

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: December 9, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: HPB19-0350, **4299 Collins Avenue.**

An application has been filed requesting a Certificate of Appropriateness for the construction of a 1-story rooftop addition including variances to reduce the required tower front and interior side setbacks for the construction of new hotel units.

STAFF RECOMMENDATION

Approval of the Certificate of Appropriateness with conditions
Approval of the variance with conditions

EXISTING STRUCTURE

Local Historic District:	Collins Waterfront
Status:	Contributing
Construction Date:	1950
Architect:	Roy France

ZONING / SITE DATA

Legal Description:	Lots 1, 2, 5 & 6 and RIP RTS and Part of the alley contiguous, Block 37 of the Ocean Front Property of the Miami Beach Improvement Company, according to the Plat Thereof, as Recorded in Plat Book 5, Pages 7 and 8, of the Public Records of Miami-Dade County, Florida.
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Zoning:	RM-3, Multifamily, High Intensity
Future Land Use Designation:	RM-3, Multifamily, High Intensity
Lot Size:	36,000 S.F. / 2.25 Max FAR
Existing FAR:	77,949 S.F. / 2.16 FAR
Proposed FAR:	80,810 S.F. / 2.24 FAR
Existing Height:	~102.59'
Proposed Height:	104.63'
Existing Use/Condition:	Hotel
Proposed Use:	No change

THE PROJECT

The applicant has submitted plans entitled “Lexington by Hotel RL, Miami Beach”, as prepared by AA Design Associates, P.A., dated October 7, 2019.

The applicant is requesting the following variance:

1. A variance to reduce by 11'-11" the required tower front setback of 50'-0" to construct a one-story rooftop addition at 38'-1" from the front property line facing Collins Avenue.
 - Variance requested from:

Sec. 142-247. - Setback requirements.

(a) The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Tower, Front: 20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant.

The applicant is proposing a one-story rooftop addition for 11 hotel units. The new floor area will be located within the tower portion of the building where the front setback requirements are increased for structures exceeding 50'-0" in height. The existing front setback varies from 26'-0" to 29'-0" up to a height of approximately 84'-2". Although as proposed, the new addition will be setback 7'-6" from the edge of the existing building below, a front setback of 50'-0" is required based on the overall height proposed.

The location of the new hotel units is restricted by the existing building configuration, which has non-conforming front and side setbacks. The existing stairs and elevators also must be incorporated into the new roof-top addition in order to comply with accessibility and life-safety requirements. The location of the stairs and elevators also creates practical difficulties when designing the hotel rooms around these existing elements. The proposed floor area should not have a negative impact on the existing contributing building, as it will be set back 7'-6" from the edge of the existing building and the new hotel units comply with the minimum unit size required.

Staff finds that the existing conditions of the structure with a non-conforming front setback and the retention of the contributing structure satisfy the practical difficulties criteria for the granting of the variance. As such staff recommends approval of the variance as requested.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

1. **Section 130-32.** The new hotel units have a parking requirement of 0.5 parking spaces per hotel unit.
2. **Section 90-98.** The trash room shall be enclosed and air conditioned.

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

CONSISTENCY WITH 2025 COMPREHENSIVE PLAN

A preliminary review of the project indicates that the proposed **hotel** use is **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 Satisfied
- (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) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Not Applicable
- (5) The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
The first finished floor is located at 11.96' NGVD
- (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 and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Not Applicable
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Not Applicable
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
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) In all new projects, water retention systems shall be provided.
Not Applicable
- (11) Cool pavement materials or porous pavement materials shall be utilized.
Satisfied
- (12) The project design shall minimize the potential for a project causing a heat island effect on site.
Not Applicable

COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA

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

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
 - a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.
Satisfied
 - b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.
Satisfied
- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
 - a. Exterior architectural features.
Satisfied
 - b. General design, scale, massing and arrangement.
Satisfied
 - c. Texture and material and color.
Satisfied
 - d. The relationship of a, b, c, above, to other structures and features of the district.
Satisfied
 - e. The purpose for which the district was created.
Satisfied
 - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.
Satisfied
 - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.
Satisfied
 - h. The original architectural design or any subsequent modifications that have acquired significance.
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
See Compliance with Zoning Code
 - 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 Applicable

- 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.

Not Applicable

- 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.

Not Applicable

- 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.

Not Applicable

CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA

Section 118-564 (f)(4) of the Land Development Regulations of the Miami Beach Code provides criteria by which the Historic Preservation Board evaluates requests for a Certificate of Appropriateness for Demolition. The following is an analysis of the request based upon these criteria:

- a. The Building, Structure, Improvement, or Site is designated on either a national or state level as a part of an Historic Preservation District or as a Historic Architectural Landmark or Site, or is designated pursuant to Division 4, Article X, Chapter 118 of the Miami Beach Code as a Historic Building, Historic Structure or Historic Site, Historic Improvement, Historic Landscape Feature, historic interior or the Structure is of such historic/architectural interest or quality that it would reasonably meet national, state or local criteria for such designation.

Satisfied

The existing structure is designated as Contributing within the Collins Waterfront Local Historic District.

- b. The Building, Structure, Improvement, or Site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.

Satisfied

The Building is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.

- c. The Building, Structure, Improvement, or Site is one of the last remaining examples of its kind in the neighborhood, the country, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.

