

Original

EXHIBITS

EXHIBITS

TAB

- A. Design Review Board Final Order File No. 22889, Palau at Sunset Harbor, October 2, 2012.
- B. Conditional Use Permit 1201, 1225 and 1237 20 Street, Palau Sunset Harbor, May 22, 2012.
- C. Staff Report for Public Hearing Design Review File No. 22889, 1201-1237 20th Street -- Palau at Sunset Harbor, October 2, 2012.
- D. Resolution 2013-28160, Granting Appeal from DRB Decision to Approve Palau at Sunset Harbor Project, March 13, 2013.
- E. Application for Modification of 2012 Design Review Board Order File No. 22889, Palau at Sunset Harbor, April 2019.
- F. Notice of Public Hearing DRB19-0392, 1201 20th Street -- Palau Condominium Penthouse 04. Modification of 2012 Design Review Board Order.
- G. Staff Report for Public Hearing DRB19-0392, 1201 20th Street -- Palau Condominium Penthouse 04. Modification of 2012 Design Review Board Order, July 2, 2019.
- H. Design Review Board Agenda, July 2, 2019.
- I. Design Review Board Minutes, July 2, 2019.
- J. Section 118-9. Rehearing and Appeal Procedures.
- K. Section 118-251. Design Review Procedures.
- L. Design Review Board Supplemental Order, 1201 20th Street, Palau at Sunset Harbor, Penthouse 4, July 15, 2019.
- M. Design Review Board Modified Order, 1201-1237 20th Street, Palau at Sunset Harbor. July 15, 2019.

- N.** Design Review Board Order, Denial of Rehearing, 1201 20th Street, Palau at Sunset Harbor, Penthouse 4, November 13, 2019.
- O.** Section 114-1. Definitions.
- P.** Section 118-191, Conditional Use Procedure.

EXHIBIT A



CFN 2012R0741153
 OR Bk 28317 Pgs 2684 - 2691; (8pgs)
 RECORDED 10/17/2012 16:05:33
 HARVEY RUVIN, CLERK OF COURT
 MIAMI-DADE COUNTY, FLORIDA

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: October 2, 2012

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 for 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.

CERTIFICATION

THIS IS TO CERTIFY THAT THE ATTACHED DOCUMENT IS A TRUE AND ACCURATE COPY OF THE ORIGINAL ON FILE IN THE OFFICE OF THE PLANNING DEPARTMENT.

CITY OF MIAMI BEACH

[Signature] 10-8-2012
 (Signature of Planning Director or Designee) (Date)
 Personally known to me or Produced by:

[Signature]
 Notary Public, State of Florida at Large
 Printed Name: TERESA MARIA
 My Commission Expires: 12-2-13

This document consists of 8 pages.

TERESA MARIA
 MY COMMISSION # DD 928148
 EXPIRES: December 2, 2013
 Bonded This Budget Notary Services



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

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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

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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

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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. 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.

14. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design



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 4th day of OCTOBER, 2012.

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 4th day of October, 2012 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.

NOTARY PUBLIC
TERESA MARIA
MY COMMISSION # DD 928149
EXPIRES: December 2, 2013
Bonded Thru Budget Notary Services

[Signature]
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 12-2-13

Approved As To Form: [Signature] (10-4-2012)
Legal Department:

Filed with the Clerk of the Design Review Board on 10-8-2012 ([Signature])

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EXHIBIT B



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;

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.

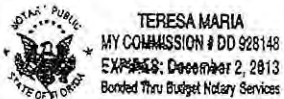
Dated this 13th day of June, 2012

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.



[NOTARIAL SEAL]

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

Approved As To Form:
Legal Department [Signature] 6-13-12

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EXHIBIT C



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 Lieu 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 and 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.

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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EXHIBIT D

RESOLUTION NO. 2013-28160

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, GRANTING AN APPEAL REQUEST FILED BY W. TUCKER GIBBS, P.A., ON BEHALF OF SUNSET ISLANDS 3 AND 4 PROPERTY OWNERS, INC. AND OLGA LENS, OF THE DESIGN REVIEW BOARD'S ORDER RELATIVE TO DRB FILE NO. 22889 FOR 1201-1237 20TH STREET, PALAU AT SUNSET HARBOR

WHEREAS, a process for review by the Mayor and City Commission of decisions rendered by the Design Review Board ("DRB") when requested by an applicant or any affected person has been established under Section 118-262 of the Miami Beach City Code; and

WHEREAS, Palau Sunset Harbor, LLC was the applicant for a proposed 5-story, mixed-use development project, which was approved by the Design Review Board on October 2, 2012 and the Order for such approval was rendered on October 8, 2012 (DRB File No. 22889, 1201-1237 20th Street – Palau at Sunset Harbour); and

WHEREAS, a request for a re-hearing of the DRB decision pertaining to File No. 22889, which was requested by MAC SH, LLC, and Sunset Islands 3 and 4 Property Owners, Inc, was denied by the Design Review Board on December 4, 2012 and the Order for such denial was rendered on December 10, 2012; and

WHEREAS, W. Tucker Gibbs, P.A., on behalf of Sunset Islands 3 and 4 Property Owners, Inc. and Olga Lens, requested a review of the Design Review Board order rendered on October 8, 2012, pertaining to the proposed 5-story, mixed-use development project, (DRB File No. 22889, 1201-1237 20th Street – Palau at Sunset Harbour).

WHEREAS, pursuant to Section 118-262, the review by the City Commission is not a "de novo" hearing; it must be based upon the record of the hearing before the Design Review Board. Furthermore, Section 118-262 (b) provides: In order to reverse, or remand for amendment, modification or rehearing any decision of the Design Review Board, the City Commission shall find that the Design Review Board did not do one of the following: 1) provide procedural due process; 2) observe essential requirements of law, or 3) base its decision upon substantial, competent evidence; and

WHEREAS, Section 118-262(a) requires the appellants to file with the City Clerk a written transcript of the hearing before the Design Review Board two weeks before the scheduled public hearing on the appeal; the transcript and associated material were transmitted to the Mayor and City Commission via LTC; and

WHEREAS, on January 16, 2013, the City Commission set the hearing for this appeal to be held on March 13, 2013, and the City Clerk was directed and did notice such hearing; and

WHEREAS, on March 13, 2013 the City Commission heard the parties, and pursuant to the argument given, the written materials submitted, and having been duly advised in the premises determined that the October 2, 2012 decision of the Design Review Board did result in, respectively, 1) a denial of due process and 2) a departure from the essential requirements of law; and

WHEREAS, on March 13, 2013 a motion was made by the City Commission to grant the appeal by W. Tucker Gibbs, P.A., on behalf of Sunset Islands 3 and 4 Property Owners, Inc.

and Olga Lens of the October 2, 2012 decision of the Design Review Board pertaining to DRB File No. 22889; and

WHEREAS, the Commission finds that the record of the proceedings below does not reflect whether proper disclosures of ex-parte contacts by DRB board members if any, were made at the October 2, 2012 meeting, as required by City Code section 2-512, and the record does not reflect that adequate discussion and review occurred of the important view corridors associated with this project, as required by Design Review criterion 118-251(a) (12); and

WHEREAS, the motion to grant the appeal and remand for further proceedings before the Design Review Board, to allow the Board members to make the appropriate disclosures of ex-parte contacts, if any, as required by City Code section 2-512, and to further discuss and review the important view corridors, as required by Design Review criterion 118-251(a) (12), was made and seconded, and approved by a vote of 6-1.

NOW THEREFORE BE IT RESOLVED THAT the Mayor and City Commission hereby grant the appeal filed by W. Tucker Gibbs, P.A., on behalf of Sunset Islands 3 and 4 Property Owners, Inc. and Olga Lens and remand the October 2, 2012 decision of the Design Review Board pertaining to DRB File No. 22889 back to the Board for further proceedings consistent with this decision.

PASSED and ADOPTED this 13th day of March, 2013.

ATTEST:



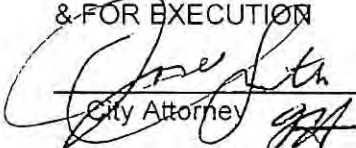
RAFAEL GRANADO, CITY CLERK





MATTI HERRERA BOWER
MAYOR

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

4/30/13
Date

Filed with the Clerk of the City Commission on 4/30/13 (by L. Cardillo).

EXHIBIT E

MIAMI BEACH

PLANNING DEPARTMENT

1700 Convention Center Drive, Miami Beach, Florida 33139; Tel: 305.673.7550; Web: www.miamibeachfl.gov/planning

LAND USE BOARD HEARING APPLICATION

The following application is submitted for review and consideration of the project described herein by the land use board selected below. A separate application must be completed for each board reviewing the proposed project.

