

# MIAMI BEACH

## PLANNING DEPARTMENT


### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: April 13, 2021

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB20-0443, **1801 Collins Avenue.**

An application has been filed requesting a Certificate of Appropriateness for the partial demolition, renovation and restoration including interior and exterior design modifications, the introduction of a rooftop retractable canopy system at the mezzanine level, modifications to the rear yard site plan and variances from the required setbacks ~~and from the open space required within the rear yard.~~

#### **RECOMMENDATION**

Approval of the Certificate of Appropriateness with conditions  
Approval of the variance with conditions

#### **EXISTING STRUCTURES**

Local Historic District: Collins Waterfront  
Classification: Contributing

#### **Original Building**

Construction Date: 1940  
Architects: Polevitsky & Russell

#### **Addition**

Construction Date: 1947  
Architect: Morris Lapidus

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

Legal Description: That certain parcel of land bounded on the west by the west line of Lots 13 and 14, and on the south by the south line of Lots 14 and 1 and its easterly extension, Block 1, Fisher's First Subdivision of Alton Beach, according to the Plat thereof, as recorded in Plat Book 2, page 77 of the Public Records of Miami-Dade County, Florida, and on the east by the erosion control line as depicted in Plat Book 105, page 62 of said public records.

Zoning: RM-3, Residential multi-family, high intensity

Future Land Use Designation:	RM-3, Residential multi-family, high intensity
Lot Size:	64,500 S.F. / 2.0 Max FAR
Existing FAR:	<b>178,227 S.F. / 2.76 FAR</b>
Proposed FAR:	<b>175,043, S.F. / 2.71 FAR</b>
Existing Height:	157'-8"
Proposed Height:	No Change
Existing Use/Condition:	Hotel
Proposed Use:	No change

### **THE PROJECT**

The applicant has submitted plans entitled "The Shelborne Hotel", as prepared by Bermello Ajamil & Partners, dated February 8, 2021.

### **COMPLIANCE WITH ZONING CODE**

The application, as submitted, with the exception of the variances requested herein, appears to be inconsistent with the following requirements of the City Code:

1. Sec 142-1109. Bar counter located in the rear yard shall be screen from view from the beach walk.

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 existing **hotel** use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

### **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, 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:

- 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 SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

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

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Satisfied**  
**A recycling or salvage plan has not been submitted. Additional information shall be provided at the time of building permit review.**
- (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**  
**The existing lobby level is located at 10.2' NGVD. The land elevation of the subject property is consistent with the surrounding properties.**
- (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.

**Not Applicable**

- (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**

- (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**

**The existing lobby level is located at 10.2' NGVD.**

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

**Not Applicable**

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

**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**

**Additional information shall be provided at the time of building permit review.**

- (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.  
**Not Satisfied**  
**Several improvements proposed within the lobby are not consistent with the Post War Modern era.**
  - 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.  
**Partially Satisfied**  
**The original south wall design is a reinterpretation of the original design.**
- 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**

**See Compliance with Zoning Code**

- 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**

#### **CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA**

Section 118-564 (f)(4) of the Land Development Regulations of the Miami Beach Code provides criteria by which the Historic Preservation Board evaluates requests for a Certificate of Appropriateness for Demolition. The following is an analysis of the request based upon these criteria:

- a. The Building, Structure, Improvement, or Site is designated on either a national or state level as a part of an Historic Preservation District or as a Historic Architectural Landmark or Site, or is designated pursuant to Division 4, Article X, Chapter 118 of the Miami Beach Code as a Historic Building, Historic Structure or Historic Site, Historic Improvement, Historic Landscape Feature, historic interior or the Structure is of such

historic/architectural interest or quality that it would reasonably meet national, state or local criteria for such designation.

**Satisfied**

**The existing structure is designated as part of the Ocean Drive/Collins Avenue Local Historic District.**

- b. The Building, Structure, Improvement, or Site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.

**Satisfied**

**The existing structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.**

- c. The Building, Structure, Improvement, or Site is one of the last remaining examples of its kind in the neighborhood, the country, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.

