

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE A GRANT OF EASEMENT FOR PUBLIC SIDEWALK ACCESS, ATTACHED AS EXHIBIT 1, BETWEEN THE CITY AND CG TIDES VILLAGE LLC, CG TIDES VILLAGE I LLC, AND CG TIDES VILLAGE II LLC, ("GRANTORS") WHICH WOULD ENSURE THAT THE GRANTOR, WHOSE PROPERTY IS LOCATED AT 1201-1225 COLLINS AVENUE, WILL MAINTAIN, OR CAUSE TO BE MAINTAINED, THE SIDEWALK IN A SATISFACTORY MANNER, WITHOUT LIABILITY OR COST TO THE CITY; AND, GRANTOR SHALL BEAR ANY AND ALL COSTS OF CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, AND REPAIRS ASSOCIATED WITH THE OPERATION AND USE OF THE SIDEWALK.

WHEREAS, CG Tides Village LLC, CG Tides Village I LLC, and CG Tides Village II LLC, [hereinafter "Grantors"] are the fee simple owner of the land in the City of Miami Beach, Florida located at 1201-1225 Collins Avenue, hereinafter referred to as the "Property;" and

WHEREAS, the City requires the Grantors to design, construct and install a Sidewalk to be open to the public within the Property adjacent to the rights-of-way of Collins Avenue and 12th Street (collectively the "Sidewalk") pursuant to Historic Preservation Board (HPB File No. 5477) and Board of Adjustment (BOA File No.3355) and permit public access to same; and

WHEREAS, the City requests the Easement from the Grantors to ensure that the Grantors will maintain, or cause to be maintained, the Sidewalk in a satisfactory matter, without liability or cost to the City; and

WHEREAS, Grantors has agreed to grant an easement on the Sidewalk to the City for public access; and

WHEREAS, Grantors shall bear any and all costs of construction, installation, operation, maintenance, and repairs associated with the operation and use of the Sidewalk; and

WHEREAS, the Administration recommends executing the attached Grant of Easement for Public Sidewalk Access with Grantor.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission authorize the Mayor and City Clerk to execute a Grant of

Easement for Public Sidewalk Access, attached as Exhibit 1, between the City and CG Tides Village LLC, CG Tides Village I LLC, and CG Tides Village II LLC, ("Grantors") which would ensure that the Grantors, whose property is located at 1201-1225 Collins Avenue, will maintain, or cause to be maintained, the Sidewalk in a satisfactory manner, without liability or cost to the City; and, Grantors shall bear any and all costs of construction, installation, operation, maintenance, and repairs associated with the operation and use of the Sidewalk.

**PASSED AND ADOPTED** this \_\_\_ day of \_\_\_\_\_ 2017.

**ATTEST:**

\_\_\_\_\_  
Philip Levine, Mayor

\_\_\_\_\_  
Rafael Granado, City Clerk

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

*[Signature]* 8/18/17  
\_\_\_\_\_  
City Attorney      Date

# Exhibit #1

This instrument prepared by:

Name: Matthew Amster, Esq.  
Address: Bercow Radell Fernandez & Larkin, PLLC  
200 S. Biscayne Boulevard, Suite 850  
Miami, FL 33131

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## GRANT OF EASEMENT FOR PUBLIC SIDEWALK ACCESS

This Grant of Easement for Public Sidewalk Access ("Easement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by CG TIDES VILLAGE LLC, CG TIDES VILLAGE I LLC, AND CG TIDES VILLAGE II LLC, a Florida limited liability company ("Grantor"), in favor of the CITY OF MIAMI BEACH, a municipal corporation duly organized and existing under the laws of the State of Florida ("Grantee" or "City").

### RECITALS:

**WHEREAS**, Grantor is the fee simple owner of the land in the City of Miami Beach, Florida located at 1201-1225 Collins Avenue, legally described in Exhibit "A" and hereinafter referred to as the "Property;" and

**WHEREAS**, Grantor has obtained development approval and is currently seeking a building permit from the Grantee to redevelop the Property with commercial uses; and

**WHEREAS**, Grantee requires the Grantor to design, construct and install a Sidewalk to be open to the public within the Property adjacent rights-of-way of Collins Avenue and 12<sup>th</sup> Street (collectively the "Sidewalk") pursuant to Historic Preservation Board (HPB File No. 5477) and Board of Adjustment (BOA File No.3355), attached hereto as Exhibit "B," and permit public access to same; and

**WHEREAS**, Grantee requests the Easement from the Grantor to ensure that the Grantor will maintain, or cause to be maintained, the Sidewalk in a satisfactory matter, without liability or cost to the Grantee; and

**WHEREAS**, Grantor has agreed to grant an easement on the Sidewalk, as more specifically described in Exhibit "C," to Grantee for public access; and

**WHEREAS**, Grantor shall bear any and all costs of construction, installation, operation, maintenance, and repairs associated with the operation and use of the Sidewalk.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor and Grantee voluntarily agree as follows:

1. The above recitals are true and correct and, by reference, are incorporated as if fully set forth herein.

2. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby grants to Grantee, for the use and benefit of Grantee,

its successors and assigns, a non-exclusive easement on the Sidewalk for the public access of same.

