

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: October 06, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB20-0577 (aka DRB17-0216 DRB17-0160)  
**1420-1508 Bay Road—The Grand Flamingo**

An application has been filed requesting Design Review Approval for modifications to a previously issued Design Review Approval for exterior design and site plan modifications and to allow the approved project to take place in five (5) phases as a phased development project (aka DRB17-0216, DRB17-0160) and including the modifications of conditions of the original Final Order.

#### **RECOMMENDATION:**

Approval with conditions

#### **LEGAL DESCRIPTION:**

See attached 'Exhibit A'

#### **HISTORY:**

On November 04, 1997 the DRB approved a 35-story addition on the eastern side of a 16 acre Bayfront lot configured above and joining two existing 15-story apartment buildings, as part of a comprehensive renovation for the existing Morton Towers apartment complex, pursuant to DRB File No. 9191.

On October 02, 2007 the DRB approved a revised front entry design configuration with the drive and landscaping, including the removal of the existing parking spaces, entrance drive, and gatehouse, and installation of new drop-off lanes and landscaping, pursuant to DRB File No. 20925. This configuration did not come to fruition.

On November 07, 2017 an application was approved by the DRB for design modifications and renovations to exterior and interior portions of the existing North and Central Towers of Flamingo Apartments. These included extensive landscaping, changes to vehicular circulation and pick-up/drop-off locations, and entrance features, pursuant to DRB File No. DRB17-0160.

On March 08, 2018, an application was approved to allow the approved project to take place in four (4) phases as a phased development project, pursuant to DRB File No. DRB17-0216.

**SITE DATA:**

Zoning: RM-3 and RM-2  
Future Land Use: RM-3 and RM-2  
Lot Size:  
695, 933 SF (applicant)  
589,873 SF (MD property appraiser)  
FAR: 4 (**NO INCREASE IN FAR**)  
Height: (**NO INCREASE IN HEIGHT**)  
Existing North Tower: 15-story  
Existing Central Tower 35-story

Total Flamingo Units: 1,689 Units  
Existing North Tower Units: 1441 Units  
Proposed North Tower Units: 1441 Units  
No change

New garden units: 8 Units  
Total units: 1449 Units  
Existing Central Tower Units: No change  
Existing South Tower Units: No change

Existing Green Space: 185,000 SF  
Proposed Green Space: 175,000 SF

Existing Parking: 2,032 Spaces  
Proposed Parking: 1,739 Spaces\*  
Parking Credits: 293\*  
\*w/o restaurant use

Existing Retail: 5,100SF  
Proposed Retail: 4,100 SF  
Bicycle Parking: 80 long term  
12 short term  
Grade: +7. 00' NGVD  
Base Flood Elevation: +8.00' NGVD  
Difference: 1.0' NGVD  
Adjusted Grade: +7.5' NGVD

**SURROUNDING PROPERTIES:**

West: Biscayne Bay  
North: RM2 residential  
Gilbert Fein Conservation District  
South: The Waverly, 29- and 35-story  
residential building  
East: RM1 residential

**ORIGINAL STRUCTURE:**

Morton Towers South - 1960 Melvin Grossman| 15-story residential building  
Morton Towers North - 1961 Melvin Grossman| 15-story residential building  
Central Tower – 1997 Zyscovich | 35-story residential building

**THE PROJECT:**

The applicant has submitted plans entitled "DRB20-0577 FLAMINGO 1420 Bay Road", by **Stantec Architecture Inc**, dated, signed, and sealed 08/10/20.

The applicant is proposing a modified phasing schedule to a previously approved application that included substantial design modifications and renovations to the exterior and interior portions of the existing North and Central Towers of Flamingo Apartments.

**COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the applicable sections of 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.

