

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: April 10, 2018

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: HPB17-0180, **1475 Collins Avenue - CVS.**

The applicant, CVS 10346 FL, LLC, C/O CVS Health Corp., is requesting a Certificate of Appropriateness for the construction of a new 2-story commercial building on a vacant lot and variances to reduce the required front and street side setbacks, to eliminate the requirement of having one open courtyard, to not provide the required loading spaces, to exceed the maximum area for signs, to relocate wall signs above the first floor and to relocate a building identification sign below the roofline.

### **STAFF RECOMMENDATION**

Approval of the Certificate of Appropriateness with conditions

**Approval** of variances Nos. 1-3, 5, 6, 8 & 9 with conditions

**Continuance** of variance No. 4

**Denial** of variance No. 7

### **BACKGROUND**

On December 10, 2013, the Board reviewed and approved a similar project. The project approval including variances was appealed to Circuit Court which led to the construction delay and complete redesign of the project.

### **EXISTING SITE**

Local Historic District:

Ocean Drive / Collins Avenue

### **ZONING / SITE DATA**

Legal Description:

Lots 3 and 4 of Block 77 of "Fisher's First Subdivision of Alton Beach", according to the Plat thereof, as recorded in Plat Book 2, at page 77 of the Public Records of Miami-Dade County, Florida.

Zoning:

MXE (Mixed-Use Entertainment)

Future Land Use:

MXE (Mixed-Use Entertainment)

Lot Size:

12,439 S.F. (Max FAR = 2.0)

Proposed FAR:

16,378 S.F. / 1.3 FAR

Proposed Height of addition:

2-stories / 44'-0"

Existing Use/Condition: Vacant lot  
Proposed Use: Retail

**THE PROJECT**

The applicant has submitted plans entitled "CVS", as prepared by CPH, Inc, dated February 2, 2018.

**The applicant is proposing to construct new 2-story commercial building on a vacant lot and variances to reduce the required front and street side setbacks, to eliminate the requirement of having one open courtyard, to not provide the required loading spaces, to exceed the maximum area for signs, to relocate wall signs above the first floor and to relocate a building identification sign below the roofline.**

The applicant is requesting the following variances:

1. A variance to reduce by 12'-10" the required front setback of 20'-0" in order to construct a new commercial building at 7'-2" from the west property line, facing Collins Avenue.
2. A variance to eliminate the requirement of having one open courtyard, 10 feet in width and a minimum area of three square feet for every linear foot of lot frontage (304 SF for a lot width of 101.3 feet), facing Collins Avenue.

- Variances requested from:

**Sec. 142-547. Setback requirements.**

*(a) The setback requirements for the MXE mixed use entertainment district are as follows:*

*(1) Front.*

*b. Non-oceanfront:*

*2. Lots 100 feet in width or greater, 20 feet; for buildings with a ten-foot-deep covered front porch running substantially the full width of the building front, the front setback shall be five feet. Furthermore, for lots 100 feet in width or greater, the front setback shall be extended to include at least one courtyard, open to the sky, with a minimum width of ten feet and a minimum area of three square feet for every linear foot of lot frontage.*

Two similar variances were previously approved by the Board of Adjustment on January 10, 2014 as part of a new retail project. As indicated by the applicant, the prior Certificate of Appropriateness and variances were appealed to circuit court, leading to several years of litigation and negotiations with multiple parties. This litigation was recently resolved and the City Commission approved a settlement on October 18, 2017. The latest plans submitted with this application are consistent with the result of the settlement, as indicated by the applicant.

The previous approved front setback variance placed the building at a zero setback on Collins Avenue and the current front setback variance proposes a setback of 7'-2", similar to the setback of the adjacent building to the south with a front setback of approximately 5'-0". The proposed setback would allow for additional landscape that would enhance the surrounding neighborhood, and is also necessary in order to construct the proposed loading zone on Collins Avenue, while also providing public access along a relocated sidewalk to private property.

