

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: September 12, 2017

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: HPB17-0096, **809 2nd Street.**

The applicant, Watercup Investments LLC, is requesting a Certificate of Appropriateness for the total demolition of an existing 1-story building and the construction of a new 3-story structure including variances from the minimum required lot size and lot width.

#### **STAFF RECOMMENDATION**

Approval of the Certificate of Appropriateness and variances with conditions

#### **BACKGROUND**

On June 19, 2017 the Board reviewed and continued the subject application to a date certain of September 12, 2017.

#### **EXISTING STRUCTURE**

Local Historic District:	Ocean Beach
Status:	Contributing
Garage Construction Date:	1930
Garage Architect:	owner
Addition Date:	1951
Renovation Architect:	Gerard Pitt

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

Legal Description:	The west 47.44 feet of the east 92.09 feet of Lot 8 and the west 47.44 feet of the east 92.09 feet of Lot 7, Block 77 of the Ocean Beach 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.
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Zoning:	RPS-2, Residential performance standard, medium low intensity
Future Land Use Designation:	RPS-2, Residential performance standard, medium low intensity
Lot Size:	2,656.64 S.F. / 1.50 Max FAR
Existing FAR:	1,373 S.F. / 0.51 FAR, as represented by the architect
Proposed FAR:	3,711 S.F. / 1.39 FAR, as represented by the architect

Existing Height:	10'-0" / 1-story
Proposed Height:	30'-0" / 3-stories
Existing Use/Condition:	Multifamily residential
Proposed Use:	Multifamily residential

### **THE PROJECT**

The applicant has submitted plans entitled "New Townhomes for 809 2<sup>nd</sup> Street" as prepared by SKLARchitecture, dated April 24, 2017.

The applicant is requesting a Certificate of Appropriateness for the total demolition of an existing 1-story building and the construction of a new 3-story structure including variances from the minimum required lot size and lot width.

The applicant is requesting the following variances:

1. A variance reduce 3,094 SF from the minimum required lot area of 5,750 SF within the RPS-2 district in order to construct a three-story residential building on a property with a lot area of 2,656 SF.
2. A variance to reduce by 2'-7" the minimum required lot width of 50'-0" within the RPS-2 district in order to construct a three-story residential building on a property with a lot width of 47'-5" (47.44').

- Variances requested from:

**Sec. 142-696. Residential performance standard area requirements.**

*The residential performance standard area requirements are as follows:*

Minimum lot area, RPS2: 5,750 square feet

Minimum lot width, RPS2: 50 feet

It appears that the subject property was originally platted with the two adjacent sites as part of Lot 8, Block 77 and later subdivided as three separate properties, including 6 feet of the northern Lot 7. All three properties fronting 2<sup>nd</sup> Street are non-conforming regarding lot area and lot width in their current configurations. As indicated in the records of the Miami-Dade County property database, there are sale records for this site since 1974 and a Warranty Deed from 1983. The subject site contains 2,656 s.f. of area, where the minimum required is 5,750 within the RPS-2 district. The existing lot width of 47.44' is also non-conforming with the minimum 50' required. The applicant is proposing to demolish the existing structure and construct a new 3-story residential building.

Without the granting of these variances, the construction of the proposed residential building, or any structure for that matter, would not be permitted. Staff finds that the existing size of the lot and existing lot width, establishes the hardship that justifies the variances requested.

### **PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application satisfy the following hardship criteria, 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.

**COMPLIANCE WITH ZONING CODE**

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

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**CONSISTENCY WITH 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **multifamily residential use** appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

**COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

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

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

- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.  
**Satisfied**
  - b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.  
**Satisfied**
- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. Exterior architectural features.  
**Satisfied**
  - b. General design, scale, massing and arrangement.  
**Satisfied**
  - c. Texture and material and color.  
**Satisfied**
  - d. The relationship of a, b, c, above, to other structures and features of the district.  
**Satisfied**
  - e. The purpose for which the district was created.  
**Satisfied**
  - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.  
**Satisfied**
  - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.  
**Satisfied**
  - h. The original architectural design or any subsequent modifications that have acquired significance.  
**Not Applicable**
- 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 'The Project' section of this report**
- 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 located within the Ocean Beach 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.

**Not Satisfied**

**The structure is not 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.

**Not Satisfied**

**The structure is not one of the last remaining examples of its kind 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 noncontributing 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 structure is classified as 'Contributing' 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.

**Not Satisfied**

**The retention of structure is not critical to developing an understanding of an important early Miami Beach architectural style.**

- 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 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.

