BERCOW RADELL FERNANDEZ LARKIN & TAPANES
ZONING, LAND USE AND ENVIRONMENTAL LAW

DIRECT LINE: (305) 377-6236
E-Mail: MAmster@BRZoningLaw.com

VIA ELECTRONIC SUBMITTAL

August 10, 2020

James G. Murphy, Chief of Urban Design
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: **DRB20-0577 – Letter of Intent** – Modification of Prior Approvals DRB17-0160 & DRB17-0216, Including Phasing for Flamingo Point at 1420 and 1508 Bay Road

Dear James:

This law firm represents MCZ/Centrum Flamingo II, LLC and MCZ/Centrum Flamingo III, LLC (collectively the "Applicant") in its application concerning existing towers at Flamingo Point, located at 1420 and 1508 Bay Road (the "Property"). Please accept this correspondence as the Applicant's letter of intent in support of modification of prior approvals DRB17-0160 and DRB17-0216 (collectively the "Prior DRB Approvals"), including modification of the approved phased development at the Property. See DRB Order DRB17-0160 and DRB Order DRB17-0216 attached.

Property Description. The Property is a waterfront parcel approximately 16 acres in size located between 14th and 16th Streets on the west side of Bay Road. The Property can be further identified by Miami-Dade County Folio Nos. 02-3233-007-0030 and 02-3233-007-0032. The northern, smaller portion of the Property is within the RM-2 (Residential Multifamily, Medium Intensity) Zoning District and contains the northern half of the North Garage lined with townhouses on its east facade along Bay Road, as well as garden apartments and residential gym on the upper floors facing Biscayne Bay to the west. At the far north of the Property, the north entrance to the Property provides surface parking and landscaping. The remainder of the Property, which is the majority, is zoned RM-3 (Residential Multifamily, High Intensity) and contains the North, South and Center multistory residential towers, townhouses fronting Bay Road, associated parking and entrances, a few accessory commercial uses, and plentiful landscaped open

spaces, including a vast central courtyard between the North and South Tower. A baywalk traverses the entire west side of the Property. Notably, the Property is not located in a historic district and the buildings are not contributing structures.

Prior DRB Approvals and Current Status. In 2017, through modification of the Prior DRB Approvals, the DRB approved comprehensive renovations of Flamingo Point to create a more welcoming and neighborhood-friendly experience. The DRB also approved a phased development permit, pursuant to Section 118-259 of the Miami Beach City Code (the "Code"), to complete the renovations in four (4) phases. The approved renovations included removal of the guard gate and entrance at the center of the Property and the front fence along Bay Road in order to provide a large public pedestrian plaza with access to retail and restaurant uses in the Center Tower. Additionally, valet and rideshare drop-off and pick-up locations were internalized on the Property to take these activities off the street and improve traffic circulation and pedestrian safety in the neighborhood.

With the removal of the central guard house, two new entrance locations have been established. First, a new entrance leading to dedicated valet and rideshare areas inside the North Garage. Second, enhancements are being made to the surface parking area on the east side of the South Tower to safely accommodate valet and rideshare drop-offs and pick-ups. Further, the North Tower is currently being rejuvenated and improved by creating larger, more family-friendly units, improving views towards the interior grounds to the south, which will also be reprogrammed and beautified with lush landscaping, and to the bay to the west, and enhancing the exterior facades and balconies. These renovations significantly reduce the unit count and associated parking demand. The revised development program provides a safer environment for both vehicles and pedestrians, enhances the Property aesthetically and creates community uses for the neighborhood. Overall, the approved renovations are a welcome change for the neighborhood and City.

Due to the size of the Property and the expansive nature of the approved renovations, the Applicant obtained phased development approval, to complete the renovations in four (4) phases. The description, approved schedule and current status for each phase is as follows:

Phase Number	Description	Timeframe	Status
I	Pedestrian Plaza, North and south drop off, and ground and 3rd level Central Tower renovation	Building permit within 18 months of DRB Order DRB17-0160	Completed
II	North Garage & Courtyard	Building permit within six (6) months of Phase I building permit	Permitted and in construction
III	North Pool & Outdoor Area	Building permit within twelve (12) months of Phase II building permit	Permitted and in construction
IV	North Tower Renovation	Building permit within twelve (12) months of Phase III building permit	Permitted and in construction

Proposed Development Program. The Applicant continues to improve the overall quality of Flamingo Point for its residents and the entire community. On this basis, the Applicant proposes further modifications to the approved renovations of the North Tower. Specifically, refinements to the exterior bay-facing elevations of the North Tower.