**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 Applicable**

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

**Not Applicable**

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 Applicable**

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

**Not Applicable**

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

**Not Applicable**

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

**Not Applicable**

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

**Not Applicable**

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

**Not Applicable**

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

**Not Applicable**

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

**Not Applicable**

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

**Not Satisfied**

**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.  
**Satisfied**
2. Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Satisfied**
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Satisfied**
4. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.  
**Satisfied**
5. The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.  
**Satisfied**
6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.  
**Satisfied**
7. In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

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

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

**Not Satisfied. It is not reasonably feasible to elevate the existing buildings.**

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

**Not Satisfied. Existing habitable spaces that are below flood elevation will be converted to nonhabitable spaces and the proposed improvements will introduce wet or dry flood proofing systems in the design.**

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

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

11. Cool pavement materials or porous pavement materials shall be utilized.

**Not Satisfied**

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

**Not Satisfied**

## **ANALYSIS:**

### **DESIGN REVIEW**

The subject property is a waterfront parcel approximately 16 acres in size located between 14th and 16th Streets on the west side of Bay Road. The site traverses two different zoning residential multifamily zoning districts--the northern portion of the site zoned RM-2 (Residential Multifamily, Medium Intensity) and contains the northern half of the main parking north garage lined with townhouses on its east facade along Bay Road, as well as garden apartments and a residential gym on the upper floors facing Biscayne Bay to the west. This portion of the site contains approximately 126,319 SF of lot area.

Most of the property is zoned RM-3 (Residential Multifamily, High Intensity) and contains the North, South and Center multistory residential towers, townhouses fronting Bay Road, associated parking and entrances, a few accessory commercial uses, and landscaped area. Most recently this area was the subject of a DRB application for renovations to the exterior and interior portions of the existing North and Central Towers of Flamingo Apartments. These included extensive landscaping, changes to vehicular circulation and pick-up/drop-off locations, and entrance features, pursuant to DRB File No. DRB17-0160. This portion of the site contains approximately 569,614SF of lot area.

### **EXTERIOR MODIFICATIONS**

As construction continues at the expansive site, field conditions determine certain necessary modifications to the proposed plans. The applicant proposes further refinements to the exterior bay-facing elevations of the North Tower, as well as the proposal to convert the accessory gym on the upper floors of west side of the North Garage into 8 new garden apartments with prime views of Biscayne Bay, which will be included as Phase V. The proposed modifications to the elevations concern mainly the short façade ends of the north

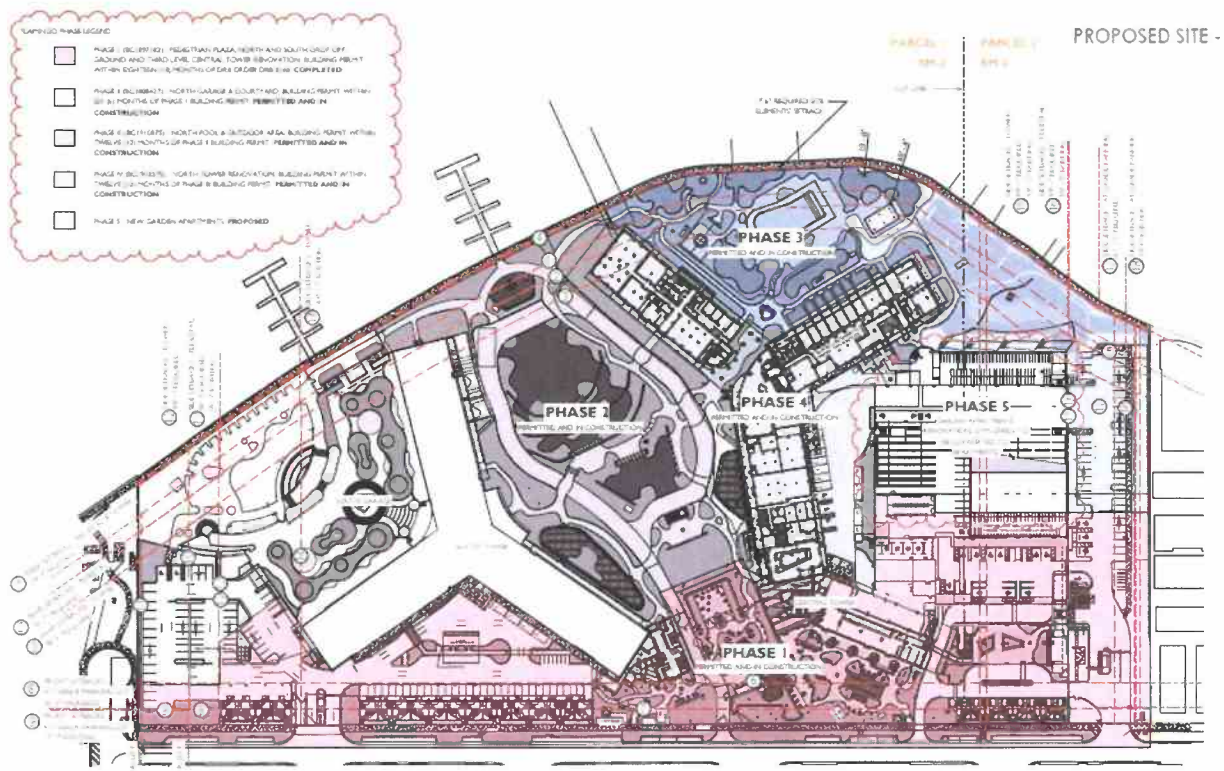
and west wings of the North Tower. The previous approved design had facades with a central band of glazing, flanked by balconies, that ran up the entirety of the building and which was crowned with a framed architectural element. The new elevations have replaced the glazing with a band of fluted stucco, a common detail on elevation, that terminates beyond the roof line as an accentuated parapet, completed removing the architectural frame beyond the roof line. The new garden apartments will be similar to those on the floors below, as will the fenestration facing Biscayne Bay.