3. The Grantor shall install and maintain the Sidewalk to be open to the public in compliance with the conditions described in HPB File No. 5477 and BOA File No.3355, and as referenced in Exhibit "B", attached hereto.

4. The Grantor agrees to maintain, replace, restore, and/or repair the Sidewalk at the Grantor's expense.

5. If the Grantor breaches any of its obligations as specified herein (and same are not waived in writing by the Grantee), then the Grantee shall provide the Grantor written notice specifying the nature of the default. The Grantor shall have thirty (30) calendar days after receipt of such notice within which to cure the specified default, after which time the Grantee may take action to complete the restoration work, at the Grantor's expense. However, if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period, Grantor shall not be deemed to be in default if Grantor shall, within such period, commence such cure and thereafter diligently prosecute the same to completion.

6. The Grantor shall obtain and maintain a liability insurance policy in the covered amount of \$1,000,000 per incident, to provide compensation for personal injuries or related claims stemming from any error, omission, negligence, or misconduct on the part of the Grantor, or any of its respective officers, agents, servants, employees, contractors in the installation or maintenance of the Sidewalk.

7. The Grantor shall indemnify, hold and save the Grantee, and its officers, agents, contractors, and employees, whole and harmless from and against all claims, demands, actions, damages, loss, cost, liabilities, expenses, and judgments of any nature recovered from or asserted against Grantee on account of injury or damage to person(s) or property, to the extent that any such damage or injury may be incident to, arise out of, or be caused, either proximately or remotely, wholly or in part, by any act, error, omission, negligence, or misconduct on the part of the Grantor, or any of their respective officers, agents, servants, employees, contractors in the use of the Sidewalk. Grantor shall be entitled to select counsel of Grantor's choice to defend the claim; provided, however, that such counsel shall first be approved by the City Attorney, which approval shall not be unreasonably conditioned, withheld or delayed; and provided further, that the Grantee shall be permitted, at its cost and expense, to retain independent counsel to monitor the claim proceeding. Notwithstanding the foregoing, Grantor shall not be obligated or liable to the Grantee, or any third parties, for any costs, liabilities, expenses, losses, claims or damages, resulting from the negligence, recklessness, or willful misconduct of the City or its officials, employees, contractors, and agents.

8. The Grantor acknowledges that the Grantee shall have no financial and/or other obligation and/or liability for the installation and maintenance of the Sidewalk (including, without limitation, any liability for improper or inadequate maintenance by Grantor); these are the sole obligations of Grantor to maintain. Additionally, it is the intent of the parties hereto that no third party beneficiary rights are created or acknowledged through this Easement.

EASEMENT FOR PUBLIC SIDEWALK ACCESS

Page 3 of 7

9. This voluntary Easement shall remain in full force and effect and shall be binding upon the Grantor of the Property, its successors in interest and assigns, for a period of twenty (20) years, and for successive ten (10) year periods thereafter, from the date this instrument is recorded in the public records. This time period will be automatically renewed unless released upon a petition for removal, modification or amendment of condition is approved by an act of the City Commission.

10. This Easement may be modified, amended or released as to any portion of the Property by a written instrument executed by the then Grantor(s) of the fee-simple title to the land to be affected by such modification, amendment or release providing that same has been approved by the Public Works Director. Should this instrument be so modified, amended or released, the Public Works Director shall execute a written instrument in recordable form effectuating and acknowledging such modification, amendment or release.

11. This Easement shall be recorded in the Public Records of Miami-Dade County, Florida, at the cost of the Grantor.

12. It is understood and agreed that any City official has the right, during normal business hours, to enter and investigate the use of the Property, to verify compliance with the conditions of this Easement and the requirements of the City's building, zoning and land development regulations.

13. An action to enforce the terms and conditions of this Easement may be brought by the Grantee and may be, at law or in equity, against any party or person violating or attempting to violate any provision of this Easement or provisions of the building, zoning or land development regulations, either to restrain violations or to recover damages.

14. This Easement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms and conditions herein, exclusive venue for the enforcement of same shall be Miami-Dade County, Florida. This Easement shall be governed by, and construed in accordance with, the laws of the State of Florida, both substantive and remedial, without regard to principles of conflict of laws. The exclusive venue for any litigation arising out of this Easement shall be Miami Dade County, Florida, if in state court, and the U.S. District Court, Southern District of Florida, if in federal court. BY ENTERING INTO THIS EASEMENT, GRANTOR AND GRANTEE EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS EASEMENT.