Application Information			
FILE NUMBER DRB19-0392			
<input type="radio"/> Board of Adjustment <input type="checkbox"/> Variance from a provision of the Land Development Regulations <input type="checkbox"/> Appeal of an administrative decision		<input checked="" type="radio"/> Design Review Board <input checked="" type="checkbox"/> Design review approval <input type="checkbox"/> Variance	
<input type="radio"/> Planning Board <input type="checkbox"/> Conditional use permit <input type="checkbox"/> Lot split approval <input type="checkbox"/> Amendment to the Land Development Regulations or zoning map <input type="checkbox"/> Amendment to the Comprehensive Plan or future land use map <input type="checkbox"/> Other		<input type="radio"/> Historic Preservation Board <input type="checkbox"/> Certificate of Appropriateness for design <input type="checkbox"/> Certificate of Appropriateness for demolition <input type="checkbox"/> Historic district/site designation <input type="checkbox"/> Variance	
Property Information - Please attach Legal Description as "Exhibit A"			
ADDRESS OF PROPERTY 1201 20 Street, PH 04			
FOLIO NUMBER(S) 02-3234-242-0390 (PH04); 02-3234-242-0001 (Condominium)			
Property Owner Information			
PROPERTY OWNER NAME Aaron J. Nahmad & Erica L. Nahmad (PH 04) and Palau Sunset Harbor Condominium Association, Inc. (Condominium)			
ADDRESS 1201 20 Street, PH 04		CITY Miami Beach	STATE FL
BUSINESS PHONE		CELL PHONE	ZIP CODE 33139
EMAIL ADDRESS ajnahmad@watsco.com (PH 04) linda@diamond@gmail.com (Condominium)			
Applicant Information (if different than owner)			
APPLICANT NAME Aaron J. Nahmad & Erica L. Nahmad			
ADDRESS 1201 20th Street, PH 04		CITY Miami Beach	STATE FL
BUSINESS PHONE		CELL PHONE	ZIP CODE 33139
EMAIL ADDRESS ajnahmad@watsco.com			
Summary of Request			
PROVIDE A BRIEF SCOPE OF REQUEST Roof top Improvements to Unit PH 04, including new stair and bulkhead, pergolas, wood deck and planters and modify associated conditions of DRB Order 22889. See letter of intent for more details.			

Project Information			
Is there an existing building(s) on the site?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the project include interior or exterior demolition?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Provide the total floor area of the new construction.		102	SQ. FT.
Provide the gross floor area of the new construction (including required parking and all usable area).		102	SQ. FT.
Party responsible for project design			
NAME Timothy Dupont, Blue A Design Company, Inc.		<input checked="" type="checkbox"/> Architect <input type="checkbox"/> Contractor <input type="checkbox"/> Landscape Architect <input type="checkbox"/> Engineer <input type="checkbox"/> Tenant <input type="checkbox"/> Other _____	
ADDRESS 2750 NW 3rd Avenue, Suite 23		CITY Miami	STATE FL ZIPCODE 33127
BUSINESS PHONE 305-531-8688	CELL PHONE	EMAIL ADDRESS tim@bluedesigncompany.com	
Authorized Representative(s) Information (if applicable)			
NAME Michael Larkin, Esq. Bercow Radell Fernandez & Larkin, PLLC		<input checked="" type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS 200 S. Biscayne Blvd, Suite 850		CITY Miami	STATE FL ZIPCODE 33131
BUSINESS PHONE 305-374-5300	CELL PHONE	EMAIL ADDRESS mlarkin@brzoninglaw.com	
NAME Matthew Amster, Esq. Bercow Radell Fernandez & Larkin, PLLC		<input checked="" type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS 200 S. Biscayne Blvd, Suite 850		CITY Miami	STATE FL ZIPCODE 33131
BUSINESS PHONE 305-374-5300	CELL PHONE	EMAIL ADDRESS mamster@brzoninglaw.com	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	

Please note the following information:

- A separate disclosure of Interest form must be submitted with this application if the applicant or owner is a corporation, partnership, limited partnership or trustee.
- All applicable affidavits must be completed and the property owner must complete and sign the "Power of Attorney" portion of the affidavit if they will not be present at the hearing, or if other persons are speaking on their behalf.
- To request this material in alternate format, sign language interpreter (five-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).

We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.

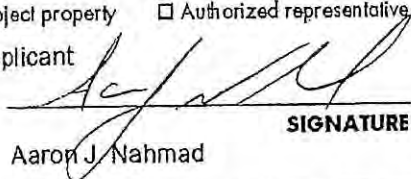
Please read the following and acknowledge below:

- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
- In accordance with Section 118-31. – Disclosure Requirement. Each person or entity requesting approval, relief or other action from the Planning Board, Design Review Board, Historic Preservation Board or the Board of Adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional service rendered or to be rendered. The disclosure shall: (I) be in writing, (II) indicate to whom the consideration has been provided or committed, (III) generally describe the nature of the consideration, and (IV) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board. Upon determination by the applicable board that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then (I) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (II) no application from said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
- When the applicable board reaches a decision a final order will be issued stating the board's decision and any conditions imposed therein. The final order will be recorded with the Miami-Dade Clerk of Courts. The original board order shall remain on file with the City of Miami Beach Planning Department. Under no circumstances will a building permit be issued by the City of Miami Beach without a copy of the recorded final order being included and made a part of the plans submitted for a building permit.

The aforementioned is acknowledged by:

☒ Owner of the subject property ☐ Authorized representative

PH 04 & Applicant



SIGNATURE

Aaron J. Nahmad

PRINT NAME


DATE SIGNED

- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
- All disclosures must be submitted in CMB Application format and be consistent with CMB Code Sub-part A Section 2-482(c):
 - (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
- In accordance with Section 118-31. – Disclosure Requirement. Each person or entity requesting approval, relief or other action from the Planning Board, Design Review Board, Historic Preservation Board or the Board of Adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional service rendered or to be rendered. The disclosure shall: (i) be in writing, (ii) indicate to whom the consideration has been provided or committed, (iii) generally describe the nature of the consideration, and (iv) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board. Upon determination by the applicable board that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then (i) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (ii) no application from said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
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The aforementioned is acknowledged by:

☒ Owner of the subject property PH 04 & Applicant ☐ Authorized representative


SIGNATURE

Erica L. Nahmad
PRINT NAME

4/11/19
DATE SIGNED

- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
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 - (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
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The aforementioned is acknowledged by:

☒ Owner of the subject property ☐ Authorized representative

Bergin ZL, Director
SIGNATURE

Palau Sunset Harbor Condominium Association, Inc.

PRINT NAME

4/22/19

DATE SIGNED

OWNER AFFIDAVIT FOR INDIVIDUAL OWNERSTATE OF FloridaCOUNTY OF Miami Dade

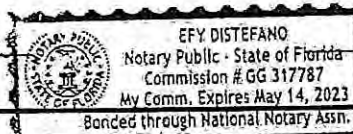
I, Aaron J. Nahmad, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for remove this notice after the date of the hearing.

[Signature]
SIGNATURE

Sworn to and subscribed before me this 11th day of April, 2019. The foregoing instrument was acknowledged before me by Aaron J. Nahmad, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

[Signature]
NOTARY PUBLIC

My Commission Expires: May 14, 2023EFY DISTEFANO

PRINT NAME

ALTERNATE OWNER AFFIDAVIT FOR CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY

STATE OF _____

COUNTY OF _____

I, _____, being first duly sworn, depose and certify as follows: (1) I am the _____ (print title) of _____ (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (7) I am responsible for remove this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 20____. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires: _____

PRINT NAME

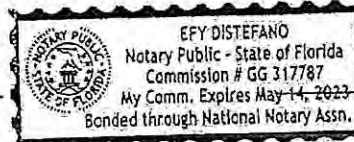
OWNER AFFIDAVIT FOR INDIVIDUAL OWNERSTATE OF FloridaCOUNTY OF Miami-Dade

I, Erica L. Nahmad, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for remove this notice after the date of the hearing.

[Signature]
SIGNATURE

Sworn to and subscribed before me this 11th day of April, 2019. The foregoing instrument was acknowledged before me by Erica L. Nahmad, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

My Commission Expires: May 14, 2023

EFY DISTEFANO
NOTARY PUBLIC
PRINT NAME

ALTERNATE OWNER AFFIDAVIT FOR CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY

STATE OF _____

COUNTY OF _____

I, _____, being first duly sworn, depose and certify as follows: (1) I am the _____ (print title) of _____ (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (7) I am responsible for remove this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 20____. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires: _____

OWNER AFFIDAVIT FOR INDIVIDUAL OWNER

STATE OF _____

COUNTY OF _____

I, _____, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for remove this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 20____. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires: _____

PRINT NAME**ALTERNATE OWNER AFFIDAVIT FOR CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY**STATE OF FloridaCOUNTY OF Miami-Dade

I, Benjamin London, being first duly sworn, depose and certify as follows: (1) I am the Director (print title) of Palau Sunset Harbor Condominium Association, Inc. (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (7) I am responsible for remove this notice after the date of the hearing.

SIGNATURE

Sworn to and subscribed before me this 22 day of April, 2019. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

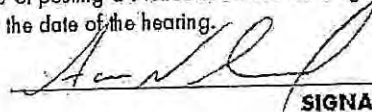


Veronica Pineda
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF943915
Expires 12/15/2019

NOTARY PUBLICMy Commission Expires: 12/15/19

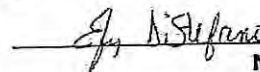
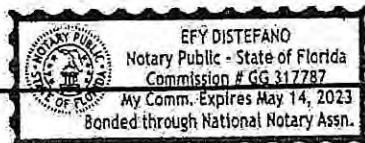
POWER OF ATTORNEY AFFIDAVITSTATE OF FloridaCOUNTY OF Miami-Dade

I, Aaron J. Nahmad, being first duly sworn, depose and certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application. (2) I hereby authorize Michael W. Larkin, Esq. & Matthew Amster, Esq. to be my representative before the Design Review Board. (3) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (4) I am responsible for remove this notice after the date of the hearing.

Aaron J. Nahmad**PRINT NAME (and Title, if applicable)**

SIGNATURE

Sworn to and subscribed before me this 11th day of April, 2019. The foregoing Instrument was acknowledged before me by Aaron J. Nahmad, who has produced _____ as Identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP


NOTARY PUBLIC
My Commission Expires: May 14, 2023EFY DISTEFANO**PRINT NAME****CONTRACT FOR PURCHASE**

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries or partners. If any of the contract purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.

N/A**NAME****DATE OF CONTRACT**

NAME, ADDRESS AND OFFICE

% OF STOCK

In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is filed, but prior to the date of a final public hearing, the applicant shall file a supplemental disclosure of interest.

We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.