#### **PHASED DEVELOPMENT REVIEW**

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

| <u>Phase #</u> | <u>Description</u>  | <u>Timeframe</u>  | <u>Status</u>                 |
|----------------|---|---|-------------------------------|
| I              | Pedestrian Plaza, North and south drop off, and ground and 3rd level Central Tower renovation | Building permit within 18 months of DRB Order DRB17-0160                        | Completed                     |
| II             | North Garage & Courtyard  | Building permit within six (6) months of Phase I building permit                | Permitted and in construction |
| III            | North Pool & Outdoor Area   | Building permit within twelve (12) months of Phase II building permit           | Permitted and in construction |
| IV             | North Tower Renovation  | Building permit within twelve (12) months of Phase III building permit          | Permitted and in construction |
| <b>NEW V</b>   | <b>New Garden Apts</b>  | <b>Phase V to be within 18 months of CO for Phase IV for north tower permit</b> |                               |





The proposed time frames for permitting and construction are reasonable in light of the size of the property and the comprehensive renovations involved. As depicted on the plans, staff is supportive of the phasing schedule.

### **MODIFICATIONS OF PRIOR CONDITIONS**

The November 07, 2017 DRB Order for File No. DRB17-0160 included several conditions specifically related to the hours and operation of the restaurant. To assist with obtaining operational licenses for the proposed restaurant fronting the pedestrian plaza, which is wholly independent from existing café, the Applicant requests modification of one condition regarding the number of seats as follows:

FROM:

Condition I.D.3.a.ii. Outdoor seating shall be limited to 40 seats and the total restaurant seating shall be limited to 120 seats.

TO:

Condition I.D.3.a.ii. Combined total of any restaurant and café seating shall be limited to 215 seats, with combined total of outdoor seating for any restaurant and café limited to 60 seats.

In summary, staff recommends that the application be approved.

### **RECOMMENDATION:**

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



**EXHIBIT 'A'**

**PARCEL I:**

Lot 7 and the South 1.00 feet of Lot 6, in Block 43, of ALTON BEACH BAYFRONT SUBDIVISION, according to the plat thereof, as recorded in Plat Book 4, at Page 125, of the Public Records of Dade County, Florida.

**PARCEL II:**

Lot 6, less the South 1.0 feet, in Block 43, of ALTON BEACH BAYFRONT SUBDIVISION, according to the plat thereof, as recorded in Plat Book 4, at Page 125, of the Public Records of Dade County, Florida.