15. All notices, demands, requests, or other communications which may be or are required to be given, served, or sent by either the Grantor or the Grantee pursuant to this Easement shall be in writing and addressed as follows:

If to Grantor:

CG TIDES VILLAGE LLC  
Attn: Joseph Chetrit  
2915 Biscayne Blvd, Suite 300  
Miami, FL 33137

CG TIDES VILLAGE I LLC  
Attn: Joseph Chetrit  
2915 Biscayne Blvd, Suite 300  
Miami, FL 33137

CG TIDES VILLAGE II LLC  
Attn: Meyer Chetrit & Juda Chetrit  
2915 Biscayne Blvd, Suite 300  
Miami, FL 33137

With copies to: Bercow Radell Fernandez & Larking, PLLC  
Attn: Matthew Amster, Esq.  
200 S. Biscayne Boulevard, Suite 850  
Miami, Florida 33131

If to the Grantee: City of Miami Beach  
Attn: City Manager  
1700 Convention Center Drive, 4th Floor  
Miami Beach, Florida 33139

With copies to: City of Miami Beach  
Attn: Public Works Director  
1700 Convention Center Drive, 4th Floor  
Miami Beach, Florida 33139

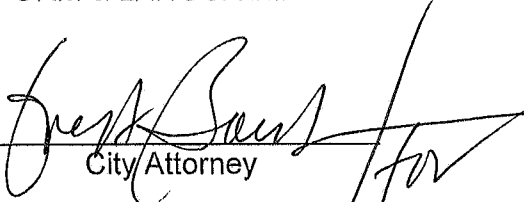
Each Party may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent.

APPROVED

  
Public Works Director

8/31/17  
Date

APPROVED AS TO  
FORM & LANGUAGE

  
City Attorney

8/31/17  
Date

[EXECUTION PAGES TO FOLLOW]







EXHIBIT A  
LEGAL DESCRIPTION

1201, 1221, 1225 Collins Avenue

*Lots 9, 10, 11, and 12, Block 17 of OCEAN BEACH, ADDITION NO. 2, according to the plat thereof, as recorded in Plat Book 2, Page 56, of the Public Records of Miami-Dade County, Florida.*

*Also known as:*

*Parcel 1:*

*Lot 9 and the South 40 feet of Lot 10, Block 17, of OCEAN BEACH, ADDITION NO. 2, according to the plat thereof, as recorded in Plat Book 2, Page 56, of the Public Records of Miami-Dade County, Florida.*

*Parcel 2:*

*Lot 11, and the North 10 feet of Lot 10, Block 17, of OCEAN BEACH, ADDITION NO. 2, according to the Plat thereof, as recorded in Plat Book 2, Page 56, of the Public Records of Miami-Dade County, Florida.*

*Parcel 3:*

*Lot 12, Block 17, of OCEAN BEACH, ADDITION NO. 2, according to the Plat thereof, as recorded in Plat Book 2, Page 56, of the Public Records of Miami-Dade County, Florida.*

HISTORIC PRESERVATION BOARD  
City of Miami Beach, Florida

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]* 2/19/08  
(Signature of Planning Director or Designee) (Date)

Personally known to me or Produced ID: \_\_\_\_\_

*[Signature]*  
Notary Public, State of Florida at Large

Printed Name: *Randy Cesar*  
My Commission Expires: (Seal)

This document contains 7 pages.

MEETING DATE: February 12, 2008

FILE NO: 5477

PROPERTY: 1201-1229 Collins Avenue

LEGAL: Lots 9-12, Block 17, Ocean Beach Addition No. 2," According to the Plat Thereof, as Recorded in Plat Book 2, Page 56, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for a Certificate of Appropriateness for the renovation, restoration, and partial demolition of the existing two (2) and three (3) story buildings, including the construction of two (2) new 5-story additions, as well as the construction of a new 5-story structure to replace the existing surface parking lot, as part of a new hotel complex.



**ORDER**

The applicant, Collins Corner, L.L.C., filed an application with the City of Miami Beach Planning Department for a Certificate of Appropriateness.

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:

- A. The subject property is property is located within the Ocean Drive/Collins Avenue Local Historic District and the National Register Architectural District. The existing structures are classified 'Contributing' in the Miami Beach Historic Properties Database.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code, is not consistent with Certificate of Appropriateness Criteria c in Section 118-564(a)(2) of the Miami Beach Code, is not consistent with Certificate of Appropriateness Criteria b & c in Section 118-564(a)(3) of the Miami Beach Code and is not consistent with Certificate of Appropriateness for Demolition Criteria 8 in Section 118-564(f)(4) of the Miami Beach Code.