PRINT NAME

POWER OF ATTORNEY AFFIDAVITSTATE OF FloridaCOUNTY OF Miami-Dade

I, Erica L. Nahmad, being first duly sworn, depose and certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application. (2) I hereby authorize Michael Larkin, Esq. & Matthew Amster, Esq. to be my representative before the Design Review Board. (3) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (4) I am responsible for remove this notice after the date of the hearing.

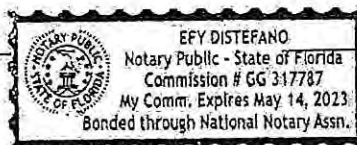
Erica L. Nahmad

PRINT NAME (and Title, if applicable)

SIGNATURE

Sworn to and subscribed before me this 11th day of April, 2019. The foregoing instrument was acknowledged before me by Erica L. Nahmad, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

My Commission Expires: May 14, 2023

EFY DISTEFANO
NOTARY PUBLIC

EFY DISTEFANO
PRINT NAME

CONTRACT FOR PURCHASE

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries or partners. If any of the contract purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individuals(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.

NAME

DATE OF CONTRACT

NAME, ADDRESS AND OFFICE

% OF STOCK

In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is

We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.

PRINT NAME

POWER OF ATTORNEY AFFIDAVITSTATE OF FloridaCOUNTY OF Miami-Dade

I, Benjamin London, Director of Palau Sunset Harbor Condominium Association, Inc., being first duly sworn, depose and certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application. (2) I hereby authorize Michael Larkin, Esq. & Matthew Amster, Esq. to be my representative before the Design Review Board. (3) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (4) I am responsible to remove this notice after the date of the hearing.

Benjamin London, Director
 PRINT NAME (and Title, if applicable)

Benjamin London
 SIGNATURE

Sworn to and subscribed before me this 22 day of April, 2019. The foregoing instrument was acknowledged before me by Benjamin London, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

My Commission Expires: 12/15/19

Veronica Pineda
 NOTARY PUBLIC
 STATE OF FLORIDA
 Comm# FF943915
 Expires 12/15/2019

Veronica Pineda
 NOTARY PUBLIC

PRINT NAME

CONTRACT FOR PURCHASE

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries or partners. If any of the contract purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individuals(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.

NAME

DATE OF CONTRACT

NAME, ADDRESS AND OFFICE

% OF STOCK

In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is

DISCLOSURE OF INTEREST
CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY

If the property that is the subject of the application is owned or leased by a corporation, partnership or limited liability company, list ALL of the owners, shareholders, partners, managers and/or members, and the percentage of ownership held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.

Palau Sunset Harbor Condominium Association, Inc.

NAME OF CORPORATE ENTITY

NAME AND ADDRESS	% OF OWNERSHIP
Florida Not For Profit Corporation	N/A
Marcela Sardi, VP Secretary	
Linda Diamond, President	
Ben London, Treasurer	
1201 20 Street, Miami Beach, FL 33139	

NAME OF CORPORATE ENTITY

[illegible]

If there are additional corporate owners, list such owners, including corporate name and the name, address and percentage of ownership of each additional owner, on a separate page.

DISCLOSURE OF INTEREST
TRUSTEE

If the property that is the subject of the application is owned or leased by a trust, list any and all trustees and beneficiaries of the trust, and the percentage of interest held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.

N/A

TRUST NAME	
NAME AND ADDRESS	% INTEREST
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COMPENSATED LOBBYIST

Pursuant to Section 2-482 of the Miami Beach City Code, all lobbyists shall, before engaging in any lobbying activities, register with the City Clerk. Please list below any and all persons or entities retained by the applicant to lobby City staff or any of the City's land development boards in support of this application.

NAME	ADDRESS	PHONE
Michael W. Larkin, Esq.	200 S. Biscayne Blvd, Suite 850	305-374-5300
Matthew Amster, Esq.	200 S. Biscayne Blvd, Suite 850	305-374-5300
Timothy Dupont	2750 NW 3rd Avenue, Suite 23	305-531-8688

Additional names can be placed on a separate page attached to this application.

APPLICANT HEREBY ACKNOWLEDGES AND AGREES THAT (1) AN APPROVAL GRANTED BY A LAND DEVELOPMENT BOARD OF THE CITY SHALL BE SUBJECT TO ANY AND ALL CONDITIONS IMPOSED BY SUCH BOARD AND BY ANY OTHER BOARD HAVING JURISDICTION, AND (2) APPLICANT'S PROJECT SHALL COMPLY WITH THE CODE OF THE CITY OF MIAMI BEACH AND ALL OTHER APPLICABLE CITY, STATE AND FEDERAL LAWS.

APPLICANT AFFIDAVIT

STATE OF Florida

COUNTY OF Miami-Dade

I, Aaron J. Nahmad, being first duly sworn, depose and certify as follows: (1) I am the applicant or representative of the applicant. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief.

[Signature]
SIGNATURE

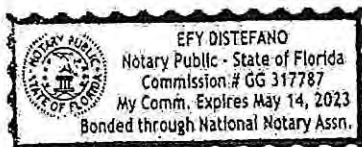
Sworn to and subscribed before me this 11th day of April, 2019. The foregoing instrument was acknowledged before me by Aaron J. Nahmad, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

Efy Distefano
NOTARY PUBLIC

My Commission Expires: May 14, 2023

Efy DISTEFANO
PRINT NAME



We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.

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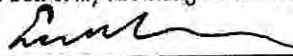
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APPLICANT AFFIDAVIT

STATE OF Florida

COUNTY OF Miami Dade

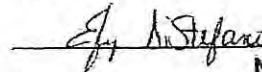
I, Erica L. Nahmad, being first duly sworn, depose and certify as follows: (1) I am the applicant or representative of the applicant. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief.



SIGNATURE

Sworn to and subscribed before me this 11th day of April, 2019. The foregoing instrument was acknowledged before me by Erica L. Nahmad, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

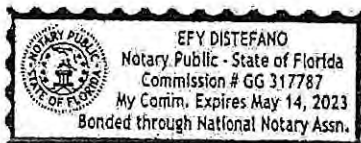


NOTARY PUBLIC

My Commission Expires: May 14, 2023

EFY DISTEFANO

PRINT NAME



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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 88.93 feet; (6) thence North 86°27'11" East for 8.16 feet; (7) thence South 12°58'09" East for 0.60 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,



BERCOW RADELL FERNANDEZ & LARKIN

ZONING, LAND USE AND ENVIRONMENTAL LAW

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

VIA ELECTRONIC SUBMITTAL & HAND DELIVERY

May 6, 2019

Thomas Mooney, Planning Director
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: Modification of DRB Order No. 22889 and Design Review Board Approval for
Property Located at 1201 20 Street, Miami Beach, Florida

Dear Tom:

This firm represents Aaron and Erica Nahmad, ("Applicants"), the applicants and owners of the property located at 1201 20 Street, PH 4, which is a part of the Palau Sunset Harbor Condominium (collectively the "Property"). The Applicants propose to develop their rooftop area with a new stair from the interior of their unit, pergolas, a small outdoor cooking area, planters and associated elements. To accomplish this and allow other penthouse units and the Palau Sunset Harbor Condominium Association, Inc. ("Association"), which controls the rooftop pool deck, to make similar improvements, the Applicants with the assistance of the Association request to modify two conditions of DRB Order No. 22889 to allow the rooftop improvements and outdoor cooking. Please consider this the Applicants' letter of intent regarding these requests.

Description of the Property. The Property, identified by Miami-Dade County Folio No. 02-3234-242-001, is located in the CD-2 Zoning District on a 54,765 square feet lot at the northwest corner of the intersection of 20 Street and Sunset Drive/N. Bay Road. The building contains retail uses on the ground floor, 45 residential units and associated internal parking. It was built in 2016 pursuant to Planning Board Order No. 2043 and Design Review Board Order No. 22889 ("DRB Order"), both approved in 2012. See attached Orders. To the north of the Property, across a canal, is Sunset Island No. 4. The Property is surrounded on the west with a mix of residential and commercial uses. To the south are additional commercial uses. To the east, is the guard gate for Sunset Islands and across Sunset Drive, there are single family homes.

The Applicants' penthouse unit, identified as Miami-Dade County Folio No. 02-3234-242-0390, is located at the northeast corner of the building and contains 4,079 square feet with a barren rooftop terrace above. Access to the rooftop is not through the penthouse unit below, but rather through the building's common life-safety stair and common passage way located outside of the Applicants' unit on the east side of the building. The rooftop terrace remains untouched and unused due to restrictions in place as a result of the conditions of the DRB Order. The restrictions limit any rooftop elements to those explicitly shown in the plans at the time of approval back in 2012 before occupation by the Applicants, and prohibit any future introduction of elements. This restriction makes reasonable use of the rooftop area, as would otherwise be afforded to a rooftop terrace, nearly impossible.

Description of Requests. The Applicants seek design review approval for modifications to the existing rooftop terrace, including the addition of new stairs directly from the unit below and corresponding stair enclosure, pergolas, wood deck, and outdoor cooking area. Planters will line the perimeter of the terrace and contain a variety of landscaping, including shrubs and trees. The pergolas will also have vines growing on them. Appropriate, low-scale spot lights will be interspersed through the terrace area.

Additionally, the Applicants and Association respectfully request approval of the following modifications to conditions of the DRB Order to allow the Applicants, the Association and other penthouse unit owners to make similar rooftop improvements to be approved at staff level, as may be allowed by the Code of the City.

1. Deletion of Condition B.4.c.

FROM:

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.