The elimination of the courtyard area required as part of variance #2 was also previously approved based on the fact that this requirement in the MXE district is primarily intended for

hotels and residential developments and staff finds that practical difficulties exist related to the use and the lot width of the property, which is slightly over 100'. The low scale of the structure as well as the floor area that is well below the maximum permitted are also mitigating factors. Based on this analysis, staff recommends approval of variances #1 and #2.

3. A variance to reduce by 7'-8" the required street side setback of 15'-2" in order to construct a new commercial building at 7'-6" from the north property line, facing 15<sup>th</sup> Street.

- Variance requested from:

**Sec. 142-547. Setback requirements.**

*(a) The setback requirements for the MXE mixed use entertainment district are as follows:*

*(3) Side, facing a street.*

*b. Nonoceanfront: Ten percent of the lot width plus five feet, not to exceed 25 feet.*

This variance was also previously approved with a zero setback. As proposed, the 7'-6" setback would improve the property and the surrounding area with additional landscaping. The adjacent building to the east also has similar reduced street side setback consistent with the setbacks in the historic district. Staff has no objection to the variance and recommends approval.

4. A variance to eliminate the requirement to provide two (2) off-street loading spaces for a retail building with an aggregate area more than 10,000 s.f. and less than 20,000 s.f.

- Variance requested from:

**Sec. 130-101. - Space requirements and location.**

*When any new building or structure is erected, or an existing building is modified resulting in an increase in FAR, accessory off-street loading spaces shall be provided for the new building, new structure, or increase in floor area in accordance with the following schedule:*

*(1) For each retail store, department store, restaurant, wholesale house, warehouse, repair, general service, manufacturing or industrial establishment, or similar use, which has an aggregate floor area in square feet of:*

*b. Over 10,000 but not over 20,000: Two spaces.*

The applicant is proposing a loading area in the public right of way at the front of the property with a modification to offset the sidewalk to allow a recessed area off Collins Avenue for the required loading operation. The previous project included an enclosed loading area accessed from 15<sup>th</sup> Street and located on the east side of the property. However, this proposal was challenged by surrounding neighbors who would be impacted by the loading operations. As the applicant notes in the letter of intent, the proposed project reflects the results of the settlement agreement and that the complexities of the neighborhood has resulted in the proposed location of the loading area.

However, the letter of intent, traffic study and loading zone operational plan submitted, do not provide a substantiated reason as to why the settlement agreement and the complexities of the

neighborhood qualify as practical difficulties. At this time, staff is unable to conclude whether this request satisfies the criteria for granting of the variance.

As noted in the maneuvering graphic provided, the 50-foot long truck would back up on Collins Avenue to access the proposed location. Further, the loading could be used by other adjacent properties and, would not be reserved only for the retail building. Due to the size and number of delivery trucks required to service a high volume retail store, staff is concerned with how loading would take place if this on-street loading zone on Collins Avenue is occupied. Further, evidence of approval from FDOT for the dedication of the loading area close to the property corner has not been provided to staff. In light of these concerns staff would recommend that this variance be continued to a future date.

5. A variance to relocate an allowable flat sign from the ground floor to a low wall at the 2<sup>nd</sup> floor of a retail building facing 15<sup>th</sup> Street.
6. A variance to relocate an allowable flat sign from the ground floor as a vertical sign to the 2<sup>nd</sup> floor of a retail building facing 15<sup>th</sup> Street.
  - Variance requested from:

**Sec. 138-16. Wall sign.**

*Wall signs are signs attached to, and erected parallel to, the face of, or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall. Such signs shall be governed by the following chart:*

*Height restrictions, Wall Sign Design Standards per District, MXE, Shall not be located above the ground floor.*

Signs located above the first floor are only allowed as a building identification signs. The project does not include this type of sign on 15<sup>th</sup> street, and rather proposes two signs within the building envelope. One sign is located on the low wall at the second floor and one vertical sign on the prominent vertical element at the corner. The sign proposed on the north elevation is only slightly above what would be allowed, and the vertical sign, although requiring a variance, as proposed is not out of character with other new and historic signs that have been approved in the neighborhood. The lack of any building identification signs on the parapet, and the location of the signs as proposed, is a reasonable compromise that is consistent with the intent of the City Code.