**Parcel III:**

Together with any and all right, title and interest of the insured as a lessee under that certain Sovereignty Submerged Land Lease No. 130004286 by and between The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as Lessor, and Morton Towers Apartments, a Florida general partnership, as Lessee, filed August 20, 1990, at Official Records Book 14671, at Page 573, as modified and renewed by Sovereignty Submerged Land Lease Renewal No. 130004286 by and between The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as Lessor, and Morton Towers Apartments, a Florida general partnership, as Lessee, filed June 14, 1994, at Official Records Book 16401, at Page 2756, of the Public Records of Dade County, Florida; as further modified by Modified Sovereignty Submerged Land Lease No. 130004286 by and between the Board of Trustees of the Internal Improvement Fund of the State of Florida, as Lessor and Morton Towers Apartments, L.P., a Delaware limited partnership, as Lessee, filed September 19, 1997 in Official Records Book 17797, at Page 4825, which Lease demises the following described property:

**ALSO DESCRIBED AS FOLLOWS:**

**ALSO MARINA AREA "A",** a parcel of land in Biscayne Bay contiguous to the Westerly line of parcel 1 of the above described property and described as follows:

Commence (P.O.C.) at the Southeasterly corner of Lot 7 referenced above, said Southeasterly corner of Lot 7 being the Northwest corner of Bay Road and 14th Street in the City of Miami Beach, Florida; thence run N 1°33'30" W along the Westerly line of Bay Road, along the Easterly line of said Lot 7, a distance of 780.91 feet; thence run S 48°37'57" W across Lot 7, a distance of 678.89 feet to a point on the Westerly face of a concrete bulkhead cap on the Westerly line of Lot 7 on the Easterly shore of Biscayne Bay, said point being the POINT OF BEGINNING (P.O.B.) of Marina Area "A"; thence run Northwesterly meandering the face of said bulkhead cap along the Easterly shore of Biscayne Bay, along the Westerly line of said Lot 7, a distance of 184.00 feet; thence run S 62°57'00" W in Biscayne Bay, a distance of 135.00 feet; thence run S 27°03'00" E in Biscayne Bay, a distance of 184.00 feet; thence run N 62°57'00" E in Biscayne Bay a distance of 135.00 feet, more or less to the POINT OF BEGINNING (P.O.B.). Marina Area "A" contains 24,840 square feet more or less or 0.570 acres, more or less.

**ALSO MARINA AREA "B",** a parcel of land in Biscayne Bay contiguous to the Westerly line of parcel 1 of the above described property and described as follows:

Commence (P.O.C.) at the Southeasterly corner of Lot 7, referenced above, said Southeasterly corner also being the Northwesterly corner of Bay Road and 14th Street in the City of Miami Beach, Florida; thence run N 1°33'30" W along the Westerly line of Bay Road, along the Easterly line of Lot 7, a distance of 780.91 feet; thence run S 48°37'57" W across Lot 7, a distance of 678.89 feet to a point on the Westerly face of a concrete bulkhead cap on the Westerly line of said Lot 7 on the Easterly shore of Biscayne Bay; thence meandering the Westerly face of said bulkhead cap along the Westerly line of said Lot 7, run Southerly a distance of 96.60 feet to a POINT OF BEGINNING (P.O.B.) of Marina Area "B" described as

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

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

MEETING DATE: October 06, 2020

PROPERTY/FOLIO: **1420 Bay Road**—the Grand Flamingo **02-3233-007-0030**  
**1508 Bay Road**—the Grand Flamingo **02-3233-007-0032**

FILE NO: DRB20-0577 (aka DRB17-0216, DRB17-0160)

IN RE: An application has been filed requesting Design Review Approval for modifications to a previously issued Design Review Approval for exterior design and site plan modifications and to allow the approved project to take place in five (5) phases as a phased development project (aka DRB17-0216, DRB17-0160) and including the modifications of conditions of the original Final Order.