TO:

~~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.~~

The requested deletion will generally allow for the reasonable use of the Applicants' and other penthouse unit owners' outdoor rooftop terraces, and the Association's rooftop pool deck. The specific proposed development requests shown in the plans submitted with this application for PH 4 include a new stair with stair enclosure and bulkhead to improve the accessibility to the terrace. In addition, the proposed development includes the introduction of rooftop elements such as, pergolas, a wood deck, outdoor cooking area, and planters with native landscaping and minimal lighting. All the elements are low-scale and below the height restriction. Further, the new stair bulkhead is significantly setback from the north edge of the terrace and partially concealed by a pergola that will have vines growing on it. Therefore, as designed the elements will not adversely affect any neighbors. With the deletion, the Applicants intend for other penthouse unit owners and the Association to be able to make similar rooftop improvements at staff level, as may be allowed by the Code of the City.

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

FROM:

Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors will be contained within the premises. All kitchen 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.

TO:

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

kitchen 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.

The requested modification will allow for utilization of the existing spaces in a manner that is customary to a rooftop terrace without creating adverse impacts on the neighbors.

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 Applicants will provide a recycling or salvage plan during permitting.

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

The structure has hurricane impact windows throughout the Property and any new windows for the stair enclosure will be hurricane impact.

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

Not applicable. The proposed development is almost entirely an outdoor area and the existing building contains operable windows.

- (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 Applicants have worked with the Planning Department's landscape architect, along with its own landscape architect to provide a 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.

Not applicable as the building was built in 2016 and the Applicants do not propose any new ground level construction.

- (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.

Not applicable as the building was built in 2016 and the Applicants do not propose any new ground level construction.

- (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.

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.

Not applicable as the building was built in 2016 and the Applicants do not propose any new ground level construction. The proposed development is on the rooftop terrace.

- (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 as the building was built in 2016 and the Applicants do not propose any new ground level construction.

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

The existing building, rooftop terrace and Property already contain stormwater retention systems and the Applicants will ensure that appropriate drainage is provided on the improved rooftop terrace.

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

The Applicants do not propose any pavement on the existing concrete roof slab of the rooftop terrace. The Applicants propose a porous wood deck and a porous artificial turf to cool the rooftop terrace floor.

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

The Applicant proposes a porous wood deck and a porous artificial turf to cool the rooftop terrace floor.

Conclusion. We believe that the approval of the application will permit the enhancement of the rooftop terraces and the building as a whole. The proposed modification will allow the Applicants customary enjoyment of the rooftop terrace without any adverse impact on the surrounding area. We respectfully request your recommendation of approval of the Applicant's request. If you have any questions or comments with regard to the application, please give me a call at (305) 377 - 6236.

Sincerely,



Matthew Amster

Attachments

cc: Aaron and Erica Nahmad
Michael W. Larkin, Esq.
Robert Behar, Esq.

**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;

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.

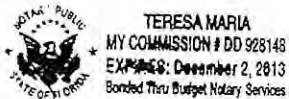
Dated this 13th day of June, 2012

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.



[NOTARIAL SEAL]

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

Approved As To Form:
Legal Department (9/16-13-12)

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**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;

JM

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

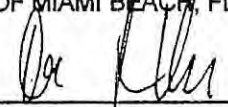
That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

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.

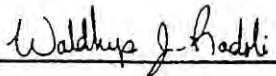
Dated this 27th day of June, 2014

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

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

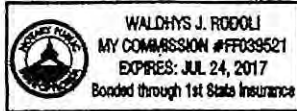
STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

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

OR BK 29214 PG 0368
LAST PAGE



[NOTARIAL SEAL]

Notary:

Print Name: Waldhys J. Rodoi

Notary Public, State of Florida

My Commission Expires: 7-24-17

Commission Number: FF039521

Approved As To Form:
Legal Department

Filed 6-27-14

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

3

[Signature]



CFN 2012R0741153
DR Bk 28317 Pgs 2684 - 2691 (8pgs)
RECORDED 10/17/2012 16:05:33
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: October 2, 2012

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 for 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.

CERTIFICATION

THIS IS TO CERTIFY THAT THE ATTACHED DOCUMENT
IS A TRUE AND ACCURATE COPY OF THE ORIGINAL ON
FILE IN THE OFFICE OF THE PLANNING DEPARTMENT,
CITY OF MIAMI BEACH

[Signature] 10-8-2012
(Signature of Planning Director or Designee) (Date)
Personally known to me or Produced ID:

[Signature]
Notary Public, State of Florida at Large

Printed Name: TERESA MARIA
My Commission Expires: (Date) 12-2-13

This document contains 8 pages.

TERESA MARIA
MY COMMISSION # DD 928148
EXPIRES: December 2, 2013
Bonded Through Budget Notary Services



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

[Signature]

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

John

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

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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. 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.

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 4th day of OCTOBER, 2012.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY:

Thomas R. Mooney
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 4th day of October, 2012 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.



TERESA MARIA
MY COMMISSION # DD 928148
EXPIRES: December 2, 2013
Bonded thru Budget Notary Services

Teresa Maria
NOTARY PUBLIC

Miami-Dade County, Florida

My commission expires: 12-2-13

Approved As To Form:

Legal Department: [Signature] (10-4-2012)

Filed with the Clerk of the Design Review Board on 10-8-2012 (MBL))

F:\PLAN\DRB\DRB12\OctDRB12\22889.Oct2012.FO.docx

Date: May 6th, 2019

To: City of Miami Beach Planning Department

Re: DRB19-0392

1201 20th Street PH 04
Miami Beach, FL 33139

Dear Planning Department:

Staff Comments:

1. COMMENT: Generally a. DRB 22889 Lot Size 54,765 SF b. DRB 22889 FAR: 108,269 SF / 1.98 / 109,530 SF / 2.0

2. DEFICIENCIES IN ARCHITECTURAL PRESENTATION

- a. Missing elevations and rooftop plan from DRB 2012 approved drawing. Must indicate elevation height of lower part of building.

Response: Please see added source sheets A-3.06 A4.00 & A4.01 from original permit set. Permit number: B1304944. Elevation of height of roof of lower part of the building is 46'-2".

- b. Missing elevations and rooftop plans from permit set (include the permit number). Must indicate elevation height of lower part of building.

Response: Please see added source sheets A-3.06 A4.0 & A4.1 from original permit set
Permit number: B1304944. Elevation of height of roof of lower part of the building is 46'-2".

- c. A-1.0 Add existing elevation height (roof) mark.

Response: Please see elevation height (roof) mark added to sheet A – 1.0.

- d. A-1.1 Add existing elevation height (roof) mark.

Response: Please see elevation call out added to sheet A-1.1: 46'-2" (no change).

- e. A-1.3 Floor Area Calculations illegible. Add newly typed floor area calculations adjacent to existing document from permit.

Response: Please see newly typed floor area calculations adjacent to document from permit.

- f. A-1.4 Add column to legend: lot area, total allowable FAR, existing SF (FAR), Proposed SF (FAR) Remaining SF (FAR), new dumb waiter and new stairwell constitute new FAR.

Response: Please see new columns to legend added to sheet A-1.4 lot area, total allowable FAR, existing SF (FAR), Proposed SF (FAR), Remaining SF (FAR), new dumb waiter and new stairwell included.

- g. A-2.2 expand details of "wet bar"

Response: Please see additional wet bar dimensions and section added to sheets A-2.3 and A-2.4, respectively.

- h. A-4.0 Add comprehensive companion sheet identifying all new proposed elements.

Response: Please see sheet A-4.0B comprehensive companion sheet identifying all new proposed elements.

- i. Condition B4c: 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 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. Certain elements exceed this amount – must be measured from existing roof slab not new deck. Modify this portion of the condition or revise.

Response: all elements have been dimensioned from the existing roof slab and not the new deck. No

Proposed elements exceed 8'-6". However, we propose to remove the condition to allow similar improvements, such as trellises and stair enclosures, on other rooftops as would normally be allowed on roof decks

- j. Shade structures as covered structures must be able to be fully open to sky or count as FAR.

Response. Shade structure is able to be fully open to sky – please see note on sheets A-2.0, A-2.1 and A-2.4.

- k. Flower Art is not an allowable height exception – remove.

Response: This is a decorative structure allowed as a height exception pursuant to Section 142-1161(a)(4). It is being installed on an existing wall and is not higher than that wall.

- l. Add sheet of reduced comprehensive elevations (no match lines).

Response: See revised sheet A-2.0 containing comprehensive elevations (no match lines).

- m. Add "FINAL SUBMITTAL" to front cover title for heightened clarity of reference for next deadline.

Response: See "Final Submittal" added to front cover title.

Landscape Comments

- a. Show how fiberglass planters are secured to the main structure.

Response: Planters are anchored to concrete deck, Refer to detail on sheet L-3.0. Attachment of planters is subject to further investigation during permitting process.

- b. Provide a root ball anchoring detail for the proposed Silver Buttonwoods.

Response: Anchoring detail for tree shown on sheet L-3.0.

- c. artificial grass system (turf on sand on filter fabric on drainfield rock?).

Response: Artificial grass system will use drainage system as recommended by manufacturer and determined during the permitting process. For example, some manufacturers have their own drainage mats that can be layered in between the artificial turf and roof deck.

Timothy DuPont, Principal
blue, a design company, inc.



rdr miami | public hearing notification services

certified lists of property owners within a specific radius + radius maps + mailing labels + mailouts + notice of public hearing site posting
rdrmiami.com | diana@rdrmiami.com | 305.498.1614

April 8, 2019

City of Miami Beach
Planning Department
1700 Convention Center Dr.
Miami Beach, FL 33139

Re: Property owners within 375 feet of:

SUBJECT: 1201 20 Street, Miami Beach, FL 33139

FOLIO NUMBER: 02-3234-242-0001 (Reference)

LEGAL DESCRIPTION: PALAU SUNSET HARBOR CONDO ISLAND VIEW ADD PB 9-144 ALL OF
LOTS 22 & 23 & 24 & N70FT OF LOTS 25 & 26 BLK 15A AS DESC IN DECL OR 30168-4010

This is to certify that the attached ownership list, map and mailing labels are a complete and accurate representation of the real estate property and property owners within 375 feet radius of the external boundaries of the subject property listed above, including the subject property. This reflects the most current records on file in the Miami-Dade County Property Appraisers' Office.

