall comply with all provisions under Sec 130-70 *Temporary parking lot standards*.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

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

- A. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

- C. 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.
- D. 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. 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 DENIED 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 "6605 Collins Avenue" as prepared by **Beilinson Gomez** signed sealed and dated 10-08-19, 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

Filed with the Clerk of the Design Review Board on _____ ()