**Satisfied**

**The existing structure is a distinctive example of two architectural styles and contributes to the character of the district.**

- d. The building, structure, improvement, or site is a Contributing building, structure, improvement, site or landscape feature rather than a Non-Contributing building, structure, improvement, site or landscape feature in a historic district as defined in section 114-1, or is an architecturally significant feature of a public area of the interior of a historic or Contributing building.

**Satisfied**

**The subject building is classified as a Contributing building in the Miami Beach Historic Properties Database.**

- e. Retention of the Building, Structure, Improvement, Landscape Feature or Site promotes the general welfare of the City by providing an opportunity for study of local history, architecture and design or by developing an understanding of the importance and value of a particular culture and heritage.

**Satisfied**

**The retention of the building promotes the general welfare of the City by providing an opportunity for study of local history, architecture and design or by developing an understanding of the importance and value of a particular culture and heritage.**

- f. If the proposed demolition is for the purpose of constructing a parking garage, the Board shall consider it if the parking garage is designed in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior (1983), as amended, and/or the design review guidelines for that particular district.

**Not Applicable**

**The demolition proposed in the subject application is not for the purpose of constructing a parking garage.**

- g. In the event an applicant or property owner proposes the total demolition of a Contributing structure, historic structure or architecturally significant feature, there shall be definite plans presented to the board for the reuse of the property if the proposed demolition is



approved and carried out.

**Not Applicable**

**The applicant is not proposing the total demolition of the building.**

- h. The Dade County Unsafe Structures Board has ordered the demolition of a Structure without option.

**Not Applicable**

**The Miami Dade County Unsafe Structures Board has not ordered the demolition of the structure.**

**ANALYSIS**

The original 14-story Shelborne Hotel was constructed in 1940 and designed by architects Polevitsky & Russell in the International Style of architecture. In 1957, an attached 8-story addition designed by Morris Lapidus in the Post War Modern style of architecture, was constructed to the west (in front of) the original hotel building. The applicant is currently requesting approval for several modifications to the building including interior and exterior design modifications, the introduction of a rooftop retractable canopy system at the mezzanine level and modifications to the rear yard site plan.

