

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: February 11, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: HPB19-0351, **7330 Ocean Terrace CU-5.**

An application has been filed requesting a Certificate of Appropriateness for design modifications to the exterior of a ground floor commercial space and the introduction of an outdoor bar counter including variances from the required front setback and to exceed the allowed hours of operations for an outdoor bar counter.

STAFF RECOMMENDATION

Approval of the Certificate of Appropriateness with conditions.
Approval of variance #1.
Denial of variance #2.

EXISTING SITE

Local Historic District:	Harding Townsite/South Altos del Mar
Classification:	Non-Contributing
Original Construction Date:	1999
Original Architect:	Brito, Cohan & Associates

ZONING / SITE DATA

Legal Description:	Lots 1 thru 6, Block 10, of the Harding Townsite subdivision, according to the plat thereof, recorded in plat book 34, page 4 of the Public Records of Miami-Dade County, Florida.
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Zoning:	MXE, Mixed-use entertainment
Future Land Use Designation:	MXE, Mixed-use entertainment

Existing Use/Condition:	Restaurant
Proposed Use:	No change

THE PROJECT

The applicant has submitted plans entitled "Sushi Bichi Restaurant", prepared by architectureworks, dated December 9, 2019.

The applicant is requesting the following variances:

1. A variance to reduce by 4'-3" the required pedestal front setback of 5'-0" to construct columns and entry walls at 0'-9" from the front property line facing Ocean Terrace.
 - Variance requested from:

Sec. 142-870.1. – Compliance with regulations.

The following overlay regulations shall apply to the Ocean Terrace Overlay. All development regulations in the underlying regulations shall apply, except as follows:

(a) Setbacks.

(2) Pedestal.

a. Front

2. For buildings situated on properties with an underlying designation of MXE, five feet for the first 20 feet of building height, or the height of the existing building, whichever is greater.

The applicant is proposing improvements to an outdoor restaurant located at the corner of 74th Street and Ocean terrace. As part of the renovations, the existing canopy structure will remain, and columns will be reshaped with wood material. New columns and freestanding structures covered with landscape as a vertical garden are also proposed on Ocean Terrace, in order to provide a more prominent entry to the restaurant. A pocket door with frame is also part of the proposed new entry feature. The structure is approximately 13'-0" in length and 10'-0" in height; the code requires a 5'-0" setback from the front property, as it is higher than a perimeter fence which is allowed up to 5'-0" in height at the property line. The new structure follows the front setback of the existing columns at 9" and because of its limited size, is not expected to have a negative impact on the existing building's architecture and can be easily removed in the future. The compliance with the required 5'-0" setback would require a modification of the existing canopy structure and the front columns, which creates practical difficulties to enhance the front entry of the restaurant. Staff finds that the existing structure creates practical difficulties that justify the variance requested, and recommends approval of variance #1.

2. A variance to exceed the allowable hours of operation of an accessory outdoor bar counter adjacent to a residential unit after 8 pm to remain open until 12 am on Sundays to Thursdays and up to 1:00 am on Fridays and Saturdays.
 - Variance requested from:

Sec. 142-543. Accessory uses.

The accessory uses in the MXE mixed use entertainment district are as follows:

(2) Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

The applicant is requesting a variance to extend the hours of operations for an outdoor bar associated with a restaurant from 8 pm until 12 am on Sundays to Thursdays and operate from 8 pm to 1 am on Fridays and Saturdays. As permitted by the City Code in the MXE district, an

outdoor accessory bar can operate until 12 am daily. However, when adjacent to a residential unit, the outdoor bar shall be closed from 8 pm to 8 am. As there are residential units on the property, the outdoor bar is required to be closed at 8 pm. The restaurant also has an interior bar that can remain open after 8 pm.

The existing restaurant space includes an outdoor bar counter that appears to be non-conforming, as it is not clear when it was introduced; building permits for its construction have not been found. The applicant's letter of intent does not indicate practical difficulties or hardship associated with the closing of the outdoor bar at 8 pm and because the space has been used as a restaurant for many years and has an interior bar, staff is unable to find any practical difficulties or hardship for the extension in the hours of operations. As such, staff cannot support approval of variance request # 2.

Staff would also note that the outdoor bar counter is not allowed to be visible from any point along the streets. As submitted, there is not enough information to evaluate at this time whether the bar complies with this requirement. The landscape proposed does not satisfy the minimum height of 6'-0" and additional screening may be required.

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, with the exception of variance no. 2, as noted above, 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 with the exception of variance no. 2, 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.

- 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 142-1109.** Accessory counters shall not be visible from any point along the property line adjacent to a public right-of-way.

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 **existing commercial** 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 Applicable
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Not Applicable
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Not Applicable
- (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.
Satisfied
- (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.
Not Applicable
- (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.

Satisfied

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.
Not Applicable
- h. The original architectural design or any subsequent modifications that have acquired significance.
Not Applicable

III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Satisfied
- b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied
See 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 Satisfied
A 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).
Not Applicable
- 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.