7. A variance to exceed by 23.6 SF the maximum sign area of 80.3 SF allowed for wall signs in order to permit one sign with 58.4 SF and one sign with 45.5 SF fronting 15<sup>th</sup> Street with a total area of 103.9 SF
  - Variance requested from:

**Sec. 138-16. Wall sign.**

*Wall signs are signs attached to, and erected parallel to, the face of, or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall. Such signs shall be governed by the following chart:*

Maximum area percentage, Wall Sign Design Standards per District, MXE: 0.75 square feet for every foot of linear frontage.

Maximum quantity per frontage, Wall Sign Design Standards per District, MXE: Multiple signs for the same establishment may be permitted through the design review process if the aggregate sign area does not exceed the largest maximum permitted area.

This variance pertains to the aggregate area of two signs located at the north side of the property facing 15<sup>th</sup> Street. The signs exceed the maximum area allowed based on the length of the façade which is approximately 107' on this side. Staff finds that this variance request does not satisfy the practical difficulties criteria based on the corner location of the property and its length of more than 100' on each street side, which would allow greater visibility of the building than other interior properties. Staff recommends that the variance be denied and that the total sign area comply with the maximum allowed.

8. A variance to exceed by 19.9 SF the maximum area of 38.5 SF for a building identification sign located on the west façade in order to install a sign with 58.4 SF facing Collins Avenue.
9. A variance to relocate a building identification sign below the main roof line facing Collins Avenue for a new retail building.

- Variance requested from:

**Sec. 138-16. Wall sign.**

*Wall signs are signs attached to, and erected parallel to, the face of, or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall. Such signs shall be governed by the following chart:*

Supplemental standards, Wall Sign Design Standards per District, MXE.: Hotels, apartments-hotels, and commercial buildings two stories or higher may be permitted one building identification sign above the roofline, with an area not to exceed one percent of the wall area on which it is placed. The placement and design of the sign shall be subject to approval through the design review process.

A sign of up to 65.6 SF, located at the ground level could be approved without a variance. As a building identification sign, the area is limited to 1% of the wall area, or in this case, 38.5 SF. Because the sign proposed is less than what could be constructed at the ground level, staff is not opposed to variance no. 8. As it relates to variance no. 9, the proposed sign is only slightly below the area where one would be allowed as a building identification sign on the parapet, and creates a more cohesive design solution compared to a sign that would be located on the parapet. The proposed size and location complies with the intended purpose of the signage code, which is "to permit signs that through their design, location, numeration, and construction, will optimize communication, promote a sound healthy environment for housing and commerce, as well as preserve the architectural character of the city."

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variances No 4-9, as noted above.

Additionally, staff has concluded that the plans and documents submitted with the application satisfy the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, with the exception of variance Nos. 4 & 7, as noted above:

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

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

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

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 **commercial 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.  
**Not Satisfied**  
**The proposed design would be more compatible with the surrounding historic district if the proposed porcelain tile was replaced with a material more indicative of the unique historic architecture within the Ocean Drive/Collins Avenue local historic district.**
- d. The relationship of a, b, c, above, to other structures and features of the district.  
**Satisfied**
- e. The purpose for which the district was created.  
**Satisfied**
- f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.  
**Satisfied**
- g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.  
**Satisfied**
- h. The original architectural design or any subsequent modifications that have acquired significance.  
**Satisfied**

III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public

interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Satisfied**
- b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.  
**Not Satisfied**  
**Variances have been requested.**
- 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.  
**Not Satisfied**  
**The proposed design would be more compatible with the surrounding historic district if the proposed porcelain tile was replaced with a material more indicative of the unique historic architecture within the Ocean Drive/Collins Avenue local historic district.**
- 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.  
**Not Satisfied**  
**The proposed design would be more compatible with the surrounding historic district if the proposed porcelain tile was replaced with a material more indicative of the unique historic architecture within the Ocean Drive/Collins Avenue local historic district.**
- 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**

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

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

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Applicable**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Satisfied**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Partially Satisfied**  
**While sun shading devices have been proposed to reduce heat gain, operable windows are not proposed.**
- (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**
- (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**
- (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.  
**Not Applicable**
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.  
**Not Applicable**

