

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: October 13, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB20-0377, **3120 Collins Avenue.**

An application has been filed requesting a Certificate of Appropriateness for ~~the total demolition of a garage structure and~~ the construction of a new hotel building and variances from the minimum hotel unit size, to reduce the side interior setback, to reduce the side facing a street setback for a pool and a variance from the signage requirements.

#### **RECOMMENDATION**

Approval of the Certificate of Appropriateness with conditions  
Approval of the variances with conditions

#### **BACKGROUND**

On July 14, 2020, the Board reviewed and continued the subject application to a date certain of September 8, 2020. On September 8, 2020 the Board continued the subject application to a date certain of October 13, 2020.

#### **EXISTING STRUCTURES**

Local Historic District: Collins Waterfront

#### **Schmidheiser Residence & Garage, 3127 Indian Creek Drive**

Classification: Contributing  
Original Construction Date: 1926  
Original Architect: E. L. Robertson

#### **Rendale Hotel, 3120 Collins Avenue**

Classification: Contributing  
Original Construction Date: 1940  
Original Architect: E. L. Robertson

#### **ZONING / SITE DATA**

Legal Description: Lots 4, 5, 6, 9, 11, 12 and the North ½ of Lot 3, Block 16, of the Amended Plat of the Ocean Front Property of the Miami Beach Improvement Company, According to the Plat

Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

Zoning: RM-2, Residential multi-family, medium intensity  
Future Land Use Designation: RM-2, Residential multi-family, medium intensity  
Lot Size: 28,500 S.F. / 2.0 Max FAR  
Existing FAR: 50,549 S.F. / 1.77 FAR  
Proposed FAR: 56,997 S.F. / 1.99 FAR

**Proposed Hotel Structure**

Proposed Height: 42'-4" / 4-stories  
Proposed Use: Hotel

**THE PROJECT**

The applicant has submitted plans entitled "Generator Miami: Building E", prepared by STA Architectural Group, dated September 11, 2020.

The applicant is requesting the following variances:

1. A variance from the minimum required hotel unit size: 15% of the hotel units shall be between 300-335 S.F. and 85% of units shall be 335 S.F. or larger, in order to permit 21 hotel units (100%) at less than 300 S.F. (the smallest at 207 S.F.).
  - Variance requested from:

**Sec. 142-217. - Development regulations.**

*The area requirements in the RM-2 residential multifamily, medium intensity district are as follows:*

**Minimum Unit Size (Square Feet): Hotel units - 15%: 300 — 335, 85%: 335+.**

The applicant is proposing a new detached 4-story structure containing 21 new hotel units ranging in size from 207 S.F. to 285 S.F.

The RM-2 zoning district allows the reconfiguration of hotel units with a minimum area of 200 S.F. when such units are within an existing structure and located in a local historic district. Also, for rooftop additions to contributing buildings, new hotel units with a minimum area of 200 S.F. are permitted. In this case, the new construction is a detached addition and the unit size of 200 S.F. would not apply. A rooftop addition to the existing buildings would allow a hotel unit size of 200 S.F. However, this would negatively impact the contributing structures on site.

The existing configuration of the buildings and the need to maintain the historic character of the property create practical difficulties with regard to providing additional, allowable hotel units on the property. As such, variances are requested. The size of the new hotel units would not adversely impact the character of the existing structures or the surrounding historic district. The hotel unit size proposed is consistent with the existing hotel units on the property, where the minimum unit size is 203 S.F. In summary, staff recommends approval of the variance as proposed.

2. A variance to reduce by 5'-0" the minimum required pedestal interior side setback of 10'-0" in order to construct a new ground level addition at 5'-0" from the east property line.

- Variance requested from:

**Sec. 142-218. Setback requirements.**

*The setback requirements in the RM-2 residential multifamily, medium density district are as follows:*

**Pedestal, side interior —Minimum: 10 feet or 8% of lot width, whichever is greater.**

The proposed addition follows the existing Rendale Hotel interior side yard setback of 5'-0". As the applicant is currently proposing to retain all 3 Contributing buildings on the site, these existing conditions create challenges in order to accommodate an addition with minimal impacts to the existing, contributing structures. As the proposed addition will follow the established Rendale Hotel side interior setback, staff finds that the existing building creates the practical difficulties that justify the variance requested.

3. A variance to reduce by 10'-0" the required 15'-0" setback for a pool deck in order to construct a pool deck at 5'-0" from the side facing a street property line facing 32<sup>nd</sup> Street.