*[Handwritten mark]*

C. The project would be consistent with the criteria and requirements of section 118-564 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 exterior of the retained portions of the existing Molbar and Splendor buildings shall be substantially rehabilitated and restored, in accordance with all available historic documentation, and subject to the review and approval of staff. This shall include, but not be limited to, windows, doors and all exterior surface finishes.
  - b. The proposed stairwell at the west end of the Splendor building shall not be permitted; such stairwell shall be moved further east, a minimum of ten (10') feet from the west wall and windows.
  - c. The applicant shall provide fully accessible catwalks, at least five (5') feet in width, along the entire north, west and south perimeters of the second levels of the Molbar and Splendor buildings, in a manner to be reviewed and approved by staff.
  - d. A set of entry doors for the retail space at the first floor shall be required at the rounder portion of the southwest corner, in a manner to be approved by staff.
  - e. The proposed four (4) story entry portico at the southeast corner of the new hotel structure shall not be permitted; instead a more modest and refined projecting eyebrow shall be required, in a manner to be approved by staff. Additionally, the south facing wall of the first 3 floors of the southeast corner shall be substantially fenestrated, in a manner to be approved by staff.
  - f. The horizontal sunscreens on the exterior elevations of the proposed new structure shall not consist of the 'terracotta' color proposed; instead a more refined color shall be required, in a manner to be approved by staff.
  - g. The applicant shall further study and substantially refine the exterior language proposed for the east elevation of the project, facing the alley. Specifically, stronger, individual identities for the proposed new structure, the Molbar and the Splendor shall be created, in a manner to be reviewed and approved by staff.
  - h. As part of the final Building Permit plans, full design details of the underside of the proposed 2-story volumetric breezeway leading from 12<sup>th</sup> Street to the open courtyard shall be submitted and shall be subject to the review and approval of staff.

- i. The proposed spire at the southwest corner of the existing structure shall not contain any signage. The final design details and dimensions of such spire shall be subject to the review and approval of staff.
  - j. Any exterior speakers shall be for ambient background music only; the location, quantity, dimensions, design, color and method of installation of all exterior speakers shall be subject to the review and approval of staff.
  - k. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required.
  - l. 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 approved by staff.
  - m. 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. All exterior walkways and driveways shall consist of decorative pavers, set in sand or other equally semi-pervious material, subject to the review and approval of staff.
  - b. 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.
  - c. The utilization of root barriers and/or structural soil, as applicable, shall be clearly delineated on the revised landscape plan.
  - d. 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.
  - e. 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

*John*

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.

- f. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect for the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.
3. The roof-top deck shall be for hotel patrons and their guests only. The roof-top bar shall not be open past 8:00 pm.
4. All building signage shall be consistent in type, composed of flush mounted, non-plastic, individual letters and shall require a separate permit.
5. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
6. A traffic mitigation plan, which addresses all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, if required, shall be submitted prior to the issuance of a Building Permit and the final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
7. An historic analysis of the existing structure, inclusive of a photographic and written description of the history and evolution of the original building on site, shall be submitted to and approved by staff, prior to the issuance of a Building Permit; such historic analysis shall be displayed prominently within the public area of the structure, in a location to be determined by staff.
8. All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC).
9. 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.
10. The applicant may be required to submit a separate analysis for water and sewer requirements, at the discretion of the Public Works Director, or designee. Based on a preliminary review of the proposed project, the following may be required by the Public Works Department:
  - a. A traffic and neighborhood impact study shall be conducted as a means to measure a proposed development's impact on transportation and neighborhoods. The study shall address all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, and if required, shall be submitted prior to the issuance of a Building Permit. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code. The developer shall refer to the most recent City of

Miami Beach's Traffic and Neighborhood Impact Methodology as issued by the Public Works Department.

- b. Remove/replace sidewalks, curbs and gutters on all street frontages, if applicable. Unless otherwise specified, the standard color for city sidewalks is red, and the standard curb and gutter color is gray.
  - c. Mill/resurface asphalt in rear alley along property, if applicable.
  - d. Provide underground utility service connections and on-site transformer location, if necessary.
  - e. Provide back-flow prevention devices on all water services.
  - f. Provide on-site, self-contained storm water drainage for the proposed development.
  - g. Meet water/sewer concurrency requirements including a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.
  - h. Payment of City utility impact fees for water meters/services.
  - i. Provide flood barrier ramps to underground parking or minimum slab elevation to be at highest adjacent crown road elevation plus 8".
  - j. Right-of-way permit must be obtained from Public Works.
  - k. All right-of-way encroachments must be removed.
  - l. All planting/landscaping in the public right-of-way must be approved by the Public Works and Parks Departments.
11. A drawn plan and written procedure for the proposed demolition shall be prepared and submitted by a Professional Structural Engineer, registered in the State of Florida, which fully ensures the protection of the public safety, as well as the protection of the existing structure on the subject site and all existing structures adjacent to the subject site during the course of demolition.
12. The Certificate of Appropriateness for Demolition shall only remain in effect for the period of time that there is an active Certificate of Appropriateness for the associated new construction on the subject property.
13. 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 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.

14. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
15. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

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 by the Board, that the Certificate of Appropriateness is GRANTED for the above-referenced project subject to those certain conditions specified in paragraph C of the Findings of Fact (Condition Nos. 1-15, inclusive) hereof, to which the applicant has agreed.

No building permit shall be approved unless and until all conditions of approval as set forth herein have been met. The issuance of a Certificate of Appropriateness does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including zoning approval. If adequate handicapped access is not provided, this approval does not mean that such handicapped access is not required or that the Board supports an applicant's effort to seek waivers relating to handicapped accessibility requirements.

When requesting a building permit, three (3) sets of plans approved by the Board, modified in accordance with the above conditions, as well as annotated floor plans which clearly delineate the Floor Area Ratio (FAR) calculations for the project, shall be submitted to the Planning Department. If all of the above-specified conditions are satisfactorily addressed, the plans will be reviewed for building permit approval. Two (2) sets will be returned to you for submission for a building permit and one (1) set will be retained for the Historic Preservation Board's file.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original Certificate of Appropriateness was granted, and construction does not commence and continue in accordance with the requirements of the applicable Building Code, the Certificate of Appropriateness will expire and become null and void, unless the applicant, prior to expiration of such period, makes application to the Board for an extension of time; 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.

Failure to comply with this **Order** shall subject the Certificate of Appropriateness to Section 118-564,

City Code, for revocation or modification of the Certificate of Appropriateness.

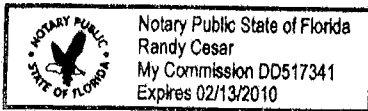
Dated this 15<sup>th</sup> day of February, 2008.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: *Thomas R. Mooney*  
THOMAS R. MOONEY, AICP  
DESIGN AND PRESERVATION MANAGER  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 19 day of February 2008 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.



*Randy Cesar*  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: 2-13-2010

Approved As To Form:  
Legal Department: *J. Kelly* (2-11-08)

Filed with the Clerk of the Historic Preservation Board on 2-19-08 ( RC )

*RC*

**BEFORE THE  
BOARD OF ADJUSTMENT  
OF THE CITY OF MIAMI BEACH, FLORIDA**

CFN 2008R0517774  
DR Bk 26446 Pgs 4099 - 4102 (4pgs)  
RECORDED 06/24/2008 11:06:13  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

IN RE: The application of  
**COLLINS CORNER, LLC.**  
1201, 1221 AND 1225 COLLINS AVENUE  
MIAMI BEACH, FLORIDA  
(FOR LEGAL DESCRIPTION PLEASE  
CONTACT THE PLANNING DEPT.)



**MEETING DATE: MAY 9, 2008  
FILE NO. 3355**

**ORDER**

The applicant, Collins Corner, LLC, filed an application with the Planning Department for variances in order to renovate the existing two and three story buildings, inclusive of some partial demolition and rooftop additions and the construction of a new five-story structure to be part of a hotel complex, as follows:

- ~~1. A variance to waive 1'-0" of the required 5'-0" minimum front pedestal setback in order to build the columns at 4'-0" from the front property line, facing Collins Avenue.~~

**Variance No. 1 withdrawn by staff**

2. A variance to waive the section of the code that requires a ten-foot-deep covered front porch running substantially the full width of the building front, in order to provide a covered porch, with a width of 10' - 0" that does not run substantially the full width of the building front.

- ~~3. A variance to waive 4" of the minimum required interior side pedestal setback of 5'-0" in order to build a five-story structure at 4'-8" from the north property line.~~

**Variance No. 3 withdrawn by applicant**

4. A. A variance to waive 1' - 6" of the minimum floor to ceiling height of 12' - 0" in order to provide a floor to ceiling height of 10' - 6" along the required porch.
4. B. A variance to waive the requirement to provide a courtyard, open to the sky, with a minimum of 2,000 square feet, with the long edge of the courtyard along the side property line and a minimum average depth of 20 feet in order to provide a courtyard with an area of 216 s.f. and a minimum average depth of 17' - 3" and the long edge not facing the side property line. (The area of the courtyard shall be increased by an additional 50 square feet for every one foot of building height above 30 feet as measured from grade, for a total required area of 2,000 s.f.)

5. ~~A variance to exceed by 5,063 square feet the maximum permitted retail space of 6,000 square feet in order to provide a total of 11,063 square feet of retail on the site.~~

**Variance No. 5 withdrawn by staff**

Notice of the request for variance was given as required by law and mailed to owners of property within a distance of 375 feet of the exterior limits of the property on which application was made.