Sincerely,

Diana B. Rio

Total number of property owners without repetition: **137, including 1 international**

EXHIBIT F

**CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARING**

The Design Review Board will review this application pursuant to its authority under City Code Section 118-71. All persons are invited to appear or be represented by an agent at the public hearing and provide testimony before the Board.

Notice to the Public, Subject Property Owners(s) and Owners of Real Estate within 375 Feet
A public hearing will be held before the **Design Review Board** on:

Date: Tuesday, July 02, 2019 • **Start Time:** 8:30 a.m. • **Location:** City Commission Chambers, 1700 Convention Center Drive, 3rd Floor, Miami Beach, FL 33139

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



[Handwritten signature]
5/30/19

Patient Number US 7,975,904 B2

MIAMI BEACH

PLANNING DEPARTMENT
City of Miami Beach, 1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139
Tel: 305-673-7550, Fax: 305-673-7559
www.miamibeachfl.gov

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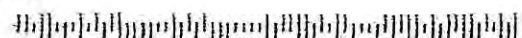
FIRST-CLASS MAIL
ZIP 33139
041M12251447

SEE OTHER SIDE FOR
OPENING INSTRUCTIONS

DRB19-0392
1201 20th St. Cendo.
July 2019

CITY OF MIAMI BEACH
PLANNING & ZONING DEPARTMENT
1700 CONVENTION CENTER DRIVE
MIAMI BEACH, FL 33139

33139-182439



SEE OTHER SIDE FOR
OPENING INSTRUCTIONS

EXHIBIT G

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: July 02, 2019

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB19-0392
1201 20th Street, Unit 404

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

RECOMMENDATION:

Approval of the design

LEGAL DESCRIPTION:

See attached Exhibit 'A'

EXISTING STRUCTURE:

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

SITE DATA:

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

Proposed Height: Penthouse Deck 46'-8"
Proposed Height of Encroachment: 54'-8"

SURROUNDING PROPERTIES:

North: Waterway/ Sunset Island residences
South: Commercial
West: Townhomes At Sunset Harbour
East: Residences

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

THE PROJECT:

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

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

Deletion of Condition B.4.c.

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

Modification of Condition B.13.b.vi.

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

COMPLIANCE WITH ZONING CODE

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

CONSISTENCY WITH COMPREHENSIVE PLAN

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

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

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

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

Satisfied

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

Not Applicable

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

Not Applicable

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

Satisfied

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

Not Applicable

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

Not Applicable

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

Not Applicable

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

Satisfied

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

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

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

STAFF ANALYSIS:

DESIGN REVIEW

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

1. Deletion of Condition B.4.c.

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

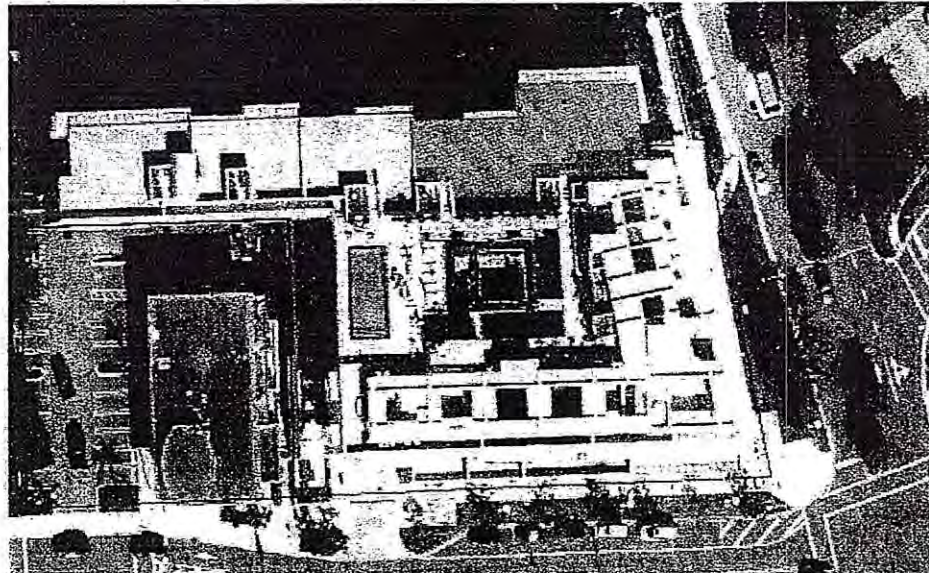
staff. No roof-top elements that are not explicitly shown on the roof plans and elevations presented to the Board shall be approved at a later date by staff.

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

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

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

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



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

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

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



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

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

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

RECOMMENDATION:

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

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

Condominium:

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

AND:

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

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

Unit PH 04:

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

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: July 02, 2019

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

PROPERTY: 1201 20th Street, Unit 404

APPLICANT: Aaron and Erica Nahmad

LEGAL: See Exhibit 'A'

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

SUPPLEMENTAL ORDER

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

I. Design Review Approval

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

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

Condition B.4.c.

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

Condition B.13.b.vi.

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

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

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

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

II. Variance(s)

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

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

- A. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- B. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- E. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be

returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

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

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

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

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

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

Dated this _____ day of _____, 20____.

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 _____ day of _____, 20____ 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.

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

Approved As To Form:
City Attorney's Office: _____ ()

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

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

Condominium:

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

AND:

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

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

Unit PH 04:

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

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: July 02, 2019

FILE NO: 22889

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

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

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

MODIFIED ORDER

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

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

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

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

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

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

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

- g. Meet water/sewer concurrency requirements including a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.
 - h. Payment of City utility impact fees for water meters/services.
 - i. Provide flood barrier ramps to underground parking or minimum slab elevation to be at highest adjacent crown road elevation plus 8".
 - j. Right-of-way permit must be obtained from Public Works.
 - k. All right-of-way encroachments must be removed.
 - l. All planting/landscaping in the public right-of-way must be approved by the Public Works and Parks Departments.
13. The Applicant agrees to the following operational conditions for all permitted uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment.

a. NOISE CONDITIONS

- i. No commercial outdoor bar counters shall be permitted on the premises.
- ii. The Design Review Board (DRB) or the Planning Director shall retain the right to call the owners and/or operators back before the DRB, at the expense of the owners and/ or operators, to impose and/or modify the hours of operation, or amend or impose other conditions, should there be a valid violation (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise or other conditions of this approval. An adverse adjudication of a violation against the owner or operator is not necessary for the board to have jurisdiction over the matter under this condition. This condition vests jurisdiction independent of any other condition hereof.
- iii. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended, shall be deemed a violation of this approval and subject the approval to modification in accordance with the procedures for modification of prior approvals as provided for in the Code, and subject the applicant to the review provided for in the first sentence of this subparagraph.

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

b. OPERATIONAL CONDITIONS

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

15. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
16. At the time of completion of the project, only a **Final** Certificate of Occupancy (CO) or **Final** Certificate of Completion (CC) may be applied for; the staging and scheduling of the construction on site shall take this into account. All work on site must be completed in accordance with the plans approved herein, as well as any modifications approved or required by the Building, Fire, Planning, CIP and Public Works Departments, inclusive of all conditions imposed herein, and by other Development Review Boards, and any modifications required pursuant to field inspections, prior to the issuance of a CO or CC. This shall not prohibit the issuance of a Partial or Temporary CO, or a Partial or Temporary CC.
17. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
18. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
19. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations which were adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-19, inclusive) hereof, to which the applicant has agreed.

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

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

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

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

EXHIBIT H

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.
- /

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 I

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
 - II. APPROVAL OF MINUTES
 - III. CITY ATTORNEY UPDATES
 - IV. SWEARING IN OF PUBLIC
 - V. REQUESTS FOR CONTINUANCES/WITHDRAWALS
 - VI. REQUESTS FOR EXTENSIONS OF TIME
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 - XV. ADJOURNMENT
-

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.

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 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, requirement, decision, or determination made by the planning director or his designee in the enforcement of these land development regulations. The planning director's decision shall be published within 30 days on the city's website for at least 30 days. An eligible party, as defined in this code, shall have 30 days, from posting on the web page to appeal the administrative determination.
- (2) Eligible administrative appeals shall be filed in accordance with the process as outlined in subsections A through D below:
 - A. *Timeframe to file:* A petition for an administrative appeal, by an eligible party, as defined in this code, shall be submitted to the planning director on or before the 30th day after the date of the publication.
 - B. *Eligible parties.* Parties eligible to file an application for an administrative appeal are limited to the following:
 - (i) Original applicant/property owner.
 - (ii) The city manager on behalf of the city administration, except for administrative appeals pursuant to sections 118-260, "Special review procedure," 118-395, "Repair and/or rehabilitation of nonconforming buildings and uses," 118-609, "Completion of work" and 142-108, "Provisions for the demolition of single-family homes located outside of historic districts".
 - (iii) An affected person, which for purposes of this section shall mean a person owning property within 375 feet of the site or application which is the subject of the administrative appeal, except for administrative appeals pursuant to sections 118-260, "Special review procedure" 118-395, "Repair and/or rehabilitation of nonconforming buildings and uses," 118-609, "Completion of work," and 118-260, "Special review procedure."
 - (iv) Miami Design Preservation League, except for administrative appeals pursuant to sections 118-260, "Special review procedure," 118-395, "Repair and/or rehabilitation of nonconforming buildings and uses," 118-260, "Special review procedure," 118-609, "Completion of work," and 142-108, "Provisions for the demolition of single-family homes located outside of historic districts."
 - (v) Dade Heritage Trust, except for administrative appeals pursuant to sections 118-260, "Special review procedure," 118-395, "Repair and/or rehabilitation of nonconforming buildings and uses," 118-260, "Special review procedure," 118-609, "Completion of work," and 142-108, "Provisions for the demolition of single-family homes located outside of historic districts."
 - C. *Application requirements.* The following shall be required for all applications for administrative appeals:
 - (i) The petition to the board shall be in writing; and
 - (ii) Shall be submitted by or on behalf of an eligible party; and
 - (iii) Shall set forth the factual, technical, architectural, historic and legal bases for the appeal; and
 - (iv) The party filing the appeal shall be responsible for providing all plans and exhibits, subject to planning department procedures, as well as the duplication of all pertinent plans and exhibits.
 - D. *Notice requirements.* All administrative appeal applications 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 hearing applicant shall be responsible for all associated costs and fees.