- Variance requested from:

**Sec. 142-1133. Swimming pools.**

*This section applies to swimming pools in all districts, except where specified. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, provided as follows:*

**Side yard facing a street. For a side yard facing a street: A 15-foot setback from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.**

The applicant is proposing to demolish the existing non-conforming pool in order to construct a new 4-story ground level addition along the south side interior property line. As such, the applicant is proposing to construct a new pool and deck between the existing 8-story Rendale Hotel and the 2-story garage. The proposed location of the pool is directly related to the applicant's currently proposed plans, which now include the retention of the existing, contributing garage building. Staff has no objections to the variance request due to the minimal impact of the pool and deck on the existing contributing structures and surrounding historic district. In this regard, staff would note that the pool area will be screened by the existing 4'-0" tall site wall along the 32<sup>nd</sup> Street property line and the proposed enhanced landscaping. The limits in available open area are due to the retention of all 3 contributing buildings on the site, thus creating practical difficulties that result in the variance requested.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code as noted above:

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

#### **COMPLIANCE WITH ZONING CODE**

A preliminary review of the project indicates that the application, with the exception of the variances requested herein, appears to be consistent with the City Code.

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.

#### **CONSISTENCY WITH 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **hotel** use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

#### **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.  
**Satisfied**  
**The windows proposed to be replaced will be impact resistant.**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Satisfied**  
**Operable windows are proposed.**
- (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**  
**The first habitable floor of the new addition is proposed to be located at 9.00' NGVD.**
- (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**  
**Additional information shall be provided at the time of building permit review.**
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.  
**Not Applicable**
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.  
**Not Applicable**  
**The first habitable floor of the new addition is proposed to be located at 9.00' NGVD.**
- (10) In all new projects, water retention systems shall be provided.  
**Satisfied**  
**Additional information shall be provided at the time of building permit review.**

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

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

**COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.

**Satisfied**

b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.

**Satisfied**

II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

a. Exterior architectural features.

**Satisfied**

b. General design, scale, massing and arrangement.

**Satisfied**

c. Texture and material and color.

**Satisfied**

d. The relationship of a, b, c, above, to other structures and features of the district.

**Satisfied**

e. The purpose for which the district was created.

**Satisfied**

f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.

**Satisfied**

g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.

**Satisfied**

- h. The original architectural design or any subsequent modifications that have acquired significance.

**Satisfied**

III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. 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**

- b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

**Not Satisfied**

**The applicant is requesting variances.**

- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.

**Satisfied**

- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.

**Satisfied**

- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces 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 preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

**Satisfied**

- f. 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 any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

**Satisfied**

- g. 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 and consistent with a City master plan, where applicable.

**Satisfied**

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

**Satisfied**

- i. 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**

- j. Any proposed new structure shall have 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**

- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, 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 sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Satisfied**

- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Satisfied**

- m. Any 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**

- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.

**Satisfied**

- o. 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**

### **ANALYSIS**

The subject site is comprised of three contributing buildings: the 8-story Rendale Hotel, located at 3120 Collins Avenue, the 2-story Schmidheiser House, located at 3127 Indian Creek Drive and the home's detached, 2-story garage, located along 32<sup>nd</sup> Street. The home and garage were constructed in 1926 and designed by E. L. Robertson in the Mediterranean Revival style.

Staff would note that the originally proposed project was reviewed and continued by the Board on July 14, 2020. The previously proposed project included the total demolition of the garage and the construction of a new 5-story hotel addition along the north side of the property. Since the July meeting, the applicant has submitted revised plans in response to concerns expressed by the Board. The currently proposed project includes the following modifications:

- The applicant is no longer proposing the demolition of the Contributing 2-story garage structure.
- The detached addition has been relocated to the south side of the site and has been redesigned including a reduction in height by 1-story.
- A new swimming pool and deck is proposed to be introduced along the north side of the property.

Staff commends the architect for the sensitive and high-quality design of the new addition. Further, staff believes that the modifications outlined above result in a project that achieves a high level of compatibility with the contributing buildings on the site and the surrounding historic district.

Finally, the applicant is requesting approval for the location of a sign above the ground level. A 12 square foot sign is proposed to be located on the north side of the new addition at the roof level. Staff would note that the Land Development Regulations were modified in 2019 to provide the Historic Preservation Board with review authority for signage in a location above the ground floor.

Staff has no objection to the location of the proposed sign and would note that it has been designed in a manner which is proportionate to the parapet wall area. However, staff would recommend that the sign be a reverse channel type with backlighting, to ensure no adverse impacts on the surrounding historic district. In summary, staff is supportive of the proposed project and is recommending approval as noted below.

### **VARIANCE ANALYSIS**

The applicant is requesting a variance to reduce the minimum room size for new hotel units. The RM-2 zoning district allows the reconfiguration of hotel units with a minimum area of 200 S.F. when located within an existing structure located in a local historic district or when new hotel units are located as rooftop additions on a contributing building. As the addition of floor area on the property is available, a rooftop addition to the existing buildings would negatively impact the

contributing structures on site. Staff finds that the retention of the existing structures on site and the site configuration creates the practical difficulties that satisfy the criteria for the granting of variance #1.