THE BOARD FINDS that the property in question is located in the MXE Zoning District. THE BOARD FURTHER FINDS, based upon evidence, testimony, information and documentation presented to the Board, and portions of the staff report and recommendations, as applicable, which are incorporated herein by this reference, that with regard to the requested variance when conditioned as provided for in this Order:

*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.*

IT IS THEREFORE ORDERED, by the Board, that variances 2, 4A and 4B be APPROVED as requested and set forth above, with the following conditions to which the applicant has agreed:

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. 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.
3. Proposed floor plans for all proposed alcoholic beverage establishments within the hotel, including the ground floor lobby bar and the 2<sup>nd</sup> Floor restaurant, shall be submitted to the City's Building Department for purposes of determining the proposed occupant load, prior to the approval of any building permit. If the cumulative occupancy load of all alcoholic beverage establishments within the hotel, as determined by these floor plans, exceeds 299 persons, the applicant shall apply for and receive Conditional Use approval for a Neighborhood Impact Establishment from the Planning Board, prior to the issuance of any building permit. Conditional Use approval shall also be required for any proposed outdoor entertainment, open-air entertainment, or entertainment establishment with an occupant load exceeding 199 persons.
4. The applicant shall comply with all conditions imposed by the Public Works Department.
5. The applicant shall obtain a full building permit within eighteen (18) months from the date of this hearing. If the full building permit is not obtained within the specified time limits, the applicant may, prior to expiration of such period, apply to the Board for an extension of time; otherwise, the variance will expire, and become null and void. At the hearing on such application, the Board may deny or approve the request and modify these conditions or impose additional conditions. Failure to comply with this order shall subject the variance to Section 118-356, City Code, for revocation or modification of the variance.
6. 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.
7. This Order shall be recorded, at the expense of the applicant, in the Public Records of Miami-Dade County; the original or a certified copy shall be provided to the Planning Department prior to the issuance of a Building Permit.

PROVIDED, the applicant shall build in accordance with the plans submitted as part of this file and as approved by the Board of Adjustment with any applicable modifications.


The applicant shall have a full building permit for the work contemplated herein issued by the Building Department on or before November 9, 2009 (within eighteen months of the

Board of Adjustment Order. Meeting of May 9, 2008  
File No. 3355: Collins Corner, LLC  
1201, 1221 and 1225 Collins Avenue, Miami Beach, Florida  
Page 4 of 4

date of this hearing) as per the above conditions. If the full building permit is not obtained within the specified time limits, the applicant shall apply to the Board for an extension of time prior to expiration of such period; otherwise, this Order will expire, and become null and void, unless the issuance of such permit is stayed by an appeal of this Order to a court of competent jurisdiction.

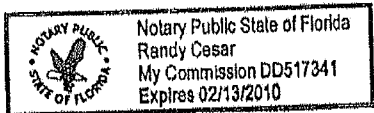
This Order does not constitute a building permit, but upon presentation of a recorded copy of this Order to the Planning Department, a permit shall be processed and approved (subject to compliance with the conditions hereof) in accordance with and pursuant to the ordinances of the City of Miami Beach.

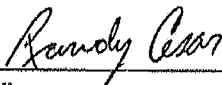
Board of Adjustment of  
The City of Miami Beach, Florida

By:   
Richard G. Lorber, AICP  
Planning & Zoning Manager  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139

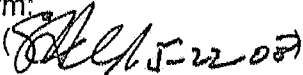
STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )


The foregoing instrument was acknowledged before me this 17 day of JUNE, 2008, by Richard G. Lorber, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



  
Notary:  
Print Name: Randy Cesar  
Notary Public, State of Florida

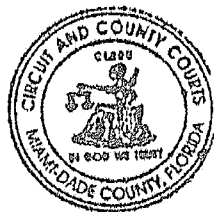
[NOTARIAL SEAL]  
My Commission Expires:

Approved As To Form:  
Legal Department 

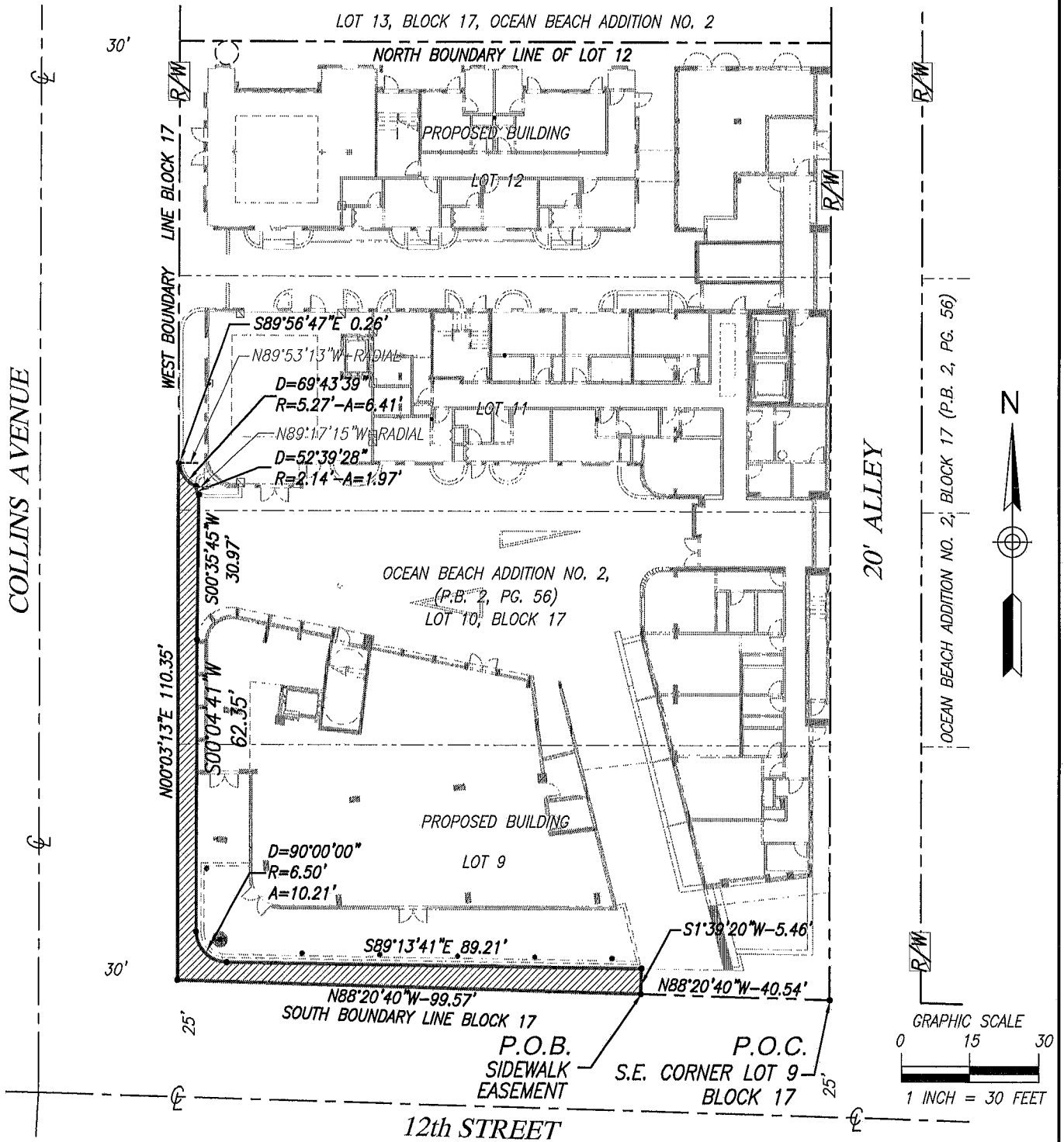
Filed with the Clerk of the Board of Adjustment on 06/19/08 

F:\PLAN\\$zba\FINALORD\3355 - Order- 1201, 1221 and 1225 Collins Av. - 5-08.doc

STATE OF FLORIDA, COUNTY OF DADE  
I HEREBY CERTIFY that this is a true copy of the  
original filed in this office on 24 day of  
June, A.D. 2008  
WITNES my hand and Official Seal.  
HARVEY RUJIN, CLERK, of Circuit and County Courts  
By Melinda B. Ruff D.C.



# SKETCH TO ACCOMPANY LEGAL DESCRIPTION SIDEWALK EASEMENT



**J.Hernandez & Associates Inc**  
**LAND SURVEYORS AND MAPPERS**  
 CERTIFICATE OF AUTHORIZATION No. LB8092  
 4805 NW 79th AVENUE - STE. 9, DORAL, FL 33166  
 (P) 305-526-0606 (E) info@jhasurveys.com

## SURVEYOR'S CERTIFICATE

PREPARED UNDER MY SUPERVISION AND DIRECTION:

BY: \_\_\_\_\_  
 JOSE G. HERNANDEZ, PRESIDENT  
 PROFESSIONAL LAND SURVEYOR No. 6952 STATE OF FLORIDA.