The Applicant also intends to convert the accessory gym on the upper floors of west side of the North Garage into 11 additional garden apartments with prime views of Biscayne Bay, which will be included as Phase V. The new garden apartments will be similar to those on the floors below, as will the fenestration facing Biscayne Bay.

Through the approved building permit for the North Tower, renovations have already been approved, including creating a ground-level breezeway through the center of the North Tower, enhanced with landscaping, that will connect the central courtyard with the north pool area and relocation of the residential gym from the upper floors of the west side of the North Garage to the ground level of the west wing of the North Tower. The proposed unit count will be further reduced by 80 units (from 446 to 366, where presently there are 614) to offer larger, family-oriented units and the interiors and

exteriors will be improved for access and to provide the best views possible for all units. These changes follow the same design as previously approved.

With the reduction of 248 units in the North Tower and addition of 8 Garden Apartments, there will be an overall reduction of 240 units within Flamingo Point and all required parking will be located on the Property. Further, in comparison to the prior approved phasing plans, the is a reduction of 72 units.

Proposed Modification to Phased Development Permit. The Applicant has already begun permitting and construction of the project and, in light of the modifications, has reevaluated the work and project timeline. As a result, the Applicant seeks to modify the approved phased development permit to incorporate the proposals. In brief, Phases I - IV have already been permitted and are in construction. The proposed revisions to the North Tower will be made soon after approval of the subject application. Thereafter the Applicant plans to create the new Garden Apartments as Phase V.

Phase Number	Description	Timeframe	Status
V	New Garden Apartments	Building permit within 18 months of Certificate of Occupancy (CO) for Phase III (North Tower)	

Proposed Modification of Approved Condition. To assist with obtaining operational licenses for the proposed restaurant fronting the pedestrian plaza, which is wholly independent from existing café, the Applicant requests modification of one condition regarding the number of seats as follows:

Condition I.D.3.a.ii.

From: Outdoor seating shall be limited to 40 seats and the total restaurant seating shall be limited to 120 seats.

To: Total restaurant seating, separate from existing café, shall be limited to 150 seats.

Sea Level Rise and Resiliency Criteria. The proposed project advances the sea level rise and resiliency criteria in Section 133-50(a) as follows:

(1) A recycling or salvage plan for partial or total demolition shall be provided.

The Applicant will provide a recycling or salvage plan during permitting.

(2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

Hurricane proof impact windows are proposed.

(3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

The Applicant proposes to include operable windows where appropriate.

(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.

The Applicant has worked with a landscape architect to provide landscaping that is appropriate for the Property, with plant species that are native and Florida-friendly. The proposed plantings are appropriate for the area and are salt tolerant species.

(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.

The previously approved renovations address existing conditions of habitable spaces that are below flood elevation. Said spaces will be converted to non-habitable

spaces and the improvements will introduce wet or dry flood proofing systems in the design.

(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 up to three (3) additional feet in height.

Exterior improvements on the Property along Bay Road will take into consideration the raising of the public right-of-way and the proposed design details will be coordinated with the City. The Applicant has worked with the City and its consultants in this regard for the prior approvals and building permits.

(7) As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.

Proper precautions will be taken to ensure the critical mechanical and electrical systems are located above base flood elevation.

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

It is not reasonably feasible to elevate the existing buildings.

(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.

Proper precautions will be taken to protect the Property from potential floods. Existing habitable spaces that are below flood elevation will be converted to non-habitable spaces and the proposed improvements will introduce wet or dry flood proofing systems in the design.

(10) As applicable to all new construction, water retention systems shall be provided.

