

MIAMI BEACH

PLANNING DEPARTMENT

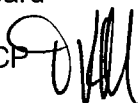
Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: February 12, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: HPB18-0249, **304 & 312 Ocean Drive.**

An application has been filed requesting a Certificate of Appropriateness for the after-the-fact total demolition of the previously existing structure located at 304 Ocean Drive, construction of a new multi-family building and a variance to reduce the required rear setback.

STAFF RECOMMENDATION

Approval of the Certificate of Appropriateness with conditions.

Denial of the variance.

BACKGROUND

On September 12, 2000 the Historic Preservation Board approved a Certificate of Appropriateness for the renovation, alteration and partial demolition of an existing 3-story structure at 304 Ocean Drive, inclusive of a new roof-top pool and deck. At the same meeting, a separate Certificate of Appropriateness application was approved for the renovation and restoration of the adjacent structure at 312 Ocean Drive. Although permits were applied for, these renovation projects were never initiated and the Certificates of Appropriateness expired.

On or about October 24, 2005, the previous structure at 312 Ocean Drive was severely damaged as a result of the effects of Hurricane Wilma. On October 31, 2005, the building was inspected by the Building Department, and an Emergency Demolition Order was subsequently issued by the City's Building Official. On November 30, 2005, a permit for the complete demolition of the structure at 312 Ocean Drive was issued and the building was demolished.

On September 11, 2007 the Historic Preservation Board granted an 'After-the-Fact' Certificate of Appropriateness (HPB 4875) for the demolition of the structure at 312 Ocean Drive, subject to the following:

1. Prior to the issuance of any Certificate of Appropriateness for new construction on the subject site, the property owner shall provide full measured drawings, prepared by a Florida Registered Architect, documenting the demolished structure as closely as possible based upon all available historic documentation.
2. Any new building on the site shall not exceed the height of the original structure.
3. A museum quality display shall be designed and constructed by the property owner as a

condition of approval for any new structure on the subject site.

On August 12, 2008 the Historic Preservation Board approved a Certificate of Appropriateness (HPB 5749) for the partial demolition, renovation and restoration of the existing 3-story building at 304 Ocean Drive, including the construction of a new roof top addition, and the construction of a new 3-story structure on the adjacent vacant site at 312 Ocean Drive, as part of a new hotel project. On May 11, 2010 the Historic Preservation Board approved a one (1) year Extension of Time to obtain a Full Building Permit for this Certificate of Appropriateness (HPB 5749). No building permits were applied for and the Certificate of Appropriateness expired on February 12, 2011.

On July 26, 2013, a building violation (BV13000973) was issued to 304 Ocean Drive for an unsafe structure and the failure to obtain a 40-year recertification. On April 23, 2014, per the applicants Letter of Intent, the owner of the property appeared before the Miami-Dade County Unsafe Structures Board, at which time the Board deferred action for six months.

Only July 8, 2014, the Board reviewed and approved a request to modify the previously issued After-the-Fact Certificate of Appropriateness for the previously existing structure located at 312 Ocean Drive. Specifically, the Board approved the elimination of a previously imposed condition of the Order (HPB 4875) requiring that any new development on the site not exceed the height of the original structure (approximately 35'-0") located at 312 Ocean Drive.

At the same meeting, the Board reviewed and approved a request for a Certificate of Appropriateness for the total demolition of the then existing Contributing building located at 304 Ocean Drive and the construction of a new 4-story multifamily building (HPB 7437). No building permits were applied for and the Certificate of Appropriateness for the total demolition of the building located at 304 Ocean Drive and new 4-story building expired on January 8, 2016.

On August 21, 2014, a building permit for the total demolition of 304 Ocean Drive was issued by the City, pursuant to an Emergency Demolition order and the building was subsequently demolished.

EXISTING SITE

Local Historic District: Ocean Beach

PREVIOUSLY EXISTING STRUCTURES

304 Ocean Drive

Classification:	Contributing
Original Construction Date:	1937
Original Architect:	Henry Maloney
Total Demolition:	Demolition permit issued August 21, 2014, as a result of an Emergency Demolition Order after a Certificate of Appropriateness was approved for the total demolition (HPB 7437) on July 8, 2014. <u>This approval has since expired.</u>

312 Ocean Drive

Classification:	Contributing
Original Construction Date:	1923
Original Architect:	J. Gannon
Total Demolition:	Demolition permit issued November 30, 2005, as a result of an Emergency Demolition Order. An after-the-fact Certificate of Appropriateness for the total demolition was granted by the Board on September 11, 2007 (HPB 4875).

ZONING / SITE DATA

Legal Description: **Parcel 1:** Lot 7, less the easterly 12 feet thereof, Block 4, Ocean Beach, Fla Subdivision, According to the Plat Thereof as Recorded in Plat Book 2, Page 38 of the Public Records of Miami-Dade County, Florida.

