CFN 2012R0522480
OR Bk 28202 Pgs 1217 - 1221; (5pgs)
RECORDED 07/25/2012 11:56:07
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 801-863 South Pointe Drive and 819-842 Commerce Street
Block 51 Project

FILE NO. 2067

IN RE: The Request by TRG, Alaska III, LLC for Conditional Use approval of a 320-space mechanical parking garage to satisfy the required parking for the residential tower and accessory uses within the structure, and other parking needs contractually required.

LEGAL DESCRIPTION: See Exhibit "A" attached.

MEETING DATE: May 22, 2012

CONDITIONAL USE PERMIT

The applicant, Seville Acquisition, LLC filed an application for Conditional Use approval under Sections 142-213 and 130-69.5 of the Land Development Regulations of the City Code. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

That the property in question is located in the CPS-1 Commercial Performance Standard limited mixed use Zoning District;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

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

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

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including staff recommendations, as modified by the Planning Board, that a Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed:

CIRCUIT AND COUNTY COURTS
MIAMI-DADE COUNTY, FLORIDA

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).

2. This Conditional Use Permit is issued to TRG Alaska III, LLC as owner of the property. Any change of owner, or operator, or 50% (fifty percent) or more stock ownership change shall be required to appear before the Board to affirm their understanding of the conditions listed herein.

3. 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.

4. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.

5. Parking operation shall be by valet attendants only, except for residential unit owners who may park their vehicles on the ground level of the garage. Otherwise, no self parking shall be permitted.

6. The outdoor areas/rooftop shown on the plans shall be for the exclusive use of the residential unit residents and their guests and shall not be permitted to be used for commercial activity.

7. "Entertainment," as defined in the City Code shall be prohibited within the site, inclusive of the accessory use restaurant, rooftop and any outdoor area.

8. Loading zones shall be prohibited on South Pointe Drive. They shall be located on the alley side of the project.

9. There shall be staff person(s) monitoring the garage operation during hours of operation seven days a week. The structure, operation, procedures, maintenance, service response procedures, remote technical service team, local, on-site service team, and spare parts inventory shall be submitted to staff for review and approval before operations begin.

10. When construction has been completed, but before the commencement of the garage operations authorized by this Conditional Use Permit and before the issuance of a Business Tax Receipt, the garage operations shall be fully tested under the supervision of one of the noise consultants currently approved by the City to ensure that all aspects of the garage operation fully comply with applicable codes and this approval with respect to noise. The garage shall not begin operating until staff has received and approved in writing a final written report from the noise consultant stating that as tested, all aspects of the garage operation fully comply with the sound study dated March 19, 2012 prepared by Kinsella-Marsh Group, Inc. Thereafter, all aspects of the garage operation shall fully and continuously comply with the parameters of said testing.

11. For mechanical lifts, the parking lift platform must be sealed and of a sufficient width and length (minimum of eight feet by 16 feet) to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below, where applicable.

12. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift, where applicable.

13. All electrical components of the lifts shall be underwriters laboratories (UL) approved, where applicable.

14. All mechanical parking systems, including lifts, elevators and robotic systems, must be inspected and serviced at least once per year with an annual safety report signed by a licensed mechanical engineer.

15. All vehicle elevators shall be maintained and kept in good working order.

16. The backup generators shall be maintained in proper operating condition. The location of the generators shall be submitted for the review and approval by staff to ensure than any negative impacts associated with the operation or testing of the equipment are minimized. The generators shall be installed in accordance with Code requirements regarding minimum flood plain criteria.

17. A landscape plan for the entire site, prepared by a Professional Landscape Architect, inclusive of street trees as per the City of Miami Beach Master Street Tree Plan, shall be submitted to and approved by staff before a building permit is issued for construction.

18. The applicant shall submit an MOT (Method of Transportation) to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.

19. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as may be determined as determined by the Concurrency Management Division.

20. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit.

21. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the parking facility.

22. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.

23. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

24. Within a reasonable time after applicant's receipt of this Modified Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No certificate of use, certificate of occupancy, certificate of completion or Business Tax Receipt shall be issued until this requirement has been satisfied.

25. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

26. 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

Dated this 2nd day of July, 2012

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____

Richard G. Lorber, AICP, LEED AP
Acting Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 2nd day of July, 2012, by Richard G. Lorber, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

NOTARY PUBLIC STATE OF FLORIDA
TERESA MARIA
MY COMMISSION # DD 928148
EXPIRES: December 2, 2013
Bonded Thru Budget Notary Services

[NOTARIAL SEAL(STAMP)]

_____

Notary:
Print Name: Teresa Maria
Notary Public, State of Florida
My Commission Expires: 12-2-13
Commission Number: DD 928148

Approved As To Form:
Legal Department (6-25-12)

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Block 51 Legal Description
owned by TRG-Alaska III, LLC, a Florida limited liability company ("Alaska III"):

Lots 4, 5, 6, 7, 8, 9, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28, Block 51, of OCEAN BEACH, FLA. ADDITION NO. 3, according to the plat thereof as recorded in Plat Book 2, Page 81 of the Public Records of Miami - Dade County, Florida; together with a 10.00 foot strip of land shown on the referenced Plat as a 10.00 foot walk; adjacent to, Lots 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28, Block 51, and bounded on the North by the Southerly line of referenced lots; bounded on the West by the Westerly line of Lot 19, extended Southerly; bounded on the East by the Easterly line of Lot 28 extended Southerly; said walk being vacated pursuant to Official Records Book 13887, Page 1812, of the Public Records of Miami - Dade County, Florida.

Parcel 1:
A portion of Lot 18 and the 10 foot walk adjacent thereto, Block 51 of the plat of OCEAN BEACH FLA. ADDITION NO. 3 as recorded in Plat Book 2, Page 81, of the Public Records of Miami - Dade County, Florida, more particularly described as follows:

That portion of said Lot 18 and the 10 foot walk adjacent thereto lying Easterly and Northerly of the following described line; begin at a point on the Northerly line of said Lot 18, said point being 0.39 feet Easterly of the Northwesterly corner of said Lot 18; thence South 12 degrees 46'09" East, parallel with and 0.39 feet Easterly of the Westerly line at said Lot 18 for 74.85 feet to a point of non-tangential curve leading to the left and concave to the Northeast, having a radius of 47.50 feet and whose radius point bears North 68 degrees 24'46" East; thence Southerly and Easterly through a central angle of 37 degrees 27'59" for an arc distance of 31.06 feet to a point on the Southerly line of said Lot 18 and on the Northerly line of a 10 foot walkway as shown on said plat of OCEAN BEACH FLA. ADDITION NO. 3, said point being also a point of compound curve having a radius of 45.00 feet; thence Southerly and Easterly through a central angle of 23 degrees 25'51" for an arc distance of 18.40 feet to a point on the Southerly extension of the Easterly line of said Lot 18, said point being 9.78 feet Southerly of the Southeasterly corner of said Lot 18 and the TERMINAL POINT of the herein described line.

All of the above lying and being in Section 3, Township 54 South, Range 42 East, City of Miami Beach, Dade County, Florida.

TOGETHER WITH:

Parcel 2:
A portion of Lots 29 and 30 and the 10 foot walk adjacent thereto, Block 51 of the plat of OCEAN BEACH ADDITION NO. 3 as recorded in Plat Book 2, Page 81, of the Public Records of Miami - Dade County, Florida, more particularly described as follows:

Begin at the Northwesterly corner of said Lot 29; thence North 77 degrees 13'28" East along the Northerly line of said Lots 29 and 30 a distance of 55.15 feet to a point; thence South 00 degrees 37'13" West for a distance of 112.35 feet to a point on the Southerly line of a 10 foot walk shown on the said plat of OCEAN BEACH ADDITION NO. 3; thence South 76 degrees 52'58" West along the Southerly line of said 10 foot walk a distance of 31.51 feet to its intersection with the Southerly extension of the Westerly line of said Lot 29; thence North 12 degrees 46'09" West along the said Southerly extension and along the Westerly line of said Lot 29 a distance of 110.02 feet to the Point of Beginning.
All of the above lying and being in Section 3, Township 54 South, Range 42 East, City of Miami Beach, Miami-Dade County, Florida.

STATE OF FLORIDA, COUNT OF DADE
I HEREBY CERTIFY that this is a true copy of the original filed in this office on JUL 25 2012 *day of* _____, A.D. 20____
WITNESS my hand and Official Seal.
HARVEY RUVIN, CLERK, *of Circuit and County Courts*
By _____ D.C.
TANASHIA ARNOLD 1144

CIRCUIT AND COUNTY COURTS CLERK IN GOD WE TRUST MIAMI-DADE COUNTY, FLORIDA

CFN 2012R0522477
OR Bk 28202 Pgs 1196 - 1203; (8pgs)
RECORDED 07/25/2012 11:56:07
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

DOCUMENT COVER PAGE

For those documents not providing the **required** space on the first page, this cover page must be attached.