The existing on-site drainage system consists of interconnected catch basins, exfiltration trenches, and fifteen (15) drainage wells installed around the year 2000. The proposed improvements have been designed to avoid the existing drainage system as much as possible and additional drainage improvements and landscaped areas are proposed.

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

The Applicant proposes cool and/or porous pavement materials.

(12) The design of each project shall minimize the potential for heat island effects on-site.

The Applicant proposes cool pavement, a light-colored roof and extensive landscaping that will minimize the potential for heat island effects.

Conclusion. The proposed renovations will enhance and beautify the grounds, provide larger units for growing families, promote pedestrianism and make the Property and surrounding neighborhood safer for pedestrians. In order to complete all proposed renovations and the new addition within a reasonable timeframe, the Applicant requests modification to the approved phased development permit. Accordingly, we look forward to your favorable review and recommendation of approval. Please contact my direct line at (305) 377-6236 should you have any questions or concerns.

Sincerely,

Matthew Amster, Esq.

Attachments

cc: Lee Hodges
Michael Larkin, Esq.
Nicholas Rodriguez, Esq.

CFN: 20170681602 BOOK 30780 PAGE 289
DATE:12/05/2017 08:43:35 AM
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 07, 2017

FILE NO: DRB17-0160

PROPERTY: **1420 Bay Road—the Grand Flamingo**

APPLICANTS: MCZ/Centrum Flamingo II, LLC and MCZ/Centrum Flamingo III, LLC

LEGAL: See attached 'Exhibit A'

IN RE: The Application for Design Review Approval for design modifications and renovations to exterior and interior portions of the existing North and Central Towers of Flamingo Apartments, a multi-tower residential development, including extensive landscaping, changes to vehicular circulation and pick-up/drop-off locations, and entrance features.

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 8, 11, 17 and 19 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 6, 9, and 10 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 floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

   a. The changes to the elevated central bridge within the central view corridor shall not be permitted as proposed. The existing central bridge shall not be

permitted to expand in width or in height, whether with enclosed or unenclosed areas, and any landscaping below this area shall be used to promote views of the water as seen by a person standing beside or on the public roadway and to enhance the view of the land as seen from the water.

b. The architect shall revise the circulation plan in order to architecturally enhance the path of travel from the North tower drop off / pick up area to the central and north tower retail and amenity points of interest, 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 revise the circulation plan in order to architecturally enhance the waiting area and path of travel from the South tower drop off / pick up area to the central and north tower retail and amenity points of interest, 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 architect shall revise the pedestrian access plan in order to architecturally enhance the path of travel from the sidewalk to the central and north tower retail and amenity points of interest, 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 architect shall prepare and submit revised site plan, including enlargement of south drop-off/pick-up area, and supplemental traffic assessment to resolve the comments from the Transportation Department, subject to review and approval by staff of Transportation and Planning Departments.

f. The final design and details of the proposed pergola/shade structures located in north pool deck 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.

g. The final design and details of the proposed new planters, pavers, and materials and finishes proposed in the public plaza 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.

h. All landscape areas abutting driveways and parking areas shall be defined by decorative bollards.

i. An adequate number of bike racks, at a minimum of 50, shall be required on site and, at the discretion of the Public Works Department, within the adjacent rights-of-way and in the public plaza. The quantity, locations, design and dimensions of all bike racks shall be subject to the review and approval of staff, in coordination with the Public Works Department

j. No sooner than nine (9) months and no later than eighteen (18) months after of the issuance of the TCO or CO for the project, the Operator shall make a revised traffic progress report to the Design Review Board. The Board reserves the right to modify the conditions of this 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.

k. The applicant shall submit a complete signage plan showing all ride-sharing, delivery, taxi and other signage sitewide, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

l. Any fence or gate at the front and street side of the property shall be designed in a manner consistent with the architecture of the new structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

m. All exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff.

n. 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.

o. 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. The applicant shall submit an updated tree survey and tree report at the time of building permit for staff review and approval. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed development, or they

shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.

c. The applicant shall work with the City of Miami Beach Urban Forester and Planning Staff to identify healthy canopy shade trees for retention and/or relocation on site. Staff maintains the right to retain existing trees in their current location which may result in the redesign of certain areas of proposed hardscape areas in order to protect trees, subject to the review and approval of staff

d. Any landscaping within the central view corridor, from street edge to Bayside, shall be used to promote views of the water as seen by a person standing beside or on the public roadway and to enhance the view of the land as seen from the water.