- E. *Standard of review.* The appeal shall be "de novo," meaning that the party appealing the administrative decision bears burden of going forward with evidence and of persuasion at the board of adjustment administrative appeal proceeding, and to that end, the board shall have all the powers of the officer from whom the appeal is taken. Witnesses and testimony may be considered during the hearing. The hearing is considered quasi-judicial in nature, and a public hearing is required.
- (3) *Outside counsel to the planning department.* In the event of an administrative appeal to the board of adjustment, 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 planning director who made the decision that is the subject of the appeal.
- (4) *Board of adjustment decisions on administrative appeals.* The board of adjustment may, upon appeal, reverse or affirm, wholly or partly, the order, requirement, decision, or determination. The concurring vote of five members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the planning director or to decide in favor of the applicant on any matter upon which the board of adjustment is required to pass under these land development regulations.

No permit shall be issued for work prior to expiration of the appeal period or final disposition of any appeal.

- (5) *Stay of work and proceedings on appeal.* An administrative appeal to the board of adjustment stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the exceptions below applies:
 - A. The planning director shall certify to the board of adjustment that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such a case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the board or by a court of competent jurisdiction, upon application, with notice to the officer from whom the appeal is taken and for good cause shown; or
 - B. Associated land use board hearings, may proceed to a final order, provided, however, (i) no building permit, or certificate of occupancy, or business tax receipt, dependent upon such hearing approval, shall be issued until the final resolution of all administrative and court proceedings as certified by the city attorney; and (ii) the applicant for such land use board hearing shall hold the city harmless and agree to indemnify the city from any liability or loss resulting from such proceedings.
- (c) *Appeals of land use board applications.*
 - (1) Decisions of the following 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:
 - A. Planning board.
 - B. Board of adjustment.
 - C. Design review board, with respect to variance decisions and administrative appeals, only.
 - D. Historic preservation board, with respect to variance decisions and administrative appeals, only.
 - E. Historic preservation special master.
 - (2) Decisions from the following may be appealed as noted:
 - A. *Historic preservation board.*

- (i) Any applicant requesting an appeal of an approved application from the historic preservation board (for a Certificate of Appropriateness only) shall be made to the historic preservation special master, except that a land use board order granting or denying a request for rehearing shall not be reviewed by the Historic preservation special master.
 - (ii) The historic preservation special master shall meet the following requirements:
 - a. Historic preservation special master qualifications. Historic preservation special masters appointed to hear appeals pursuant to this subsection shall be attorneys who are members in good standing of the Florida Bar and have expertise in the area of historic preservation.
 - b. Historic preservation special master terms. Historic preservation special masters shall serve terms of three years, provided however, that they may be removed without cause upon a majority vote of the city commission. Compensation for historic preservation special masters shall be determined by the city commission.
 - B. *Design review board.* Any applicant requesting an appeal of an approved application from the design review board (for design review approval only) shall be made to the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the city commission.
- (3) Eligible appeals of the design review board or historic preservation board shall be filed in accordance with the process as outlined in subsections A through D) below:
- A. Timeframe to file. A petition for an appeal shall be submitted to city clerk on or before the 20th 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 to file an application for an appeal are limited to the following:
 - (i) Original applicant;
 - (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:
 - (i) The appeal shall be in writing, and include all record evidence, facts, law and arguments necessary for the appeal (this appellate document shall be called the "brief"); and
 - (ii) Shall include all applicable fees, as provided in appendix A; and
 - (iii) Shall be by or on behalf of a named appellant(s); and
 - (iv) Shall state the factual bases and legal argument in support of the appeal; and
 - (v) A full verbatim transcript of all proceedings which are the subject of the appeal shall be provided by the party filing the petition, along with a written statement identifying those specific portions of the transcript upon which the party filing it will rely for purposes of the appeal. The verbatim transcript and written statement

shall be filed no later than two weeks prior to the first scheduled public hearing to consider the appeal.

D. Notice requirements. All applications for an appeal of the design review board or historic preservation board 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 appeal applicant shall be responsible for all associated costs and fees.

(4) Action. In order to reverse, amend, modify, or remand amendment, modification, or rehearing the decision of the board, the city commission (for design review board appeals), and the historic preservation special master (for historic preservation board appeals of Certificates of Appropriateness, Dig or Demolition), shall find that the board did not comply with any of the following:

- (i) Provide procedural due process;
- (ii) Observe essential requirements of law; and
- (iii) Based its decision upon substantial competent evidence.

The decision on the appeal shall be set forth in writing, and shall be promptly mailed to all parties to the appeal. In order to reverse, or remand, a five-sevenths vote of the city commission is required for appeals of the design review board to the city commission.

(5) Stay of work and proceedings on appeal. An appeal of a board order stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the exceptions below applies:

- (i) A stay would cause imminent peril to life or property. In such a case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the board or by a court of competent jurisdiction, upon application for good cause shown;
- (ii) As applicable only to an appeal arising from the planning board's approval of a conditional use permit, the city may accept, for review purposes only, a building permit application during a pending appeal in circuit court. The applicant shall be required to pay all building permit fees, which fees shall be nonrefundable. Despite the foregoing, no building permit shall issue while the circuit court appeal is pending. Should the decision on the circuit court appeal (petition for certiorari) decision be rendered in favor of the conditional use permit applicant, the applicant may proceed with construction and operations, excluding entertainment operations, pending any further appeals to the Third District Court of Appeal or other appellate proceedings, so long as the following conditions are met:
 - a. The building permit may issue and shall remain active until the final resolution of all administrative and court proceedings;
 - b. No final certificate of occupancy (CO) or certificate of completion (CC) shall be issued, and no entertainment operations or entertainment business shall commence or take place, until the final resolution of all administrative and court proceedings;
 - c. The conditional use permit was appealed by a party other than (i) the city, or (ii) an applicant appealing a denial of a conditional use permit application;
 - d. The property subject to the conditional use permit is located within (i) a commercial district, and (ii) a historic district;
 - e. The scope of the conditional use permit is limited to modifications to an existing structure;
 - f. The applicant shall prior to the issuance of the building permit, either: (i) place funds in escrow, or (ii) obtain a bond, either of which must be in an amount that is

at least equal to or greater than 100 percent of the value of the work proposed under the building permit;

- g. The applicant is not seeking the demolition of any portion of a contributing structure; and
- h. In the event that the conditional use permit is reversed on appeal, the applicant must immediately amend or abandon the building permit or building permit application without any liability to the city, and a CC or CO shall not be issued. Additionally, no BTR for entertainment shall issue.

In order for a building permit to issue pursuant to this subsection (c)(5)(ii), pending any further appeals to the Third District Court of Appeal or other appellate proceedings, the applicant shall be required to comply with all of the conditions in subsections (c)(5)(ii)a. through h., as well as all conditions of the conditional use permit. The applicant shall also be required to execute a written agreement (in a form acceptable to the city attorney) holding the city harmless and indemnifying the city from any liability or loss resulting from the underlying appellate or administrative proceedings, any civil actions relating to the application of this subsection (c)(5)(ii), and any proceedings resulting from the issuance of a building permit, and the non-issuance of a TCO, TCC, CC, CO or BTR for the property. Such written agreement shall also bind the applicant to all requirements of the conditional use permit, including all enforcement, modification, and revocation provisions; except that the applicant shall be ineligible to apply for any modifications to the conditional use permit or any other land use board order impacting the property, until the final resolution of all administrative and court proceedings as certified by the city attorney. Additionally, the applicant must agree that in the event that the conditional use permit is reversed, the applicant shall be required to restore the property to its original condition. The city may utilize the bond to ensure compliance with the foregoing provisions.

- (6) Tolling during all appeals. Notwithstanding the provisions of subsections 118-193(2), "Applications for conditional uses," 118-258(c), "Building permit application," 118-532(c), "Proceedings before the historic preservation board," or 118-564(11), "Decisions on certificates of appropriateness," in the event the original decision (board order) of the applicable board, is timely appealed, the applicant shall have 18 months, or such lesser time as may be specified by the board, from the date of final resolution of all administrative and/or court proceedings to obtain a full building permit, a certificate of occupancy, a certificate of use or a certificate of completion, whichever occurs first. This tolling provision shall only be applicable to the original approval of the board and shall not apply to any subsequent requests for revisions or requests for extensions of time.

(Ord. No. 2015-3977, § 1, eff. 12-19-15; Ord. No. 2017-4083, § 1, 4-26-17; Ord. No. 2018-4185, § 1, 4-11-18)

EXHIBIT K

ARTICLE VI. - DESIGN REVIEW PROCEDURES

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)

Sec. 118-252. - Applicability and exemptions.