It must describe the document in sufficient detail to prohibit its transference to another document.

An additional recording fee for this page must be remitted.

(Space above this line reserved for recording office use)

Document Title: Order
(Mortgage, Deed, Construction Lien, Etc.)

Executing Party: _____

_____

Legal Description: _____
(If Applicable)

_____
As more fully described in above described document.

Return Document To / Prepared By: A. Gonzalez

333 Avenue of the Americas

_____

_____

F.S. **695.26 Requirements for recording instruments affecting real property—**

(Relevant excerpts of statute)

(1) No instrument by which the title to real property or any interest therein is conveyed, assigned, encumbered, or otherwise disposed of shall be recorded by the clerk of the circuit court unless:

(e) **A 3-inch by 3-inch space at the top right-hand corner on the first page** and a 1-inch by 3-inch space at the top right-hand corner on each subsequent page are reserved for use by the clerk of the court...

CLK/CT 155 Rev. 04/11

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CERTIFICATION

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

(Signature of Planning Director or Designee) 7-10-2012 (Date)

Personally known to me or Produced ID: _____

Notary Public, State of Florida at Large

Printed Name: Teresa Maria

My Commission Expires. (Seal) 12-2-13

This document contains 7 pages.

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

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: July 3, 2012

FILE NO: 18869

PROPERTY: 801-863 South Pointe Drive, 818-842 Commerce Street.
BLOCK 51

LEGAL: Lots 4-9, and a portion of Lots 18, 29 and 30 and the 10 foot walk adjacent thereto, and Lots 19-28 and the 10 foot walk adjacent thereto, According to the Plat Thereof, as recorded in Plat Book 2 at Page 81, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for modifications to a previously issued Design Review Approval for the construction of a new 7-story mixed-use project on a vacant lot. Specifically, the applicant is requesting substantial design modifications to the previously approved project, including the construction of a mechanical parking garage.

ORDER

The applicant, TRG-Alaska III, L.L.C, filed an application with the City of Miami Beach Planning Department for Design Review Approval.

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

A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is not consistent with Design Review Criteria 3 & 17 in Section 118-251 of the Miami Beach Code.

B. The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

a. The final material finish for the portal structures spanning Biscayne Court shall be provided, in a manner to be reviewed and approved by staff.

b. The final design and details, including materials and finishes of all exterior security devices shall be provided, in a manner to be reviewed and approved by staff.

c. The final design and detailing of all exterior and interior lighting visible from adjacent rights-of-way shall be provided, in a manner to be reviewed and approved by staff.

d. All exterior building signage shall be composed of flush mounted, back lit letters, and shall require a separate permit.

e. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required.

f. All roof-top fixtures, air-conditioning units and mechanical devices, both existing and proposed, shall be clearly noted on a revised roof plan and shall be screened from view, in a manner to be approved by staff.

g. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:

a. The final design and details of all exterior paving shall be provided, subject to the review and approval of staff.

b. Bicycle racks shall be provided, in a manner to be reviewed and approved by staff.

c. All right-of-way trees shall include up-lighting, irrigation, and fertilization trenches, and possible structural soils within the sidewalk, as well as the use of the City's standard bound aggregate system, subject to the review and approval of staff.

d. Shade trees in accordance with the City Streetscape plans for South Pointe Drive, shall be provided along the entire portion of South Pointe Drive adjacent to the subject property, in a manner to be reviewed and approved by staff.

e. The proposed palm trees within the ground level plaza adjacent to South Pointe Drive shall be replaced with shade trees, in a manner to be reviewed and approved by staff. This shall include expansion of the proposed tree pits to accommodate such shade trees, subject to the review and approval of staff.

f. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.

g. The utilization of root barriers and/or structural soil, as applicable, shall be clearly delineated on the revised landscape plan.

h. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures; such fixtures and devices shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of backflow preventors, siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.

i. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms; such transformers and vault rooms, and all other related devices and fixtures, shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of any exterior transformers, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.

j. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect for the project shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

3. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.

4. A traffic mitigation plan, which addresses all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, if required, shall be submitted prior to the issuance of a Building Permit and the final building plans shall meet all other requirements of the Land Development Regulations of the City Code.