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. 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.

3. The Applicant agrees to the following operational conditions for any and all permitted commercial restaurant or café (hereinafter described as "restaurant") located in the ground floor commercial area of the Center Tower as depicted in the Plans entitled "Flamingo DRB Final Submission," as designed by Stantec Architecture Inc., dated, signed and sealed revised 10/06/17, 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 requirements and/or limitations.

a. <u>RESTAURANT CONDITIONS</u>

i. The hours of operation for the restaurant shall be limited to the following:

Sundays through Thursdays: 7:00 AM to 10:30 PM

Fridays, Saturdays, and eve of holidays: 7:00 AM to 12:00 AM

ii. Outdoor seating shall be limited to 40 seats and total restaurant seating shall be limited to 120 seats.

iii. Security staff shall monitor the outdoor area of the restaurant from 10:00 PM until closing.

iv. Music played at the restaurant shall be limited to ambient, background music only.

v. Entertainment at the restaurant, inclusive of live music and DJs, is prohibited.

vi. Double-door vestibules shall be required for all patron access points to the restaurant, with the exception of the emergency-only egress doors.

vii. In order to minimize noise within the restaurant, acoustic absorbing materials shall be installed on all walls.

viii. Ice machines and trash receptacles for the restaurant shall not be permitted on the exterior of the premises.

ix. No patron shall be allowed to queue outside of the restaurant.

x. No Special Event Permits shall be permitted at the restaurant.

xi. Owner agrees not to seek an entertainment or dancehall license for the restaurant space.

xii. No outdoor bar counter shall be permitted at the restaurant.

xiii. No food or alcohol beverage service shall be permitted on any rooftop or balcony.

xiv. 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 restaurant and the associated outdoor seating area.

xv. No garage doors, nana doors, or open windows shall be allowed along the Bay Road street frontage of the restaurant.

4. Excess vehicular parking spaces in the north garage shall be converted to provide a minimum of 200 overall scooter parking spaces, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

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. In the event that the proposed site plan for any reason fails to sufficiently resolve traffic congestions and vehicle queuing onto Bay Road, the applicant shall return to the Design Review Board with an alternate vehicular circulation plan, which may include substantial changes to the herein approved site plan. The City Parking Department may report periodically to the Planning Department any right-of-way issues arising from the Applicant's compliance with conditions of this Final Order.

B. In the event that the provided short term parking overflows onto the public right-of-way, thus impeding vehicular circulation or pedestrian circulation, the applicant shall perform additional parking analysis and immediately provide the appropriate short term parking capacity within the Applicant's private property, and shall return to the Design Review Board with a revised plan. The City Parking Department may report periodically to the Planning Department any right-of-way issues arising from the Applicant's compliance with conditions of this Final Order.

C. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.

D. The Applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the proximity of the driveway to the adjacent neighboring properties.

E. The Applicant shall submit a restrictive covenant, running with the land, to the Department, approved as to form by the City Attorney, agreeing that the property owner has entered into agreements with the ride-sharing companies, verifying that the pickup / drop-off locations have been coordinated with the Applicant/property, and coded into the downloadable ride-sharing apps.

F. In the event of a failure to comply with the conditions of this Order, including queuing by vehicles onto Bay Road or West Avenue, the applicant shall be subject to the continuing jurisdiction and review of the Board, and further conditions may be imposed on the property. The Board shall retain the right to call the applicant/owner or operator back before the Board, and make modifications to this Order should there be valid complaints relating to violations of the conditions of this Order.

G. 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.

H. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.

I. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

J. 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.

K. 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.

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

M. 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 "FLAMINGO DRB Final Submission", as designed by **Stantec Architecture Inc,** dated, signed, and sealed revised 10/06/17, and supplemental sheets G7B, G7C, G7D and G8 revised 10/27/17, 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 29th day of November, 2017.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
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 29th day of November 2017 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.