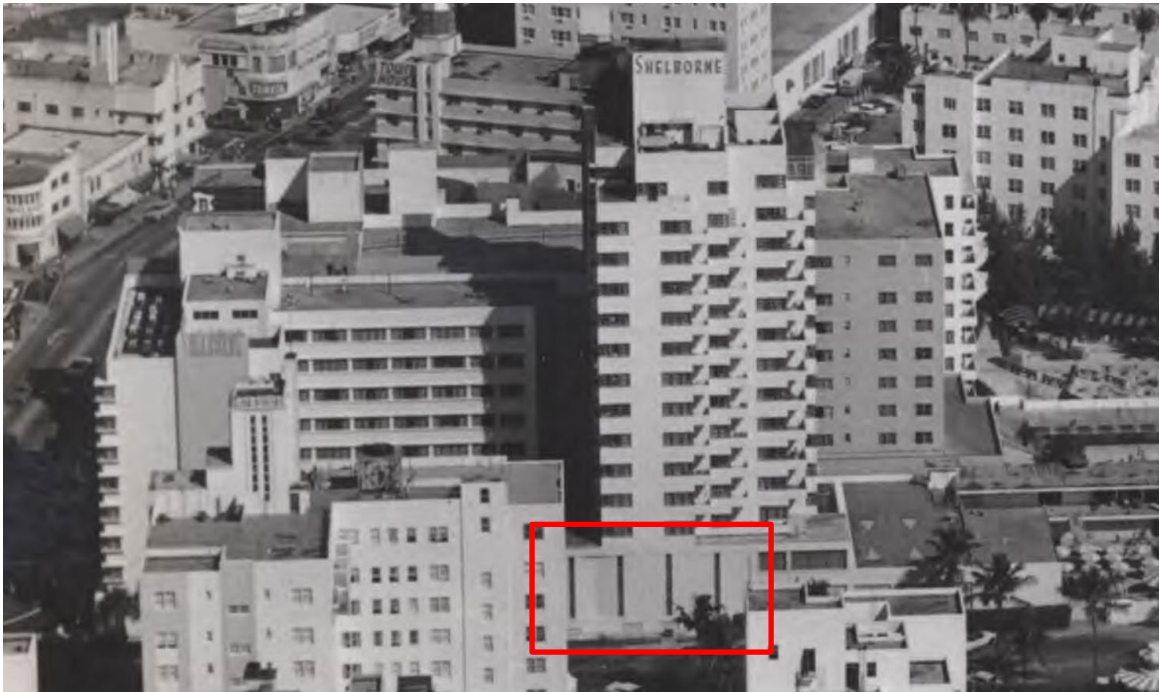
**Lobby and south wall modifications**

As part of the 1957 Lapidus addition, the original 1940 lobby was significantly altered, and the lobby function was relocated closer to Collins Avenue. Little remains of the original 1940 lobby except for a curved staircase and several hexagonal columns. The Lapidus designed arrival sequence extended from the iconic porte-cochere through a single-story reception area and opened to a double-height lobby. The south wall of the lobby featured double-height glass windows along the western end with vertical masonry folded panels extending to the east. Although no definitive evidence has been located, staff is reasonably confident that glass was inset between each of the vertical folded panels.



*Shelborne Hotel postcard, Ca. 1960, rendering of 1957 south wall design outlined in red*

In 1993, seven bi-level residential units were introduced within the double-height lobby space. Concurrently, the 1957 south wall design was altered including the elimination of the double-height glass windows, the introduction of balconettes within the folded panels and the elimination of the inset glass.



*Ca. 1980's aerial photograph, folded panels with glass inset outlined in red*

The applicant is currently proposing to remove the residential units within the lobby and introduce a new south lobby wall inspired by Lapidus design. Staff is extremely supportive of the return of this area back to its original use and, in light of the changes that have occurred over time and extremely limited historical documentation of this space, staff has no major objections to the interior renovations proposed. However, staff recommends that the overall design of the lobby be more consistent with the Post War Modern era, including but not limited to, the design of the back bar and the elimination of the rattan column cladding.

While staff is appreciative of the architect's effort to recall the design of Lapidus' original south wall in the currently proposed project, staff believes that the most appropriate option would be to restore this wall in a manner more consistent with historical documentation. Staff has located the original microfilm plan for the south elevation as well as several photographs of the south wall prior to the 1993 modification. With this information, staff is confident that the wall could be accurately restored.

### **New retractable canopy**

A new 47'-7" by 56'-1" retractable canopy structure is proposed to be introduced at the mezzanine level roof deck, east of the 1940 tower. While staff has no objection to the introduction of the canopy, due to its visibility from 18<sup>th</sup> Street, staff recommends that the canopy motors and associated equipment within the upper portion be concealed with an architectural treatment.

### **Rear yard modifications**

The rear yard area is proposed to be renovated including significant landscape and hardscape enhancements, a new feature waterwall and a new small pool. Staff has no significant concerns with the modifications proposed and believes that the overall design is appropriate for this causal beachfront area.

### **Additional minor modifications**

The fixed east facing windows of the former penthouse terrace (enclosed in 1947) are proposed to be replaced with operable sliding windows and a glass guardrail. Staff has no objection to alterations proposed but would recommend that the guardrail be located inside the building.

Finally, the applicant is proposing several modifications to the south and east walls of the ground level restaurant space at the rear of the building and the introduction of a small bar counter within the rear yard. The alterations proposed will not have any adverse impact on the Contributing building and do not require the demolition of any significant architectural features. In summary, staff is supportive of the proposed project and is recommending approval as noted below.

### **VARIANCE ANALYSIS.**

As part of the renovations to the hotel, the applicant is requesting the following variance:

1. A variance to reduce by a range from 3'-1" to 8'-2" the minimum required pedestal setback of 8'-2" in order to construct portions of the south façade, a new canopy structure at 5'-1", and a metal structure along the pool deck at zero (0'-0") setback from the south side property line.
  - Variance requested from:

#### **Sec. 142-247. – Setback requirements.**

*(a) The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:*

*Subterranean and Pedestal, Side Interior: Minimum—7.5 feet or 8% of lot width, whichever is greater.*

The applicant is proposing modifications to the south side of the property including the reconstruction of a portion of the south wall following the existing building setback of 5'-1", a new canopy structure over the existing terrace at the mezzanine level and a new metal trellis structure along the pool deck. The existing non-conforming south setback of the Contributing building is a unique condition that creates practical difficulty specific to the reconstruction of the south lobby wall and canopy structure at the existing dining terrace. Staff believes that the variance requested for these two elements is necessary in order to retain and restore this historically significant building.