Not Applicable

- 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.

Not Satisfied

The trash room has not been identified on the submitted plans.

STAFF ANALYSIS

The applicant is proposing several modifications to an existing 60-seat restaurant space located within the ground floor of the St. Tropez Condominium building at the corner of 74th Street and Ocean Terrace. The restaurant kitchen and restrooms are located within the interior of the building and the seating is proposed to be located entirely outside on a new raised deck. The seating area is partially covered by an existing canopy system and existing concrete planters define the edge of the deck along the property lines. In order to introduce a new restaurant concept within the outdoor space, the applicant is proposing to clad the canopy columns and the concrete planters with Paulownia Wood. Additionally, a new outdoor bar counter is proposed to be introduced.

Staff would note that the Ocean Terrace right-of-way and adjacent City property is proposed to be transformed into a new ocean side public park. As such, staff does not find the design of the proposed improvements to be an inappropriate addition to what will be a more casual beachfront area.

VARIANCE ANALYSIS

The applicant is proposing improvements for an existing 60-seat restaurant located in the Saint Tropez residential condominium. The restaurant space is located at the corner of Ocean Terrace and 74th Street and includes an enclosed kitchen, bathrooms and bar with an outdoor seating area partially covered by a canopy structure. The space has been operating since approximately 2001, as per building department records. Proposed renovations to the restaurant include new elements for an entry wall feature, new staging area, relocation of the interior bar and an outdoor bar. Two variances are requested from the required front setback for the entry elements on Ocean Terrace (variance #1) and to exceed the allowable hours of operations for the outdoor bar (variance #2).

As previously noted in the project portion of the recommendation, staff is supportive of variance #1 for the front setback, based on the practical difficulties created by the existing canopy structure that extends to 9" from the property line. In addition, the new elements can be easily removed in the future. As proposed, there should not be a negative impact on the building's architecture, which was constructed in 1999, or on the surrounding context.

In reference to variance #2, staff is not supportive of the applicant's request. Considering that the restaurant space contains an interior bar which has been operating for an extended period, staff could not find practical difficulties to extend the hours of operations of the proposed outdoor bar. Furthermore, it is uncertain the impact of the level of noise that can be generated from the bar upon the adjacent residential units as the area is substantially open and a sound study has not been provided or sound barriers proposed.

Staff is also concerned with the visibility of the outdoor bar from the adjacent streets. As the space is substantially open, the bar counter does not comply with this requirement. The perimeter landscape is only called out with a proposed height of 18", which is not enough to limit visibility from both streets. The existing perimeter landscaping in the planters has not been successfully maintained, as noted in current photographs of the property on page A002 of the plans submitted, and as seen on Google street view over the past years. The rendering of the restaurant on the front page also shows that the landscape proposed does not have enough height and density to fully screen the bar. Modifications to the proposed landscape will be required at the time of the building permit and \ additional physical screening may be required.

In summary, staff recommends approval of variance #1 and denial of variance #2.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that variance request #1, be approved and variance #2 be **denied**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the 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 11, 2020

FILE NO: HPB19-0351

PROPERTY: 7330 Ocean Terrace, Unit CU-5

APPLICANT: Sushi Bichi, LLC.

LEGAL: Lots 1 thru 6, Block 10, of the Harding Townsite subdivision, according to the plat thereof, recorded in plat book 34, page 4, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for design modifications to the exterior of a ground floor commercial space and the introduction of an outdoor bar counter including variances from the required front setback and to exceed the allowed hours of operations for an outdoor bar counter.

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 Harding Townsite/South Altos del Mar.
- 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 consistent with Certificate of Appropriateness Criteria 'b', 'g' & 'o' in Section 118-564(a)(3) 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. Final design and details of the proposed wood cladding and outdoor bar counter, including material samples 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.

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 approved by the Board:

1. A variance to reduce by 4'-3" the required pedestal front setback of 5'-0" to construct columns and entry walls at 0'-9" from the front property line facing Ocean Terrace.

The following variance was denied by the Board:

2. A variance to exceed the allowable hours of operation of an accessory outdoor bar counter adjacent to a residential unit after 8:00 pm, in order to remain open until 12:00 am on Sundays to Thursdays and up to 1:00 am on Fridays and Saturdays.

- 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, as noted above 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, 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.

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 requested variance(s) #1, as noted and **Denies** the requested variance(s) #2, as noted 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 outdoor bar counter shall not be visible from any point along the right of way.
3. The new staging area shall be substantially open along all sides (minimum 50% open along all sides), in order to not constitute inclusion in the overall floor area ratio (FAR) for the site.
4. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk on Ocean terrace and 74th Street in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.

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.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "**Sushi Bichi Restaurant**", prepared by **architectureworks**, dated December 9, 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)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____ 20____ by Deborah Tackett, Chief of Historic Preservation, Planning

Page 6 of 6
HPB19-0351
Meeting Date: February 11, 2020

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 _____ ()