GABRIELA C. FREITAS
MY COMMISSION #GG131281
EXPIRES: AUG 03, 2021
Bonded through 1st State Insurance

_____
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 8-3-21

Approved As To Form:
City Attorney's Office: _____ (11/28/2017)

Filed with the Clerk of the Design Review Board on _____ (11/29/17)

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EXHIBIT 'A'

PARCEL I:
Lot 7 and the South 1.00 feet of Lot 6, in Block 43, of ALTON BEACH BAYFRONT SUBDIVISION, according to the plat thereof, as recorded in Plat Book 4, at Page 125, of the Public Records of Dade County, Florida.
PARCEL II:
Lot 6, less the South 1.0 feet, in Block 43, of ALTON BEACH BAYFRONT SUBDIVISION, according to the plat thereof, as recorded in Plat Book 4, at Page 125, of the Public Records of Dade County, Florida.
Parcel III:
Together with any and all right, title and interest of the insured as a lessee under that certain Sovereignty Submerged Land Lease No. 130004286 by and between The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as Lessor, and Morton Towers Apartments, a Florida general partnership, as Lessee, filed August 20, 1990, at Official Records Book 14671, at Page 573, as modified and renewed by Sovereignty Submerged Land Lease Renewal No. 130004286 by and between The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as Lessor, and Morton Towers Apartments, a Florida general partnership, as Lessee, filed June 14, 1994, at Official Records Book 16401, at Page 2756, of the Public Records of Dade County, Florida; as further modified by Modified Sovereignty Submerged Land Lease No. 130004286 by and between the Board of Trustees of the Internal Improvement Fund of the State of Florida, as Lessor and Morton Towers Apartments, L.P., a Delaware limited partnership, as Lessee, filed September 19, 1997 in Official Records Book 17797, at Page 4825, which Lease demises the following described property:
ALSO DESCRIBED AS FOLLOWS:
ALSO MARINA AREA "A", a parcel of land in Biscayne Bay contiguous to the Westerly line of parcel 1 of the above described property and described as follows:
Commence (P.O.C.) at the Southeasterly corner of Lot 7 referenced above, said Southeasterly corner of Lot 7 being the Northwest corner of Bay Road and 14th Street in the City of Miami Beach, Florida; thence run N 1°33'30" W along the Westerly line of Bay Road, along the Easterly line of said Lot 7, a distance of 780.91 feet; thence run S 48°37'57" W across Lot 7, a distance of 678.89 feet to a point on the Westerly face of a concrete bulkhead cap on the Westerly line of Lot 7 on the Easterly shore of Biscayne Bay, said point being the POINT OF BEGINNING (P.O.B.) of Marina Area "A"; thence run Northwesterly meandering the face of said bulkhead cap along the Easterly shore of Biscayne Bay, along the Westerly line of said Lot 7, a distance of 184.00 feet; thence run S 62°57'00" W in Biscayne Bay, a distance of 135.00 feet; thence run
S 27°03'00" E in Biscayne Bay, a distance of 184.00 feet; thence run N 62°57'00" E in Biscayne Bay a distance of 135.00 feet, more or less to the POINT OF BEGINNING (P.O.B.). Marina Area "A" contains 24,840 square feet more or less or 0.570 acres, more or less.
ALSO MARINA AREA "B", a parcel of land in Biscayne Bay contiguous to the Westerly line of parcel 1 of the above described property and described as follows:
Commence (P.O.C.) at the Southeasterly corner of Lot 7, referenced above, said Southeasterly corner also being the Northwesterly corner of Bay Road and 14th Street in the City of Miami Beach, Florida; thence run N 1°33'30" W along the Westerly line of Bay Road, along the Easterly line of Lot 7, a distance of 780.91 feet; thence run S 48°37'57" W across Lot 7, a distance of 678.89 feet to a point on the Westerly face of a concrete bulkhead cap on the Westerly line of said Lot 7 on the Easterly shore of Biscayne Bay; thence meandering the Westerly face of said bulkhead cap along the Westerly line of said Lot 7, run Southerly a distance of 96.60 feet to a POINT OF BEGINNING (P.O.B.) of Marina Area "B" described as