LEGAL: See attached 'Exhibit A'

**SUPPLEMENTAL ORDER**

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

**I. Design Review**

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is consistent with Design Review Criteria in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is not subject to the Sea Level Rise Criteria in Section 133-50(a) of the Miami Beach Code.
- D. The project would remain consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
  - 1. All of the original conditions of approval by this Board, as reflected in the Final Order dated November 07, 2017 pursuant to DRB File No. DRB17-0160, and dated March 06, 2018 pursuant to DRB File No. DRB17-0216, shall remain in effect except as modified herein:

Condition I.D.3.a.ii. ~~Outdoor seating shall be limited to 40 seats and the total restaurant seating shall be limited to 120 seats.~~

Condition I.D.3.a.ii. Combined total of any restaurant and café seating shall be limited to 215 seats, with combined total of outdoor seating for any restaurant and café limited to 60 seats.

2. The proposed exterior design changes and site plan modifications shall be approved as proposed.
3. The proposed phasing schedule shall be approved as proposed. The description and approximate schedule for each phase is as follows:

**Phase I - Pedestrian Plaza, North and south drop off, and ground and 3rd level Central Tower renovation.**

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

**Phase II Permit Set – North Garage & Courtyard**

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

**Phase III Permit Set - North Pool**

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

**Phase IV Permit Set - North Tower**

**Phase IV** – shall consist of all proposed development to the North Tower as further defined and depicted on the submitted plans. A building permit for the Phase IV improvements shall be issued within twelve (12) months following the issuance of the Phase III building permit.

**Phase V Permit Set – Garden Apartments**

**Phase V** – shall consist of all proposed development to the new garden apartments and other alterations as further defined and depicted on the submitted plans. A building permit for the Phase V improvements shall be issued within 18 months of the issuance of the CO for Phase IV for North Tower permit.

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

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

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

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

- A. In the event that the proposed site plan for any reason fails to sufficiently resolve traffic congestions and vehicle cueing onto Bay Road, the applicant shall return to the Design Review Board with an alternate vehicular circulation plan, which may include substantial changes to the herein approved site plan. The City Parking Department may report back periodically to the Planning Department any r-o-w issues with conditions of this Final Order.
- B. In the event that the provided short term parking overflows onto the public right-of-way, thus impeding vehicular circulation or pedestrian circulation, the applicant shall perform additional parking analysis and provide the appropriate short term parking capacity within private property and shall return to the Design Review Board with a revised plan. The City Parking Department may report back periodically to the Planning Department any r-o-w issues with conditions of this Final Order.
- C. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- D. The Applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the proximity of the driveway to the adjacent neighboring properties.
- E. The Applicant shall submit a restrictive covenant, running with the land, to the Department, approved as to form by the City Attorney, that the property owner has entered into agreement with the ride-sharing companies verifying that the pickup / drop-off locations have been coordinated with the property and coded into the downloadable app.
- F. Failure to comply with the conditions of this Order, or should vehicles queue onto Bay Road or West Avenue, the applicant shall be subject to the continuing jurisdiction and review of the Board, and further conditions may be placed on the property. The Board shall retain the right to call the applicant/owner or operator back before them and make modifications to this Order should there be valid complaints relating to violations of the conditions of this Order.
- G. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- H. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.



- I. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- J. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- K. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- L. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- M. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "DRB20-0577 FLAMINGO 1420 Bay Road", by **Stantec Architecture Inc**, dated, signed, and sealed 08/10/20 and as approved by the Design Review Board, as determined by staff.

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

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

If the Full Building Permit for Phase I of the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, and/or if phased building permits are not issued pursuant to the schedule in Section I.D.2 of this Order, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the

City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

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

Dated this \_\_\_\_\_ 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 \_\_\_\_\_ ( )

Strike-Thru denotes deleted language  
Underscore denotes new language



**EXHIBIT 'A'**

**PARCEL I:**

Lot 7 and the South 1.00 feet of Lot 6, in Block 43, of ALTON BEACH BAYFRONT SUBDIVISION, according to the plat thereof, as recorded in Plat Book 4, at Page 125, of the Public Records of Dade County, Florida.

**PARCEL II:**

Lot 6, less the South 1.0 feet, in Block 43, of ALTON BEACH BAYFRONT SUBDIVISION, according to the plat thereof, as recorded in Plat Book 4, at Page 125, of the Public Records of Dade County, Florida.