Parcel 2: Lot 8 less the southeasterly 15 feet thereof, Block 4, Ocean Beach, Fla Subdivision, According to the Plat Thereof as Recorded in Plat Book 2, Page 38 of the Public Records of Miami-Dade County, Florida.

Zoning:	R-PS3, Residential, medium-high density
Future Land Use Designation:	R-PS3, Residential, medium-high density
Lot Size:	11,657 S.F. / 1.75 Max FAR
Existing FAR:	N/A
Proposed FAR:	20,396 S. F. / 1.75 FAR, as represented by the applicant
Existing Height:	N/A
Proposed Height:	4-stories/49'-6"
Existing Use/Condition:	Vacant Lot
Proposed Use:	Residential Multifamily

THE PROJECT

The applicant has submitted plans entitled "312 Ocean Park", as prepared by Revuelta Architecture International, dated December 10, 2018.

The applicant is requesting a Certificate of Appropriateness for the after-the-fact total demolition of the previously existing structure located at 304 Ocean Drive, construction of a new multi-family building and a variance to reduce the required rear setback.

The applicant is requesting the following variance(s):

1. A variance to reduce by 6'-8" the required pedestal rear setback of 11'-8" in order to construct a new residential building at 5'-0" from the rear property line.
 - Variance requested from:

Sec. 142-697. - Setback requirements in the RPS1, 2, 3, 4 districts.

(a) The setback requirements for the RPS1, 2, 3, 4 districts are as follows:

Pedestal and subterranean, Non-oceanfront lots: 10% of lot depth.

As part of the development of the site, the applicant is proposing a 10-unit residential building at a rear setback of 5'-0" where 11'-8" is required. The property is a multiple lot vacant site with an area larger than 11,600 sf, in a district that requires a minimum lot area of 5,750 sf. Staff finds that the size of the lot provides sufficient flexibility to design a residential building conforming to all zoning regulations, including setbacks. Furthermore, smaller units could be proposed in order to reduce the number of parking spaces or two (2) parking spaces at the rear could be eliminated and a fee in lieu of providing the parking could be paid. The project has also been designed to the maximum FAR and height permitted. As the variance is related to the construction of a new building on a vacant site and is not related to the preservation of an historic structure, staff finds that the variance request does not meet the practical difficulty and hardship criteria, and recommends denial of the variance.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that DO NOT 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 DO NOT 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 literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that, in addition to the variance requested herein, the application, as proposed, may be inconsistent with the following portions of the City Code:

1. **Sec. 142-704(b)(4). Minimum required yards in relation to minimum open space ratio.**
(4) In no case shall the open space provided at grade be less than the total area resulting from the required setbacks.
2. **Sec. 142-1132(o)(11). Allowable encroachments within required yards.**
The deck area on the north side yard exceeds the required width for a walkway. This area as designed is not a necessary access for ADA compliance.
3. **Sec. 130-38. Mechanical and robotic parking system.**
The project shall comply with all aspects of this section including noise and visibility.

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 **residential use** appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

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.
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
- (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
To be reviewed at time of Building Permit

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.
Not Applicable
 - 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.
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
A variance has 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.
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.

Not Satisfied

An exterior lighting plan has not been submitted

- 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).
Not Applicable
- 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 site located within the Ocean Beach Local Historic District. The previously existing structure was classified as Contributing within the district.
- b. The Building, Structure, Improvement, or Site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.
Satisfied
The previously existing structure was of such design, craftsmanship, or material that they could be reproduced only with great difficulty and/or expense.
- c. The Building, Structure, Improvement, or Site is one of the last remaining examples of its kind in the neighborhood, the country, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.
Satisfied
The previously existing structure was one of the last remaining examples of its kind and contributed to the defining 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 previously existing structure was classified as a Contributing building in the Miami Beach Historic Properties Database.

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

Satisfied

The retention of the subject structure was critical to developing an understanding of important Miami Beach architectural styles.

- 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 has presented redevelopment plans.

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

Satisfied

The Miami-Dade County Unsafe Structures Board ordered the demolition of the structure.

SECTION 130-38—MECHANICAL AND ROBOTIC PARKING SYSTEMS

Projects proposing to use mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory off-street parking requirements shall prepare schematic floor plans prior to site plan review by the applicable land use board. Two sets of schematic floor plans shall be required:

1. **One set of schematic plans sufficient to show the proposed development project with accessory off-street parking requirements satisfied by traditional, non-mechanical means, meeting all aspects of the design standards for parking spaces required in Article III of Chapter 130, and other provisions of these land development**

regulations, and requiring no variances from these provisions.

Consistent – Because the project is located within a local historic district all required parking may be provided by full paying a fee in lieu of providing the required parking on site. In the extreme case, with no parking on site, the project complies with the zoning requirements, with no variances.