Variance #2 relates to a reduction of the south side interior setback for the construction of a new ground level addition. The proposed 5'-0" side interior setback is consistent existing Rendale Hotel interior side yard setback of 5'-0". Staff finds that the retention of all 3 contributing buildings on the site create challenges in accommodating an addition with minimal impacts to the existing structures. Further, as the proposed addition will follow the established building side setback of the Rendale Hotel, staff finds that the existing building conditions create the practical difficulties that justify the variance requested.

Variance #3 is related to the construction of a new pool and deck partially within the north side facing a street setback. Staff finds that the restrictions in available open area due to the retention of all three Contributing buildings on the site, creates the practical difficulties that result in the variance requested.

### **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 Certificate of Appropriateness criteria and Hardship and Practical Difficulties criteria, as applicable.

**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: October 13, 2020

PROPERTY: 3120 Collins Avenue / 02-3226-001-1370

FILE NO: HPB20-0377

IN RE: An application by G3120 Collins LLC for a Certificate of Appropriateness for the ~~total demolition of a garage structure and the~~ construction of a new hotel building and variances from the minimum hotel unit size, to reduce the side interior setback, to reduce the side facing a street setback for a pool and a variance from the signage requirements.

LEGAL: Lots 4, 5, 6, 9, 11, 12 and the North ½ of Lot 3, Block 16, of the Amended Plat of the Ocean Front Property of the Miami Beach Improvement Company, According to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

**ORDER**

The City of Miami Beach Historic Preservation 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. Certificate of Appropriateness**

- A. The subject site is located within the Collins Waterfront Local Historic District.
- 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:
  - 1. Is consistent with Sea Level Rise and Resiliency Review Criteria (1) in Section 133-50(a) of the Miami Beach Code.
  - 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  - 3. Is consistent with Certificate of Appropriateness Criteria 'a', 'b' & 'd' in Section 118-564(a)(2) of the Miami Beach Code.
  - 4. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(3) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:

Meeting Date: October 13, 2020

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
  - a. The east facing windows of the Rendale Hotel on levels 2 through 8 shall be replaced with new impact resistant casement windows with a muntin configuration consistent with available historical documentation, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - b. The flag poles located at east elevation of the Rendale hotel shall be reintroduced consistent with available historical documentation, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - c. The Rendale Hotel pole sign that previously existed along Collins Avenue shall be reintroduced consistent with available historical documentation, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. Any change of copy will require the review and approval of the Board.
  - d. Along 32<sup>nd</sup> Street, the PIV and related apparatus, immediately adjacent to the sidewalk shall be finished in a hardcoat white, chrome, or similar color, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - e. All backflow, FPL transformer, and related apparatus shall be fully screened by a physical or landscape barrier, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - f. The elevated compressor unit, which is visible from 32<sup>nd</sup> Street, shall either be relocated, or physically screened, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - g. Final design and details of the proposed signage located on the new addition shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. The sign shall be reverse channel and may be backlit.
  - h. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - i. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

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 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.
  - b. Cool pavement materials or porous pavement materials shall be utilized for the pool deck.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

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

- A. The applicant filed an application with the Planning Department for the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were **approved** by the Board:

1. A variance from the minimum required hotel unit size: 15% of the hotel units shall be between 300-335 S.F. and 85% of units shall be 335 S.F. or larger, in order to permit 21 hotel units (100%) at less than 300 S.F. (the smallest at 207 S.F.)
  2. A variance to reduce by 5'-0" the minimum required pedestal side interior setback of 10'-0" in order to construct a new ground level addition at 5'-0" setback from the south interior side setback.
  3. A variance to reduce by 10'-0" the minimum required side yard facing a street setback of 15'-0" in order to construct and new pool and deck at 5'-0" setback from the north property line facing 32<sup>nd</sup> Street.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variance II.A.1 as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code only as it relates to variance II.A.1 as noted above:

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

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

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

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

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

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

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

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

C. The Board hereby **Approves** the requested variances #1, #2 & #3, as noted and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

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

**III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.**

- A. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.

- B. The issuance of a building permit 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. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.
- C. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- D. All applicable new FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- E. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- 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. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. 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.
- I. 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.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. 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.
- L. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code

Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled **“Generator Miami: Building E”**, prepared by **STA Architectural Group**, dated **September 11, 2020**, as approved by the Historic Preservation 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 set forth in this Order. 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 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 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 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 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 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\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT

CHIEF OF HISTORIC PRESERVATION  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She 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 Historic Preservation Board on \_\_\_\_\_ (                    ) )