Satisfied

The is a distinctive example of an architectural or design style which contributes to 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 subject structure is 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 building is critical to developing an understanding of an important Miami Beach architectural style.

- f. If the proposed demolition is for the purpose of constructing a parking garage, the Board shall consider it if the parking garage is designed in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior (1983), as amended, and/or the design review guidelines for that particular district.

Not Applicable

The demolition proposed in the subject application 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.

Not Applicable

The applicant is not proposing to totally demolish a building.

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

Not Applicable

The Dade County Unsafe Structures Board has not ordered the demolition of the structure.

STAFF ANALYSIS

The subject structure, originally known as the San Marino Hotel, was constructed in 1950 and designed by Roy France in the Post War Modern style of architecture. The applicant is currently requesting approval for the construction of a 1-story roof top addition containing 11 new guest rooms. In order to construct the addition, the applicant is proposing to demolish approximately 2,000 square feet of the existing penthouse level. Staff has no objection to the demolition requested as this portion of the building has been designed in a utilitarian manner and contains little to no significant architecture features.

The proposed roof top addition has been designed in a minimalist architectural vocabulary that is compatible with the underlying building. Further, this addition is entirely out of the Collins Avenue and 43rd Street line-of-sight requirements. As such, staff is supportive of the modest rooftop addition which will have no adverse impact on the existing Contributing building or the surrounding historic district.

Additionally, staff is pleased to note that the applicant is proposing to restore/reintroduce several significant architectural elements that were part of the original building design. Most notably, at the main entrance the non-original balustrade railings are proposed to be removed and the original solid masonry low walls are proposed to be reconstructed. Further, the original San Marino sign that was located on the north face of the north column of the porte-cochere is proposed to be reintroduced (see image on following page).

In summary, staff is supportive of the application and recommends approval as noted below.

VARIANCE ANALYSIS

The applicant is proposing a one-story rooftop addition for the construction of 11 hotel units and the replacement of the driveway including pavement and front yard improvements. The new floor area, as proposed, will be located within the required tower front setback, above 50'-0" from the existing finish floor elevation. Initially, two variances from the front and interior side setbacks were required, however recent modifications to the City Code pursuant to Ordinance 2019-4315, "Common Variances – Rooftop additions, Setbacks (Including for Mixed Use Development), Room Sizes", was approved on October 30, 2019, which among other things, allows the construction of rooftop additions to contributing buildings located in a local Historic District to follow an existing non-conforming interior side setback. As such, the variance request for the interior side setback is no longer necessary. However, the front setback requirements still apply, and, in this case, a variance is required to construct the new building addition as proposed.



Advertisement, ca. 1953

The location of the new hotel units is restricted by the existing building configuration, which has non-conforming front and side setbacks. The existing stairs and elevators also must be incorporated into the new roof-top addition in order to comply with accessibility and life-safety requirements. The location of the existing stairs and elevators creates practical difficulties when designing the new hotel rooms around these existing elements. The new hotel rooms comply with the minimum unit size required and are distinctively setback from all sides of the existing building in an effort to minimize the impact on the contributing structure.

Staff would note that there is an existing trash room, exposed to the street and in poor condition, located at the northeast corner of the building facing 43rd Street. As the property has available space on the north side and the building will be renovated with additional 11 hotel rooms, staff recommends that the trash area also be relocated to a location that is internal to the building envelope, and fully enclosed and air conditioned. With this added condition, staff is supportive of the variance requested and recommends approval with the modifications outlined herein.

RECOMMENDATION

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

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: December 9, 2019

FILE NO: HPB19-0350

PROPERTY: 4299 Collins Avenue

APPLICANT: AVP BEACH, LLC.

LEGAL: Lots 1, 2, 5 & 6 and RIP RTS and Part of the alley contiguous, Block 37 of the Ocean Front Property of the Miami Beach Improvement Company, According to the Plat Thereof, as Recorded in Plat Book 5, Pages 7 and 8, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for the construction of a 1-story rooftop addition including variances to reduce the required tower front and interior side setbacks for the construction of new hotel units.

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 Collins Waterfront 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 not consistent with Sea Level Rise and Resiliency Review Criteria (1) 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' 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. The balustrade railings along the west elevation shall be removed and the masonry guardrails shall be reintroduced to the greatest extent possible, consistent with available historical documentation, 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. At least one of the original historic sign elements shall be reintroduced consistent with available historical documentation, 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 design and details of the proposed exterior stair and ramp railings 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. Exterior railings shall return directly to the ground (no loops) and shall be clear anodized aluminum or stainless steel.
 - d. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

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):
 1. A variance to reduce by 11'-11" the required tower front setback of 50'-0" to construct a one-story rooftop addition at 38'-1" from the front property line facing Collins Avenue.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that 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 **Approves** the variance requests 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. The existing trash room shall be relocated to within the setbacks of the existing building, fully enclosed and air conditioned, subject to the review and approval of staff.
3. The new driveway shall consist of permeable materials, subject to the review and approval of staff.

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 agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- 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. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- F. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.
- I. 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.

Meeting Date: December 9, 2019

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "Lexington by Hotel RL, Miami Beach", as prepared by AA Design Associates, P.A., dated October 7, 2019, 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)
COUNTY OF MIAMI-DADE)SS

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

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

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

Filed with the Clerk of the Historic Preservation Board on _____ ()