**Satisfied**

**The applicant is requesting approval for a new structure a part of this application..**

- 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.**

**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 provided.**
- (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) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.  
**Satisfied**
- (5) Whether 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, including a study of land elevation and elevation of surrounding properties were considered.  
**Satisfied**  
**Sea Level Rise projections were taken into account, and the new construction has been designed in manner which can be adapted in the event the streets in this area are elevated.**
- (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.  
**Satisfied**  
**The ground floor is proposed to be constructed as Base Flood Elevation + 1; the project does not include driveways are garage ramping.**

- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.  
**Satisfied**
- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.  
**Satisfied**  
**The proposed building will be built above required Base Flood Elevation.**
- (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) Where feasible and appropriate, water retention systems shall be provided.  
**Satisfied**

#### **STAFF ANALYSIS**

The applicant is proposing to construct a new 3-story, 2-unit, multi-family residential structure on the site. In order to construct the new building, the applicant is proposing the total demolition of the existing Contributing, 1-story multifamily residential building.

On June 19, 2017 the Board reviewed and continued the subject application to a date certain of September 12, 2017. Since the June meeting, the applicant has met with staff and has submitted revised plans in response to concerns expressed by the Board. The currently proposed project includes the following modifications:

- The majority of the second floor has been further setback approximately 10'-0"
- The second level of the double-height living area has been eliminated
- The third level terraces facing 2<sup>nd</sup> Street have been reduced in area
- The roof deck has been further setback approximately 6'-0"

Staff believes that the proposed modifications outlined above addresses the concerns of the Board and should significantly reduce any possible adverse impacts on the surrounding historic district.

#### **VARIANCE ANALYSIS**

The proposed design requires two variances in order to establish the lot as a developable parcel, because the site does not comply with the underlying RPS-2 requirements for lot area and lot width. RPS-2 lots are required to have a minimum lot area of 5,750 SF and a minimum lot width of 50'-0". As explained under the 'Project' section of the report, the subject lot is substandard regarding lot area and lot width. Therefore, it is a non-conforming lot property. These existing conditions of the lot impose a hardship that unless the variances are approved, it will not be possible to make a reasonable use of the land. The two variances requested are the absolute minimum variances required to develop the site. Staff is supportive of these variances since the request satisfies the Practical Difficulty and Hardship Criteria and the development of this lot will not be possible without granting both variances.

**RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application be **approved** as to the Certificate of Appropriateness and variance requests, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable.

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

MEETING DATE: September 12, 2017

FILE NO: HPB17-0096

PROPERTY: 809 2nd Street

APPLICANT: Watercup Investments LLC

LEGAL: Lot 1, Block 37 of Commerical Subdivision, According to the Plat Thereof, as Recorded in Plat Book 6, Page 5, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for the near total demolition of the existing 2-story 'Contributing' structure and the construction of a new 2-story building including variances to reduce the required pedestal rear setback.

**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 Beach Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
  - 1. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  - 2. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
  - 3. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(3) of the Miami Beach Code.
  - 4. Is not consistent with Sea Level Rise and Resiliency Review Criteria (1) in Section 133-50(a) of the Miami Beach Code.
  - 5. Is not consistent with Certificate of Appropriateness Criteria 'b', 'c' & 'e' 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. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
  - b. 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.
  - c. The final location and details of all exterior ramp and railings systems, including materials, dimensions and finishes, 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.
  - d. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
2. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
3. 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. 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.

**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):

Meeting Date: September 12, 2017

1. A variance reduce 3,094 SF from the minimum required lot area of 5,750 SF within the RPS-2 district in order to construct a three-story residential building on a property with a lot area of 2,656 SF.
  2. A variance to reduce by 2'-7" the minimum required lot width of 50'-0" within the RPS-2 district in order to construct a three-story residential building on a property with a lot width of 47'-5" (47.44').
- 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 also 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.

- C. The Board hereby grants the requested variance(s) and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:

Meeting Date: September 12, 2017

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

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

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

- A. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- B. 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.
- C. 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.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.
- F. 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.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application is

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "New Townhomes for 809 2<sup>nd</sup> Street" as prepared by SKLARchitecture, dated April 24, 2017, as approved by the Historic Preservation Board, as determined by staff.

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.

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\_\_\_\_\_.

BY: \_\_\_\_\_  
DEBORAH TACKETT  
CHIEF OF HISTORIC PRESERVATION  
FOR THE CHAIR

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )SS

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

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ ( )

Filed with the Clerk of the Historic Preservation Board on \_\_\_\_\_ ( )