follows; thence run S 57°46'30" W into Biscayne Bay, a distance of 135.00 feet to a point; thence run S 32°13'30" E in Biscayne Bay, a distance of 115.00 feet to a point, thence run N 57°46'30" E in Biscayne Bay, a distance of 135.00 feet, more or less to the face of the said concrete bulkhead cap on the westerly line of said Lot 7; thence meandering the Westerly face of said bulkhead cap along the Westerly line of said Lot 7, run Northerly, a distance of 115.00 feet, more or less to the POINT OF BEGINNING (P.O.B.) Marina Area "B" contains 15,525 square feet, more or less or 0.356 acres, more or less.

CFN: 20180157535 BOOK 30899 PAGE 1833
DATE:03/16/2018 11:24:42 AM
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: March 06, 2018

FILE NO: DRB17-0216 (akaDRB17-0160)

PROPERTY: **1420 Bay Road—the Grand Flamingo**

APPLICANTS: MCZ/Centrum Flamingo II, LLC and MCZ/Centrum Flamingo III, LLC

LEGAL: See attached 'Exhibit A'

IN RE: The Application for Design Review Approval requesting modifications to a previously issued Design Review Approval, specifically to allow the approved project to take place in four (4) phases as a phased development project

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

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 consistent 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 not subject to the Sea Level Rise Criteria in Section 133-50(a) of the Miami Beach Code.

D. The project would remain 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, as reflected in the Final Order dated November 07, 2017 pursuant to DRB File No. DRB17-0160, shall remain in effect except as modified herein.

2. The description and approximate schedule for each phase is as follows:

Phase I - Pedestrian Plaza, North and south drop off, and ground and 3rd level Central Tower renovation.
Phase I – shall consist of all proposed development along Bay Road, including the pedestrian plaza, the north and south drop off, and the ground and 3rd level Central Tower renovation, as defined and depicted on the submitted plans. A building permit for the Phase I improvements shall be issued within eighteen (18) months of the Board's original approval.

Phase II Permit Set – North Garage & Courtyard
Phase II – shall consist of all proposed development within the courtyard located at the center of the property and all improvements to the north garage, as defined and depicted on the submitted plans. A building permit for the Phase II improvements shall be issued within six (6) months following the issuance of the Phase I building permit.

Phase III Permit Set - North Pool
Phase III – shall consist of all proposed development along the northwestern portion of the property, including the north pool, except that it will exclude the North Tower, as further defined and depicted on the submitted plans. A building permit for the Phase III improvements shall be issued within twelve (12) months following the issuance of the Phase II building permit.

Phase IV Permit Set - North Tower
Phase IV – shall consist of all proposed development to the North Tower as further defined and depicted on the submitted plans. A building permit for the Phase IV improvements shall be issued within twelve (12) months following the issuance of the Phase III 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. In the event that the proposed site plan for any reason fails to sufficiently resolve traffic congestions and vehicle cueing onto Bay Road, the applicant shall return to the Design Review Board with an alternate vehicular circulation plan, which may include substantial changes to the herein approved site plan. The City Parking Department may report back periodically to the Planning Department any r-o-w issues with conditions of this Final Order.

B. In the event that the provided short term parking overflows onto the public right-of-way, thus impeding vehicular circulation or pedestrian circulation, the applicant shall perform additional parking analysis and provide the appropriate short term parking capacity

within private property and shall return to the Design Review Board with a revised plan. The City Parking Department may report back periodically to the Planning Department any r-o-w issues with conditions of this Final Order.

C. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.

D. The Applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the proximity of the driveway to the adjacent neighboring properties.

E. The Applicant shall submit a restrictive covenant, running with the land, to the Department, approved as to form by the City Attorney, that the property owner has entered into agreement with the ride-sharing companies verifying that the pickup / drop-off locations have been coordinated with the property and coded into the downloadable app.