Staff is not however, supportive of the variance requested for the metal trellis structure adjacent to the pool deck at a zero setback. This request does not satisfy the hardship or practical difficulty criteria and is not necessary to a reasonable use of the property. Staff recommends that this structure comply with the required setback or be removed, as noted in the draft Order attached.

Finally, staff would note that a second variance associated with the required open space in the rear yard of the property was initially requested, after further analysis however, it has been determined that a variance is not required.

**RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application be **approved** including the variance requests, as modified, 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: April 13, 2021

PROPERTY/FOLIO: 1801 Collins Avenue / 02-3234-083-0001

FILE NO: HPB20-0443

IN RE: An application has been filed by Shelborne Hotel Partners WC LP c/o Cedar Capital Partners requesting a Certificate of Appropriateness for the partial demolition, renovation and restoration including interior and exterior design modifications, the introduction of a rooftop retractable canopy system at the mezzanine level, modifications to the rear yard site plan and variances from the required setbacks and from the open space required within the rear yard.

LEGAL: That certain parcel of land bounded on the west by the west line of Lots 13 and 14, and on the south by the south line of Lots 14 and 1 and its easterly extension, Block 1, Fisher's First Subdivision of Alton Beach, according to the Plat thereof, as recorded in Plat Book 2, page 77 of the Public Records of Miami-Dade County, Florida, and on the east by the erosion control line as depicted in Plat Book 105, page 62 of said public records.

**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 Ocean Drive/Collins Avenue 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 not 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 not consistent with Certificate of Appropriateness Criteria 'c' 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.

5. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(f)(4) 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:
1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
    - a. The overall design of the lobby shall be more consistent with the Post War Modern style, including back bar, 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 lobby columns shall not be clad with rattan or rattan looking material or finish.
    - b. The south exterior wall of the double-height lobby shall be reconstructed to the greatest extent possible, 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. Final design and details of the retractable canopy structure shall be provided, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. All lighting elements, wind screens, electrical components and conduits, sprinkler lines, and sprinkler heads shall be integrated within the canopy structure and shall not be surface mounted where they may have an adverse aesthetic impact upon the design integrity of the building. Additionally, an architectural treatment shall be provided for the upper portion of the canopy structure along the south and east sides to conceal the retractable canopy motors and associated equipment.
    - d. Final design and details of the penthouse sliding glass windows shall be provided, 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 guardrail shall be located inside the building.
    - e. 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.
    - f. A plaque or historic display describing the history and evolution of the buildings shall be placed on the site and shall be located in a manner visible from the right of way, prior to the issuance of a Certificate of Occupancy for the building, 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. All hedge and ground cover plantings within the street facing yards shall not exceed 36" in height at maturity.
- b. Prior to issuance of a Building Permit, the applicant shall provide a Tree Report prepared by a Certified Arborist for any existing canopy shade trees with a DBH of 3" or greater located in public or private property, which may be scheduled for removal or relocation for the review and approval of the City of Miami Beach Urban Forester.
- c. 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.
- d. The project design shall minimize the potential for a project causing a heat island effect on site.
- e. Cool pavement materials or porous pavement materials shall be utilized.

**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:
  1. A variance to reduce by a range from 3'-1" to 8'-2" the minimum required pedestal setback of 8'-2" in order to construct portions of the south façade, a and new canopy structure at 5'-1", and a metal structure along the pool deck at zero (0'-0") setback from the south side property line.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

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

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

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

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

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

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

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

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

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

C. The Board hereby **approves** the requested variance, as noted and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. The bar counter within the rear yard shall be screened from view from all public right of ways including the beach walk.

**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, if applicable. 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. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code, as applicable.
- 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. All applicable 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.
- G. 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.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. 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.
- J. 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.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. 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.
- M. 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 "**The Shelborne Hotel**", as prepared by **Bermello Ajamil & Partners**, dated **February 8, 2021**, 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  
HISTORIC PRESERVATION AND ARCHITECTURE OFFICER  
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, Historic Preservation and  
Architecture Officer, 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 \_\_\_\_\_ (                    )