- 2. A second set of schematic plans, sufficient to show the same proposed development project, utilizing mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory off-street parking requirements.**

Consistent – Plans showing the parking for the project by mechanical means was submitted showing a total of 20 spaces, with 6 lifts providing a total of 12 parking spaces.

The Board shall also consider the following review criteria when considering each application for the use of mechanical parking systems:

- (a) Whether the scale of the proposed structure is compatible with the existing urban character of the surrounding neighborhood.**

Consistent – The scale of the project is compatible with the surrounding area. The proposed height of approximately 50 feet is compliant with the maximum permitted height of the RPS-3 zoning district. The design characteristics and compatibility issues of the project will also be evaluated based on the Certificate of Appropriateness review criteria.

- (b) Whether the proposed use of mechanical parking results in an improvement of design characteristics and compatibility with the surrounding neighborhood.**

Consistent – The proposed project is an improvement over the existing vacant lot. The proposed design of the mechanical parking appears to be compatible with design characteristics and with the surrounding neighborhood, and is limited to one story in height.

- (c) Whether the proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed with conventional parking.**

Consistent – The proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed on the site, as the City Code allows a fee in lieu of providing all or a portion of the required on site.

- (d) Whether parking lifts or mechanisms are located inside, within a fully enclosed building, and not visible from exterior view.**

Partially Consistent – Additional details are required in order to ensure that the proposed architectural screening fully screens the parking from exterior views.

- (e) In cases where mechanical parking lifts are used for self-parking in multifamily residential buildings; whether approval is conditioned upon the proper restrictive covenant being provided limiting the use of each lift to the same unit applicant.**

Not Applicable – As indicated by the applicant, an on-site valet operator will park the cars for residents.

- (f) **In cases where mechanical parking lifts are used for valet parking; whether approval is conditioned upon the proper restrictive covenant being provided stipulating that a valet service or operator must be provided for such parking for so long as the use continues.**

Consistent – A restrictive covenant stipulating that a valet service or operator must be provided for such parking for so long as the use continues will be provided prior to the issuance of a building permit for the Proposed Project.

- (g) **Whether a traffic study has been provided that details the ingress, egress and circulation within the mechanical parking facility, and the technical and staffing requirements necessary to ensure that the proposed mechanical parking system does not cause excessive stacking, waiting, or backups onto the public right-of-way.**

Consistent – A transportation Study was provided and reviewed by the Transportation Department. Based on the size of the project, traffic back-ups onto the right-of-way are not anticipated.

- (h) **Whether a proposed operations plan, including hours of operation, number of employees, maintenance requirements, noise specifications, and emergency procedures, has been provided.**

Satisfied –The letter of intent provides details regarding the maintenance and emergency procedures for the mechanical parking.

- (i) **In cases where the proposed facility includes accessory uses in addition to the parking garage, whether the accessory uses are in proportion to the facility as a whole, and delivery of merchandise and removal of refuse, and any additional impacts upon the surrounding neighborhood created by the scale and intensity of the proposed accessory uses, are adequately addressed.**

Not Applicable

- (j) **Whether the proximity of the proposed facility to similar size structures and to residential uses creates adverse impacts and how such impacts are mitigated.**

Consistent – The proposed project appears to be compatible with the surrounding neighborhood and it appears that it would not create any significant adverse impacts to the residential uses.

- (k) **Whether a cumulative effect from the proposed facility with adjacent and nearby structures arises, and how such cumulative effect shall be addressed.**

Consistent – No negative impact is anticipated from the cumulative effect from the proposed facility and nearby structures.

ANALYSIS

The applicant is proposing to construct a new 4-story, 10-unit, multifamily structure on two lots at the northwest corner of Ocean Drive and 3rd Street. As noted in the Background section of this report, the site previously contained two Contributing buildings which were demolished as a result of two separate Emergency Demolition Orders. In 2005, the Board approved an after-the-fact Certificate of Appropriateness for the demolition of 312 Ocean Drive and in 2014, the Board approved a Certificate of Appropriateness for the demolition of 304 Ocean Drive, prior to its demolition. The Certificate of Appropriateness for the demolition of 304 Ocean Drive was however, approved as part of a similar redevelopment plan for both lots which included the design of a new 4-story residential building. Since that approval has subsequently expired, the applicant is currently requesting an after-the-fact Certificate of Appropriateness for the total demolition of 304 Ocean Drive in conjunction with a proposed design for a new residential building on both lots.

304 Ocean Drive – after-the-fact request for total demolition

The structure, originally known as the Sea Spray Apartments, was constructed in 1937 and designed by Henry Maloney in the Art Deco style of architecture. The structure consisted of a three-story building fronting Ocean Drive and a rear two-story portion which ran the entire depth of the site.