DRAWN BY: M.J.M. CHECKED BY: J.G.H. JOB NUM.: 151045  
 DATE: 6/23/17 SHEET 1 OF 2 SHEETS F.B. N/A

# LEGAL DESCRIPTION TO ACCOMPANY SKETCH SIDEWALK EASEMENT

A PORTION OF LOTS 9, 10, AND LOT 11, BLOCK 17, OCEAN BEACH ADDITION No. 2, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2 AT PAGE 56 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF LOT 9 OF SAID BLOCK 17; THENCE RUN NORTH 88 DEGREES 20 MINUTES 40 SECONDS WEST, ALONG THE SOUTH BOUNDARY LINE OF SAID BLOCK 17, SAID LINE BEING COINCIDENT WITH THE NORTHERLY RIGHT-OF-WAY LINE OF 12th STREET, AS SHOWN ON SAID PLAT OF OCEAN BEACH ADDITION No. 2, FOR A DISTANCE OF 40.54 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED SIDEWALK EASEMENT; THENCE CONTINUE NORTH 88 DEGREES 20 MINUTES 40 SECONDS WEST, ALONG SAID SOUTH BOUNDARY LINE OF BLOCK 17, FOR A DISTANCE OF 99.57 FEET; THENCE NORTH 00 DEGREES 03 MINUTES 13 SECONDS EAST, ALONG THE WEST BOUNDARY LINE OF SAID BLOCK 17, SAID LINE BEING COINCIDENT WITH THE EASTERLY RIGHT-OF-WAY LINE OF COLLINS AVENUE, AS SHOWN ON SAID PLAT OF OCEAN BEACH ADDITION NO. 2, FOR A DISTANCE OF 110.35 FEET; THENCE SOUTH 89 DEGREES 56 MINUTES 47 SECONDS EAST FOR A DISTANCE OF 0.26 FEET; SAID POINTS BEARS A BEARING OF NORTH 89 DEGREES 53 MINUTES 13 SECONDS WEST FROM THE RADIUS POINT OF THE FOLLOWING DESCRIBED CIRCULAR CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 5.27 FEET; THENCE ALONG SAID CIRCULAR CURVE TO THE LEFT FOR AN ARC DISTANCE OF 6.41 FEET THROUGH A CENTRAL ANGLE OF 69 DEGREES 43 MINUTES 39 SECONDS TO A POINT OF COMPOUND CURVATURE; SAID POINTS BEARS A BEARING OF NORTH 89 DEGREES 17 MINUTES 15 SECONDS WEST FROM THE RADIUS POINT OF THE FOLLOWING DESCRIBED CIRCULAR CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 2.14 FEET; THENCE ALONG SAID CIRCULAR CURVE TO THE LEFT FOR AN ARC DISTANCE OF 1.97 FEET THROUGH A CENTRAL ANGLE OF 52 DEGREES 39 MINUTES 28 SECONDS TO A POINT; THENCE CONTINUE SOUTH 00 DEGREES 35 MINUTES 45 SECONDS WEST FOR A DISTANCE OF 30.97 FEET; THENCE SOUTH 00 DEGREES 04 MINUTES 41 SECONDS WEST FOR A DISTANCE OF 62.35 FEET TO A POINT OF CURVATURE OF THE FOLLOWING DESCRIBED CIRCULAR CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 6.5 FEET; THENCE ALONG SAID CIRCULAR CURVE TO THE LEFT FOR AN ARC DISTANCE OF 10.21 FEET THROUGH A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS TO A POINT OF TANGENCY; THENCE SOUTH 89 DEGREES 13 MINUTES 41 SECONDS EAST FOR A DISTANCE OF 89.21 FEET; THENCE SOUTH 01 DEGREES 39 MINUTES 20 SECONDS WEST FOR A DISTANCE OF 5.46 FEET TO THE POINT OF BEGINNING.

SAID SIDEWALK EASEMENT CONTAINING 892 SQUARE FEET MORE OR LESS.

LYING AND BEING IN SECTION 3, TOWNSHIP 54 SOUTH, RANGE 42 EAST, CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.

### LEGEND

- DENOTES BOUNDARY LINE
- $\odot$ — DENOTES CENTER LINE
- RAW*— DENOTES RIGHT-OF-WAY LINE
- DENOTES EASEMENT
- P.B. DENOTES PLAT BOOK
- PG. DENOTES PAGE
- P.O.C. DENOTES POINT OF COMMENCEMENT
- P.O.B. DENOTES POINT OF BEGINNING

### SURVEYOR'S NOTES

1. THIS SKETCH IS NOT VALID UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. PREPARED FOR: JEANINE RODRIGUEZ
3. BEARINGS BASED ON AN ASSUMED BEARING OF N00°05'12"E, ALONG THE EAST BOUNDARY LINE OF BLOCK 17, OF SAID PLAT OF OCEAN BEACH ADDITION No. 2.



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PREPARED UNDER MY SUPERVISION AND DIRECTION:

BY: \_\_\_\_\_  
 JOSE G. HERNANDEZ, PRESIDENT  
 PROFESSIONAL LAND SURVEYOR No. 6952 STATE OF FLORIDA.

DRAWN BY: M.J.M.	CHECKED BY: J.G.H.	JOB NUM.: 151045
DATE: 6/23/17	SHEET 2 OF 2 SHEETS	F.B. N/A