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

6. All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC).

7. The applicant may be required to submit a separate analysis for water and sewer requirements, at the discretion of the Public Works Director, or designee. Based on a preliminary review of the proposed project, the following may be required by the Public Works Department:

a. A traffic and neighborhood impact study shall be conducted as a means to measure a proposed development's impact on transportation and neighborhoods. The study shall address all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, and if required, shall be submitted prior to the issuance of a

Building Permit. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code. The developer shall refer to the most recent City of Miami Beach's Traffic and Neighborhood Impact Methodology as issued by the Public Works Department.

b. Remove/replace sidewalks, curbs and gutters on all street frontages, if applicable. Unless otherwise specified, the standard color for city sidewalks is red, and the standard curb and gutter color is gray.

c. Mill/resurface asphalt in rear alley along property, if applicable.

d. Provide underground utility service connections and on-site transformer location, if necessary.

e. Provide back-flow prevention devices on all water services.

f. Provide on-site, self-contained storm water drainage for the proposed development.

g. Meet water/sewer concurrency requirements including a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.

h. Payment of City utility impact fees for water meters/services.

i. Provide flood barrier ramps to underground parking or minimum slab elevation to be at highest adjacent crown road elevation plus 8".

j. Right-of-way permit must be obtained from Public Works.

k. All right-of-way encroachments must be removed.

l. All planting/landscaping in the public right-of-way must be approved by the Public Works and Parks Departments.

8. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy.

9. The Applicant agrees to the following operational conditions for all permitted uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment.

a. NOISE CONDITIONS

i. No commercial outdoor bar counters shall be permitted on the premises.

ii. The Design Review Board (DRB) or the Planning Director shall retain the right to call the owners and/or operators back before the DRB, at the expense of the owners and/ or operators, to impose and/or modify the hours of operation, or amend or impose other conditions, should there be a valid violation (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise or other conditions of this approval. An adverse adjudication of a violation against the owner or operator is not necessary for the board to have jurisdiction over the matter under this condition. This condition vests jurisdiction independent of any other condition hereof.

iii. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended, shall be deemed a violation of this approval and subject the approval to modification in accordance with the procedures for modification of prior approvals as provided for in the Code, and subject the applicant to the review provided for in the first sentence of this subparagraph.

iv. Except as may be required for fire or building code/Life Safety Code purposes, no loudspeakers shall be affixed to or otherwise located on the exterior of the premises.

v. No outdoor live music shall be permitted at any time, inclusive of percussion, musical instrument, or vocal.

vi. Entertainment establishments, as well as dance halls, as defined in the Miami Beach City Code, shall be prohibited, and the applicant will not seek permits therefore.

vii. Special events pursuant to the Miami Beach City Code may not be held on the premises and the applicant agrees that it will not seek or authorize applications for such permits.

b. OPERATIONAL CONDITIONS

i. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.

ii. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.

iii. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that no more than one pick up of garbage per day will be necessary.

iv. Garbage dumpster covers shall be closed at all times except when in active use.

v. Garbage pickups and service deliveries shall not take place between 6PM and 8AM.

vi. Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors will be contained within the premises. All kitchens and other venting shall be chased to the roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.

vii. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.

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

11. At the time of completion of the project, only a **Final** Certificate of Occupancy (CO) or **Final** Certificate of Completion (CC) may be applied for; the staging and scheduling of the construction on site shall take this into account. All work on site must be completed in accordance with the plans approved herein, as well as any modifications approved or required by the Building, Fire, Planning, CIP and Public Works Departments, inclusive of all conditions imposed herein, and by other Development Review Boards, and any modifications required pursuant to field inspections, prior to the issuance of a CO or CC. This shall not prohibit the issuance of a Partial or Temporary CO, or a Partial or Temporary CC.

12. 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.

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

14. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations which were adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-14, inclusive) hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Design Review Board, as determined by staff, entitled "Block 51", as prepared by The Sieger Suarez Architectural Partnership, dated 6-4-12.

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

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

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original Design Review Approval was granted, the Design Review Approval will expire and become null and void, unless the applicant makes application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the Design Review Approval will expire and become null and void.

In accordance with Section 118-264 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code.

Dated this 6th day of JULY, 2012.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
THOMAS R. MOONEY, AICP
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 6th day of July 2012 by Thomas R. Mooney, Design and Preservation Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

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

NOTARY PUBLIC STATE OF FLORIDA
TERESA MARIA
MY COMMISSION # DD 928148
EXPIRES: December 2, 2013
Bonded Thru Budget Notary Services

Approved As To Form:
Legal Department: _____ (7-5-2012)

Filed with the Clerk of the Design Review Board on 07/09/12 ( )

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