(a) *Applicability.*

- (1) All building permits for new construction, public interior areas, interior areas that face a street or sidewalk, demolitions and wrecking, alterations, or additions to existing buildings, including fences, parking lots, walls and signs, whether new or change of copy, and exterior surface finishes and materials, shall be subject to review under the design review procedures except as provided in subsection (b) of this section. No building permit shall be issued without the written approval by the design review board or staff as provided for in these regulations.
- (2) Except for stormwater pump stations and related apparatus installed by the City, all public improvements upon public rights-of-way and easements shall be reviewed by the Design Review Board. For purposes hereof, public improvements shall include, structures, streetscape projects, street improvements or redesign, modifications to street lighting or signage, landscaping projects, medians, master screening plans for stormwater pump stations and related apparatus, and above ground utilities; provided, however, that public improvements shall

not include routine maintenance, utility repair work, and stormwater pump stations and related apparatus installed by the City.

- (3) The review and approval of all new single-family home construction, in accordance with subsection 142-105(d)(7).
- (b) *Exemptions.* Exemptions to these regulations include all of the following provided no new construction or additions to existing buildings are required:
 - (1) All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment when such work is entirely within the interior of the building, excluding public interior areas and interior areas that face a street or sidewalk; however, the planning director may approve such building permit applications for minor work on the exterior of buildings.
 - (2) Any permit necessary for the compliance with a lawful order of the building official, fire marshal or public works director related to the immediate public health or safety.
 - (3) All single-family dwellings are exempt from the design review regulations, with the exception of exterior surface color samples and finishes, and the review and approval of all new single family home construction in accordance with subsection 142-105(d)(7). However, all building permits for new construction, alterations or additions to existing structures shall be subject to compliance with section 142-105, and all demolition permits must be signed by the planning director, or designee.
 - (4) All properties located within designated historic districts and designated historic sites.

(Ord. No. 89-2637, eff. 4-15-89; Ord. No. 89-2665, § 18-2(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2002-3375, § 2, 7-10-02; Ord. No. 2014-3914, § 2, 12-18-14; Ord. No. 2015-3952, § 1, 7-8-15)

Sec. 118-253. - Application for design review.

- (a) The applicant shall obtain a design review application from the planning department, which shall be responsible for the overall coordination and administration of the design review process. When the application is complete, the planning department shall place the application on the agenda and prepare a recommendation to the design review board. The planning department shall determine the date on which the application will be heard by the board; however, the board shall consider the application and planning department recommendation at the next available meeting date after the submission of a completed application to the planning department. Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in section 118-7. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.
- (b) In the event the applicant seeks a preliminary evaluation of a project from the board for information and guidance purposes only, an application for preliminary evaluation shall be required. The planning director, or designee, shall determine the supplemental documents and exhibits necessary and appropriate to complete an application for a preliminary evaluation; the required supplemental documents and exhibits shall serve to describe and illustrate the project proposed in the application in a manner sufficient to enable the board to provide general comments, feedback, information and guidance with respect to the application. Preliminary evaluations by the board shall be for informational purposes only; a preliminary evaluation by the board shall not constitute a binding approval, nor shall any comments, feedback, information or guidance provided by the board be binding upon the board during subsequent review of the preliminary application or a related final application. The board may provide a general comment, feedback, information and guidance during the initial hearing on the application for preliminary evaluations, and may continue discussion on a preliminary evaluation to subsequent meetings in order for the applicant to better address any specific concerns raised by the board or staff, or may elect to terminate the preliminary evaluation

process after providing general comments. All preliminary evaluations shall be subject to the noticing requirements provided in section 118-254. Preliminary evaluations shall not constitute a design review approval, and therefore an applicant acquires no equitable estoppel rights or protections of any kind, type or nature based upon the filing or review of the preliminary evaluation application. The board will not issue an order either approving or denying a project or take any formal action on preliminary evaluation application. Preliminary evaluations shall not entitle applicants to any of the benefits accorded to applicants who have received design review approval, inclusive of appeals or rehearings. Except as used in this section, the use of the phrase "application" throughout this article refers to a completed application for approval and not to a preliminary evaluation application.

(c) [Reserved.]

(d) All applications involving demolition, new building construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, landscape feature, public interior or site in accordance with section 118-252 of the Miami Beach Code shall be on a form provided by the planning department and shall include such information and attached exhibits as the board and the planning department determine are needed to allow for complete evaluation of the proposed demolition, construction and other physical improvements, alterations or modifications including, but not limited to, the following:

- (1) Completed board application, affidavits and disclosures of interest.
- (2) Written description of proposed action with details of application request.
- (3) Survey (original signed and sealed) dated less than six months old at the time of application (lot area shall be provided by surveyor), identifying grade (if not sidewalk, provide a letter from Public Works, establishing grade), spot elevations and Elevation Certificate.
- (4) All applicable zoning information.
- (5) Complete site plan.
- (6) Materials containing detailed data as to architectural elevations and plans showing proposed changes and existing conditions to be preserved.
- (7) Preliminary plans showing new construction in cases of demolition.
- (8) All available data and historic documentation regarding the building, site or features, if required.
- (9) Provided certain minimum criteria as to gross square footage or floor area are triggered as delineated under subsection a., below.

A traffic circulation analysis and plan, prepared by a professional traffic engineer, licensed and registered in the State of Florida, which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated, shall be required in the following instances:

- a. Within the City's Transportation Concurrency Management Areas (TCMA's), as amended from time to time, all new development projects exceeding 5,000 gross square feet.
- b. For development projects that propose new floor area or an increase in floor area, and are located within a half mile of any roadway segment with a level of service E or F, as defined by the Transportation Research Board's Highway Capacity Manual, as amended from time to time.
- c. The following shall be excluded from performing a transportation study and mitigation plan to:
 1. Single-family homes; and
 2. Multi-family projects (exclusive of mixed-use projects) with less than five units or 15,000 gross square feet.

(Ord. No. 89-2665, § 18-2(C), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2015-3978, § 5, 12-9-15, eff. 4-1-16; Ord. No. 2016-3986, § 1, 1-13-16)

Sec. 118-254. - Decision of design review board.

- (a) The design review board shall consider each application at a quasi-judicial, public hearing, at which the applicant and interested persons shall have an opportunity to express their opinions, present evidence and rebut all evidence presented. The planning department, shall provide the applicant with advance notice of the hearing date and time, including a copy of the agenda and the recommendation of the planning department.
- (b) Applications shall comply with the notice requirements in accordance with section 118-8.
- (c) The board may require such changes in the plans and specifications, and conditions, as in its judgment may be requisite and appropriate to the maintenance of a high standard of architecture, as established by the standards contained in these land development regulations and as specified in the city's comprehensive plan and other specific plans adopted by the city of pertaining to the areas identified in subsection 118-252(a).
- (d) Upon approval of an application by the board, the planning director or his authorized representative shall stamp and sign three sets of plans. Two sets of plans shall be returned to the applicant who may then submit an application for a building permit. The remaining approved plans shall be part of the board's official record and shall be maintained on file with the planning department. The board's decision shall be set forth in a written order, specifying the reasons for such decision.
- (e) The planning department, shall promptly mail a copy of the board's order to the applicant.

(Ord. No. 89-2665, § 18-2(D), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2950, eff. 10-29-94; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 00-3268, § 2, 9-27-00; Ord. No. 2010-3711, § 3, 12-8-10; Ord. No. 2015-3976, § 4, eff. 12-19-15)

Cross reference— Review requests and meetings of the historic preservation board and design review board joint projects, § 118-531.

Sec. 118-255. - Reserved.

Editor's note— Sec. 5 of Ord. No. 2015-3978, adopted Dec. 9, 2015, effective Apr. 1, 2016, repealed § 118-255 which pertained to fees, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 90-2722, effective Nov. 21, 1990; Ord. No. 92-2786, effective July 19, 1992; Ord. No. 94-2959, effective Dec. 17, 1994; Ord. No. 95-2993, effective May 27, 1995; Ord. No. 97-3067, effective Jan. 8, 1997; and Ord. No. 98-3155, effective Nov. 18, 1998.

Sec. 118-256. - Clarification hearing.

Should a question arise as to compliance with the conditions as outlined by the design review board, a clarification hearing before the design review board may be called at the request of the planning department, or by the applicant.

(Ord. No. 89-2665, § 18-2(F), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 2000-3268, § 2, 9-27-00)

Sec. 118-257. - Deferrals, continuances, and withdrawals.

- (a) An applicant may defer an application before the public hearing only one time. The request to defer shall be in writing. When an application is deferred, it shall be re-noticed at the applicant's expense as provided in section 118-254. The applicant shall also pay a deferral fee as set forth in this article. In the event that the application is not presented to the design review board for approval at the meeting date for which the application was deferred, the application shall be deemed null and void. If the application is deferred by the board, the notice requirements shall be the same as for a new application as provided in section 118-254, and shall be at the city's expense.
- (b) The board may continue an application to a date certain at either the request of the applicant or at its own discretion.
- (c) In the event the application is continued due to the excessive length of an agenda or in order for the applicant to address specific concerns expressed by the board and/or staff, the applicant shall present for approval to the board a revised application inclusive of all required exhibits which attempt to address the concerns of the board and/or staff, for the date certain set by the board, which shall be no more than 120 days after the date on which the board continues the matter.
- (d) In the event that the applicant fails to present for approval to the board, a revised application as described above within 120 days of the date the application was continued, the application shall be deemed null and void.
- (e) Deferrals or continuances for a specific application shall not exceed one year cumulatively for all such continuances or deferrals made by the board, or the application shall be deemed null and void.
- (f) An application may be withdrawn by the applicant if such request is in writing and filed with the planning department prior to the public hearing, or requested during the public hearing, provided, however, that no application may be withdrawn after final action has been taken. Upon a withdrawal or final denial of an application for design review approval from the design review board the same application cannot be filed within six months of the date of the withdrawal or denial unless, however, the decision of the board taking any such action is made without prejudice to refile.
- (g) In the event there is a lack of a quorum, all pending or remaining matters shall be continued to the next available meeting of the board.