- (10) Where feasible and appropriate, water retention systems shall be provided.  
**Satisfied**

### **ANALYSIS**

Staff would preface this analysis by noting that the previously existing structure on the site, the Charles Hotel, was demolished in 2004 after the Building Official issued an emergency demolition order. Subsequently, the Board approved an after-the-fact Certificate of Appropriateness for demolition of the structure. While three separate development projects were previously approved by the Board, none of these projects were constructed and the site has remained vacant for nearly 15 years. The most recent approval obtained in 2013 was for a similar project, but was not constructed due to a dispute with the applicant and a neighboring property regarding the location in which loading would take place.

The current applicant has presented a well-conceived proposal for this prominent corner site. The proposed design incorporates a corner entrance and an expansive glass storefront system along Collins Avenue and 15<sup>th</sup> Street, which will create a vibrant and active street presence for this highly traveled intersection. The proposed structure responds appropriately to adjacent residential buildings located to the east and south of the subject site. The overall design is highly compatible with the scale, massing and context of the surrounding historic district. Further, the addition of a new retail building on a site which has remained vacant for many years will dramatically improve the quality of life experienced by both residents and visitors alike.

Staff has only one concern regarding the proposed porcelain tile cladding and would recommend replacing this material with a material more consistent with the character of the surrounding historic district, such as a natural or color-filled keystone. Staff is confident that the design architect for the project can satisfactorily address the concern expressed herein, and recommends approval of the project as noted below.

### **VARIANCE ANALYSIS**

Staff has no objections to the variances Nos. 1-3 requested for the front and street side setbacks and elimination of the courtyard as the new retail building features setbacks consistent with the surrounding urban fabric. In reference to variance no.4 for the proposed loading area in the right of way at the front of the building, although not opposed to the proposed loading location, and corresponding variance request, based on the information provided, staff is unable to make a conclusive recommendation, as noted in the project portion of this report. If the applicant can provide additional details to substantiate the variance requested by the meeting date, staff is amicable to approve the application. Otherwise, staff has recommended this particular variance be continued to a future meeting.

Regarding variances 5, 6, 8 and 9, for the relocation of wall and building identification signs, staff is supportive, as the signs proposed comply with the purpose of the signage ordinance, and would not exceed the maximum signage area allowed for each façade facing 15<sup>th</sup> Street and Collins Avenue (with the denial of variance no. 7 as noted below).

For variance No. 7 staff could not find practical difficulties or special conditions that justify the granting of the variance for the aggregate sign area allowed on 15<sup>th</sup> Street. In addition, the letter of intent submitted does not provide details substantiating the need for this variance.

In summary, staff recommends that the application be continued to a future date to further evaluate the loading operation.

**RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application for variances Nos. 1-3, 5, 6, 8 & 9 be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria, that variance No. 7 be **denied**, and that variance No. 4 be continued to a future date. Staff also recommends the application for a Certificate of Appropriateness be **approved** subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria.

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

MEETING DATE: April 10, 2018

FILE NO: HPB17-0180

PROPERTY: 1475 Collins Avenue

APPLICANT: CVS 10346 FL, LLC, C/O CVS Health Corp

LEGAL: Lots 3 and 4 of Block 77 of "Fisher's First Subdivision of Alton Beach", according to the Plat thereof, as recorded in Plat Book 2, at page 77, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for the construction of a new 2-story commercial building on a vacant lot and variances to reduce the required front and street side setbacks, to eliminate the requirement of having one open courtyard, to not provide the required loading spaces, to exceed the maximum area for signs, to relocate wall signs above the first floor and to relocate a building identification sign below the roofline.