F. Failure to comply with the conditions of this Order, or should vehicles queue onto Bay Road or West Avenue, the applicant shall be subject to the continuing jurisdiction and review of the Board, and further conditions may be placed on the property. The Board shall retain the right to call the applicant/owner or operator back before them and make modifications to this Order should there be valid complaints relating to violations of the conditions of this Order.

G. 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.

H. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.

I. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

J. 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.

K. 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.

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

M. 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 "FLAMINGO Phased Development", by **Stantec Architecture Inc,** dated, signed, and sealed 01/05/2018, 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 Phase I of the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, and/or if phased building permits are not issued pursuant to the schedule in Section I.D.2 of this Order, 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 9th day of March, 2018.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
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 9th day of March 2018 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.

GABRIELA C. FREITAS
MY COMMISSION #GG131281
EXPIRES: AUG 03, 2021
Bonded through 1st State Insurance

_____
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 8-3-21

Approved As To Form:
City Attorney's Office: _____ (3/9/2018)

Filed with the Clerk of the Design Review Board on _____ (3/9/18)

F:\PLAN\$DRB\DRB18\03-06-2018\MAR 18 Final Order\DRB17-0216 1420 Bay Road.MAR18.FO.doc

EXHIBIT 'A'

PARCEL I:
Lot 7 and the South 1.00 feet of Lot 6, in Block 43, of ALTON BEACH BAYFRONT SUBDIVISION, according to the plat thereof, as recorded in Plat Book 4, at Page 125, of the Public Records of Dade County, Florida.
PARCEL II:
Lot 6, less the South 1.0 feet, in Block 43, of ALTON BEACH BAYFRONT SUBDIVISION, according to the plat thereof, as recorded in Plat Book 4, at Page 125, of the Public Records of Dade County, Florida.
Parcel III:
Together with any and all right, title and interest of the insured as a lessee under that certain Sovereignty Submerged Land Lease No. 130004286 by and between The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as Lessor, and Morton Towers Apartments, a Florida general partnership, as Lessee, filed August 20, 1990, at Official Records Book 14671, at Page 573, as modified and renewed by Sovereignty Submerged Land Lease Renewal No. 130004286 by and between The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as Lessor, and Morton Towers Apartments, a Florida general partnership, as Lessee, filed June 14, 1994, at Official Records Book 16401, at Page 2756, of the Public Records of Dade County, Florida; as further modified by Modified Sovereignty Submerged Land Lease No. 130004286 by and between the Board of Trustees of the Internal Improvement Fund of the State of Florida, as Lessor and Morton Towers Apartments, L.P., a Delaware limited partnership, as Lessee, filed September 19, 1997 in Official Records Book 17797, at Page 4825, which Lease demises the following described property:
ALSO DESCRIBED AS FOLLOWS:
ALSO MARINA AREA "A", a parcel of land in Biscayne Bay contiguous to the Westerly line of parcel 1 of the above described property and described as follows:
Commence (P.O.C.) at the Southeasterly corner of Lot 7 referenced above, said Southeasterly corner of Lot 7 being the Northwest corner of Bay Road and 14th Street in the City of Miami Beach, Florida; thence run N 1°33'30" W along the Westerly line of Bay Road, along the Easterly line of said Lot 7, a distance of 780.91 feet; thence run S 48°37'57" W across Lot 7, a distance of 678.89 feet to a point on the Westerly face of a concrete bulkhead cap on the Westerly line of Lot 7 on the Easterly shore of Biscayne Bay, said point being the POINT OF BEGINNING (P.O.B.) of Marina Area "A"; thence run Northwesterly meandering the face of said bulkhead cap along the Easterly shore of Biscayne Bay, along the Westerly line of said Lot 7, a distance of 184.00 feet; thence run S 62°57'00" W in Biscayne Bay, a distance of 135.00 feet; thence run
S 27°03'00" E in Biscayne Bay, a distance of 184.00 feet; thence run N 62°57'00" E in Biscayne Bay a distance of 135.00 feet, more or less to the POINT OF BEGINNING (P.O.B.). Marina Area "A" contains 24,840 square feet more or less or 0.570 acres, more or less.
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