While staff laments the loss of the original Sea Spray Apartments, the structure had been in an advancing state of structural instability for many years prior to its demolition. The building had been vacant since at least 2002 as indicated by a Building Department violation for an “open, vacant & abandoned building”. Additionally, over the years, numerous violations had been issued for unsecured property, property maintenance, unsafe structures and failure to obtain a 40-year recertification. It is also important to note that the Historic Preservation Board had previously approved the total demolition of the building to be replaced with a new residential building in a contemporary style of architecture. Staff is supportive of the applicant’s current request for an after-the-fact Certificate of Appropriateness for total demolition and believes that the most appropriate option at this time is to construct a new high quality building on the site that is compatible with the scale and context of the immediate area.

New 4-story residential building

Staff commends the applicant and the design team on the well-developed contemporary design proposed for this prominent corner site. The proposed project includes ten residential units and a 20-space parking area including mechanical stacked and tandem spaces accessed from the alley. The scale, massing, height and building orientation are all consistent with the built context of the west side of Ocean Drive. Additionally, the variations in surface finishes, changes in plane and the very skillful distribution of architectural form have resulted in a design that is compatible to the neighborhood. The proposed building has been broken into two distinct volumes with the center portion setback from Ocean Drive. This plan is highly responsive to the historic pattern of development of the district which consists mostly of independently developed, fifty foot wide lots. The shifting of massing allows for the introduction of ground level landscape features and large wrap around outdoor terraces, a scheme responsive to the tropical environment and consistent with historic building typologies in Miami Beach.

VARIANCE ANALYSIS

A rear setback variance is requested as part of the development of the site. The Board has recognized previously that the retention of an existing historic structure and the addition at the

rear of a site or the addition of a roof top structure to an existing contributing building may create practical difficulties when adjusting the new floor area to the existing setbacks or available area in a property located within the historic district. In this case, the new building is proposed on an empty lot which is larger than most of the surrounding properties and the maximum floor area and maximum height is proposed. There are also other available options regarding parking and unit size, as noted in the project portion of this report that could be used to eliminate the variance if the project is downsized. The variance is triggered by the specific design proposed by the applicant. Staff has concluded that the reduction of the rear setback does not satisfy the practical difficulties or hardship criteria, and as such, staff recommends denial of the variance.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the Certificate of Appropriateness be **approved** and that variance request be **denied**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable. However, should the Board find that the variance(s) requested 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, staff recommends that any approval be subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: February 12, 2019

FILE NO: HPB18-0249

PROPERTY: 304 & 312 Ocean Drive

APPLICANT: 312 Ocean Park, LLC

LEGAL: **Parcel 1:** Lot 7, less the easterly 12 feet thereof, Block 4, Ocean Beach, Fla Subdivision, According to the Plat Thereof as Recorded in Plat Book 2, Page 38 of the Public Records of Miami-Dade County, Florida.

Parcel 2: Lot 8 less the southeasterly 15 feet thereof, Block 4, Ocean Beach, Fla Subdivision, According to the Plat Thereof as Recorded in Plat Book 2, Page 38 of the Public Records of Miami-Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for the after-the-fact total demolition of the previously existing structure located at 304 Ocean Drive, construction of a new multi-family building and a variance to reduce the required 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 Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
 - 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
 - 3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
 - 4. Is not consistent with Certificate of Appropriateness Criteria 'b' & 'g' in Section 118-564(a)(3) of the Miami Beach Code.

5. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(f)(4) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:
1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
 - a. A plaque describing the history and evolution of the original buildings located at 304 & 312 Ocean Drive shall be placed on the site and shall be located in a manner visible from the right of way along Ocean Drive, prior to the issuance of a Certificate of Occupancy for the building, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - b. Exterior lighting plan 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.
 - c. Final details of all exterior surface finishes and materials including the exterior railings, 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.
 - 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. 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.
 - b. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.

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 variance was **denied** by the Board:

1. A variance to reduce by 6'-8" the required pedestal rear setback of 11'-8" in order to construct a new residential building at 5'-0" from the rear property line.

- B. The applicant has submitted plans and documents with the application that DO NOT 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 DO NOT indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

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

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

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

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

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

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

- C. The Board hereby **Denies** the requested variance(s) and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
 2. Deck area on the north side shall be reduced to a maximum width of 44".

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

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

- A. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- B. The applicant shall comply with the mechanical and robotic parking system requirements, pursuant to Sec. 130-38 of the City Code.
- C. 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.
- D. 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.
- E. 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.
- F. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- G. 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.
- H. 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.

- I. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- J. 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.
- K. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

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

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "312 Ocean Park", as prepared by Revuelta Architecture International, dated December 10, 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

[illegible]

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 _____ ()