**ORDER**

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

**I. Certificate of Appropriateness**

- A. The subject site is located within the Ocean Drive/Collins Avenue Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
  - 1. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  - 2. Is not consistent with Certificate of Appropriateness Criteria 'c' in Section 118-564(a)(2) of the Miami Beach Code.
  - 3. Is not consistent with Certificate of Appropriateness Criteria 'b', 'c' & 'd' in Section 118-564(a)(3) of the Miami Beach Code.
  - 4. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
- 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 and, at a minimum, such drawings shall incorporate the following:
  - a. The ceramic tile exterior cladding shall be replaced with a natural keystone, color-filled keystone or combination of natural and color-filled, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - b. All interior features and fixtures, including, but not limited to, shelving, partitions, and checkout counters, shall be setback a minimum of five (5') feet from the west wall, north wall and northwest corner of the structure. The floor plan submitted for building permit shall be submitted and all interior areas facing the northwest corner, 15<sup>th</sup> Street and Collins Avenue shall allow complete and unobstructed visibility from the exterior, 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. Exterior signage shall consist of back-lit individual letters with a brushed aluminum finish, 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. The entrance doors at the northwest corner shall doors shall be swing type doors in a manner which is more consistent with the architecture of the building, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - e. The design and details of the proposed storefront system shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - f. Final details of all exterior surface finishes and materials shall be required, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - g. The floor material shall be a high quality, neutral field color polished concrete or terrazzo on both floor levels, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - h. The final design and details of the building's interior and exterior lighting 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. Interior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding historic district. Intensive 'white' lighting shall not be permitted within the retail area and all lighting within the retail area shall have a maximum temperature of 3000 K, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

- i. A detailed screening plan for all roof-top fixtures and mechanical devices shall be required, as part of the building permit plans, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - j. An historic exhibit or plaque shall be required showing the original 'Charles Hotel' on this site, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
- a. In order to retain the existing Coconut Palms in the public ROW facing on 15th Street, a contribution to the Tree Trust Fund should be submitted for the required canopy shade trees on this frontage.
  - b. A Silva Cell Rooting system or approved equivalent shall be provided with the required canopy shade trees in the public ROW facing Collins Av subject to the review and approval of the City's Urban Forester. In the event that existing underground utilities prevent the installation of any of the required trees, a contribution to the Tree Trust Fund should be submitted equivalent to cost of material and installation inclusive of irrigation, landscape uplighting (two fixtures per tree), silva cell or approved equivalent, planting soil, trees, and bound aggregate.
  - c. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain.

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

## II. Variance(s)

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

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

1. A variance to reduce by 12'-10" the required front setback of 20'-0" in order to construct a new commercial building at 7'-2" from the west property line, facing Collins Avenue.
2. A variance to eliminate the requirement of having one open courtyard, 10 feet in width and a minimum area of three square feet for every linear foot of lot frontage (304 s.f. for a lot width of 101.3 feet), facing Collins Avenue.
3. A variance to reduce by 7'-8" the required street side setback of 15'-2" in order to construct a new commercial building at 7'-6" from the north property line, facing 15<sup>th</sup> Street.
4. A variance to eliminate the requirement to provide two (2) off-street loading spaces for a retail building with an aggregate area more than 10,000 s.f. and less than 20,000 s.f.
5. A variance to relocate an allowable flat sign from the ground floor to a low wall at the 2nd floor of a retail building facing 15th Street.
6. A variance to relocate an allowable flat sign from the ground floor as a vertical sign to the 2nd floor of a retail building facing 15th Street.
8. A variance to exceed by 19.9 sf the maximum area of 38.5 sf for a building identification sign located on the west façade in order to install a sign with 58.4 sf facing Collins Avenue.
9. A variance to relocate a building identification sign below the main roof line facing Collins Avenue for a new retail building.

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

7. A variance to exceed by 23.6 SF the maximum sign area of 80.3 SF allowed for wall signs in order to permit one sign with 58.4 SF and one sign with 45.5 SF , fronting 15<sup>th</sup> Street with a total area of 103.9 SF.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variance(s) II.A.1, II.A.2, II.A.3 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, only as it relates to variance(s) II.A.1, II.A.2, II.A.3:

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 **Approves** the requested variance(s) nos. 1, 2, and 3 and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:

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

**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 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. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.

- C. 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.
- D. 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.
- E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. 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.
- G. 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.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- I. 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.
- J. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans "CVS" as prepared by CPH Inc., dated February 2, 2018, as approved by the Historic Preservation Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the

conditions set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

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

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this Order shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

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

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

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

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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 \_\_\_\_\_ ( )

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