(Ord. No. 89-2665, § 18-2(G), eff. 10-1-89; Ord. No. 95-3003, eff. 7-22-95; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2010-3711, § 3, 12-8-10)

Sec. 118-258. - Building permit application.

- (a) The applicant or his authorized agent shall make application for a building permit. The application shall include, at a minimum, the two sets of plans which were approved by the design review board and stamped and signed by the planning director or his authorized representative.
- (b) No building permit, certificate of occupancy, certificate of completion, or occupational license shall be issued unless all of the plans, including amendments, notes, revisions, or modifications, have been approved by the planning director. Minor modifications to plans that have been approved by the board shall be permitted when approved by the planning director.
- (c) Expiration of orders of the design review board. No building permit, full building permit or phased development permit shall be issued for any plan subject to design review except in conformity with the approved plans. The applicant shall have up to 18 months, or such lesser time as may be specified by the board, from the date of the board meeting at which design review approval was granted to obtain a full building permit or a phased development permit. The foregoing 18-month time period includes the time period during which an appeal of the decision of the design review board may be filed, pursuant to the requirements of section 118-9. If the applicant fails to obtain a full building permit or a phased development permit within 18 months, or such lesser time as may be

specified by the board, of the board meeting date at which design review approval was granted, and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, all staff and board approvals shall be deemed null and void. Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the board, at its sole discretion, provided the applicant submits a request in writing to the planning director no later than 90 calendar days after the expiration of the original approval, showing good cause for such an extension. At the discretion of the planning director, an applicant may have up to 30 days (not to extend beyond 30 months from the date of original approval) to complete the building permit review process and obtain a full building permit, provided that within the time provided by the board to obtain a full building permit a valid full building permit application and plans have been filed with the building department, a building permit process number has been issued and the planning department has reviewed the plans and provided initial comments.

Please refer to section 118-9 relating to appealed orders, and tolling.

- (d) An applicant may submit an application for a building permit simultaneously with a design plan review in order to expedite processing, however, no building permit shall be issued until the final design plan has been stamped and signed by the planning director or designee in accordance with these land development regulations.
- (e) No construction may commence in the event a design review approval expires.
- (f) Timeframes in development agreements. The time period to obtain a full building permit or phased development permit set forth in subsection (c) may be superseded and modified by a development agreement approved and fully executed pursuant to section 118-4 of this Code, so long as the modified time period is expressly negotiated and set forth in the executed development agreement.

(Ord. No. 89-2665, § 18-2(H), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 95-3003, eff. 7-22-95; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2003-3416, § 2, 6-11-03; Ord. No. 2008-3599, § 2, 3-12-08; Ord. No. 2015-3977, § 9, eff. 12-19-15; Ord. No. 2019-4254, § 3, 4-10-19)

Sec. 118-259. - Phased development permit.

A phased development permit shall apply to multiple building/structure development only and shall include all plans for each phase of the project as submitted, required and approved by the design review board. The applicant shall request the board approve a phased development at the public hearing and the board shall specify a reasonable time limit within which the phases shall begin or be completed or both. The board shall require a progress report from the applicant at the completion of each phase. A phased development permit shall not be a demolition, electrical, foundation, mechanical or plumbing permit or any other partial permit.

(Ord. No. 89-2665, § 3-2(159), eff. 10-1-89; Ord. No. 95-3003, eff. 7-22-95)

Sec. 118-260. - Administrative review procedures.

- (a) The planning director or the director's designated representative shall have the authority to approve, approve with conditions, or deny an application on behalf of the board, for the following:
 - (1) Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way, any waterfront or public park. For those lots which are greater than 10,000 square feet, the floor area of the proposed addition may not exceed ten percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 5,000 square feet.

- (2) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.
- (3) Façade and building alterations, renovations and restorations which are minor in nature.
- (4) Modifications to storefronts and/or façade alterations in commercial zoning districts that support indoor/outdoor uses, which are compatible with the architecture of the building, except for vehicular drive-through facilities. Such modifications may include the installation of operable window and entry systems such as pass-through windows, take-out counters, sliding or folding panel doors, french doors, or partially-transparent overhead-door systems. Applications submitted pursuant to this subsection (a)(4) shall comply with the following regulations:
 - a. The property shall not be located within 300 feet of any residential zoning district, measured following a straight line from the proposed operable storefront of the commercial establishment to the nearest point of the property designated as RS, RM, RMPS, RPS, RO or TH on the city's zoning district map; and
 - b. The extent of demolition and alterations to the façade of the building shall not permanently alter the character of the building's architecture by removing original architectural features that cannot be easily replaced, or by compromising the integrity of the architectural design.

Should the proposed storefront modification not comply with any of the above regulations, the proposed modifications to storefronts and/or facade alterations shall require design review board review and approval.

- (5) Modifications to storefronts and/or facade alterations utilizing an exterior component within the storefront and/or facade, which are compatible with the architecture of the building (including, without limitation, the installation of walk-up teller systems and similar 24/7 ATM-style pickup openings, dry-cleaning drop-off and pick-up kiosks, and similar self service facilities; but excluding vehicular drive-through facilities). Any new openings shall be architecturally compatible with the building and minimally sized to facilitate the transfer of goods and services.
- (6) Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements.
- (7) Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage.
- (8) Minor work associated with the public interiors of buildings and those interior portions of commercial structures which front a street or sidewalk.
- (9) Minor work involving public improvements upon public rights-of-way and easements.
- (10) Minor work which is associated with rehabilitations and additions to existing buildings, or the construction, repair, or rehabilitation of new or existing walls, at-grade parking lots, fences.
- (11) Applications related to exterior balcony, terrace, porch and stairway rails on existing buildings, which have become nonconforming as it pertains to applicable Florida State Codes, and which have been issued a violation by an agency or city department responsible for the enforcement of Florida Statutes associated with life safety codes. Modifications required to address compliance with applicable state life safety codes shall be consistent with the original design character of the existing rails, and may include the introduction of secondary materials such as fabric mesh, solid panels and glass panels.

The director's decision shall be based upon the criteria listed in this article. The applicant may appeal a decision of the planning director, pursuant to the procedural requirements of section 118-9.

(Ord. No. 89-2665, § 18-2(I), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 99-3167, § 2, 1-20-99; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2015-3977, § 10, eff. 12-19-15; Ord. No. 2017-4083, § 2, 4-26-17; Ord. No. 2018-4182, § 1, 4-11-18; Ord. No. 2019-4271, § 1, 6-5-19)

Sec. 118-261. - Reserved.

Editor's note— Sec. 11 of Ord. No. 2015-3977, effective Dec. 19, 2015, repealed § 118-261, which pertained to rehearings and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 94-2950, effective Oct. 29, 1994; Ord. No. 98-3133, adopted July 15, 1998; and Ord. No. 2000-3268, adopted Sept. 27, 2000.

Sec. 118-262. - Reserved.

Editor's note— Sec. 12 of Ord. No. 2015-3977, effective Dec. 19, 2015, repealed § 118-262, review of design review decisions in its entirety. See Code Comparative Table for legislative history.

Sec. 118-263. - Reserved.

Editor's note— Sec. 13 of Ord. No. 2015-3977, effective Dec. 19, 2015, repealed § 118-263, which pertained to stay during rehearings/reviews/appeals, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 95-3003, effective July 22, 1995; and Ord. No. 2000-3268, adopted Sept. 27, 2000.

Sec. 118-264. - Design review approval conditions and safeguards.

In granting design review approval, the design review board may prescribe appropriate conditions and safeguards either as part of a written order or on approved plans. Violation of such conditions and safeguards, when made a part of the terms under which the design review approval is granted, shall be deemed a violation of these land development regulations.

(Ord. No. 2007-3566, § 3, 9-5-07)

Secs. 118-265—118-320. - Reserved.

EXHIBIT L

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.

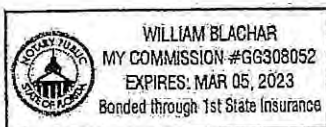
Dated this 15th day of July, 2019.

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: Nick Kallegis (7/15/2019)
City Attorney's Office:

Filed with the Clerk of the Design Review Board on Jason Guller (7/15/19)

[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 M

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



EXHIBIT N

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 05, 2019

FILE NO: DRB19-0455 (DRB19-0392)

PROPERTY: **1201 20th Street - Unit 404**

APPLICANT: Sunset Islands 3 and 4 Property Owners, Inc., and Terry Bienstock

LEGAL: See attached Exhibit "A".

IN RE: An application has been filed requesting a re-hearing of a previous decision of the Design Review Board, wherein the Board approved 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. If the request for a rehearing is granted, the matter may be heard immediately or heard at a later date.

ORDER

The City of Miami Beach Design Review Board makes the following FINDING 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:

The applicants, Sunset Islands 3 and 4 Property Owners, Inc. and Terry Bienstock, filed an application with the City of Miami Beach Planning Department; petitioning for rehearing of a previously issued Design Review Approval.

Following argument of the parties, the Design Review Board determined that the petition for rehearing failed to demonstrate, pursuant to City Code Section 118-9(a)(2)(C), "(i) [n]ewly discovered evidence which is likely to be relevant to the decision of the board, or (ii) [t]he board has overlooked or failed to consider something which renders the decision issued erroneous."

IT IS HEREBY ORDERED, based upon the foregoing finding 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 recommendation, that the subject Petition for Rehearing is **DENIED**.

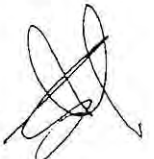
A handwritten signature in black ink, consisting of a stylized, cursive 'S' followed by a large, sweeping flourish that extends upwards and to the right.

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 O

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.