**Parcel III:**

Together with any and all right, title and interest of the insured as a lessee under that certain Sovereignty Submerged Land Lease No. 130004286 by and between The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as Lessor, and Morton Towers Apartments, a Florida general partnership, as Lessee, filed August 20, 1990, at Official Records Book 14671, at Page 573, as modified and renewed by Sovereignty Submerged Land Lease Renewal No. 130004286 by and between The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as Lessor, and Morton Towers Apartments, a Florida general partnership, as Lessee, filed June 14, 1994, at Official Records Book 16401, at Page 2756, of the Public Records of Dade County, Florida; as further modified by Modified Sovereignty Submerged Land Lease No. 130004286 by and between the Board of Trustees of the Internal Improvement Fund of the State of Florida, as Lessor and Morton Towers Apartments, L.P., a Delaware limited partnership, as Lessee, filed September 19, 1997 in Official Records Book 17797, at Page 4825, which Lease demises the following described property:

**ALSO DESCRIBED AS FOLLOWS:**

**ALSO MARINA AREA "A"**, a parcel of land in Biscayne Bay contiguous to the Westerly line of parcel 1 of the above described property and described as follows:

Commence (P.O.C.) at the Southeasterly corner of Lot 7 referenced above, said Southeasterly corner of Lot 7 being the Northwest corner of Bay Road and 14th Street in the City of Miami Beach, Florida; thence run N 1°33'30" W along the Westerly line of Bay Road, along the Easterly line of said Lot 7, a distance of 780.91 feet; thence run S 48°37'57" W across Lot 7, a distance of 678.89 feet to a point on the Westerly face of a concrete bulkhead cap on the Westerly line of Lot 7 on the Easterly shore of Biscayne Bay, said point being the POINT OF BEGINNING (P.O.B.) of Marina Area "A"; thence run Northwesterly meandering the face of said bulkhead cap along the Easterly shore of Biscayne Bay, along the Westerly line of said Lot 7, a distance of 184.00 feet; thence run S 62°57'00" W in Biscayne Bay, a distance of 135.00 feet; thence run

S 27°03'00" E in Biscayne Bay, a distance of 184.00 feet; thence run N 62°57'00" E in Biscayne Bay a distance of 135.00 feet, more or less to the POINT OF BEGINNING (P.O.B.). Marina Area "A" contains 24,840 square feet more or less or 0.570 acres, more or less.

**ALSO MARINA AREA "B"**, a parcel of land in Biscayne Bay contiguous to the Westerly line of parcel 1 of the above described property and described as follows:

Commence (P.O.C.) at the Southeasterly corner of Lot 7, referenced above, said Southeasterly corner also being the Northwesterly corner of Bay Road and 14th Street in the City of Miami Beach, Florida; thence run N 1°33'30" W along the Westerly line of Bay Road, along the Easterly line of Lot 7, a distance of 780.91 feet; thence run S 48°37'57" W across Lot 7, a distance of 678.89 feet to a point on the Westerly face of a concrete bulkhead cap on the Westerly line of said Lot 7 on the Easterly shore of Biscayne Bay; thence meandering the Westerly face of said bulkhead cap along the Westerly line of said Lot 7, run Southerly a

distance of 96.60 feet to a POINT OF BEGINNING (P.O.B.) of Marina Area "B" described as follows; thence run S 57°46'30" W into Biscayne Bay, a distance of 135.00 feet to a point; thence run S 32°13'30" E in Biscayne Bay, a distance of 115.00 feet to a point, thence run N 57°46'30" E in Biscayne Bay, a distance of 135.00 feet, more or less to the face of the said concrete bulkhead cap on the westerly line of said Lot 7; thence meandering the Westerly face of said bulkhead cap along the Westerly line of said Lot 7, run Northerly, a distance of 115.00 feet, more or less to the POINT OF BEGINNING (P.O.B.) Marina Area "B" contains 15,525 square feet, more or less or 0.356 acres, more or less.

DRAFT