

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: September 8, 2020

FROM: Thomas R. Mooney, AICP
Planning Director

for TM

SUBJECT: HPB20-0390, **4441 Collins Avenue.**

An application has been filed requesting a Certificate of Appropriateness for modifications to the existing Tresor Tower including the construction of a new ground level vertical circulation structure in order to facilitate the construction of a new pedestrian bridge over the 44th Street right-of-way connecting the subject property to 4360 Collins Avenue, including variances to reduce the required street side and sum of the side setbacks.

RECOMMENDATION

Approval of the Certificate of Appropriateness with conditions
Approval of the variances

EXISTING SITE

Local Historic District:	Morris Lapidus/Mid-20 th Century
Classification:	Contributing
Date of Construction:	1954 (Chateau) / 1959 (North Addition - Versailles Tower)
Original Architect:	Morris Lapidus / Herbert Mathes

(1952-1954):

The original Fontainebleau Hotel was constructed in 1954 and designed by noted Miami Beach architect Morris Lapidus.

(1958-1961):

The north expansion of the Fontainebleau, including the existing 15-story north tower, convention hall ballroom, and "cheese wall" lobby, was constructed in 1959 and designed by architect Herbert Mathes.

(1997-2005):

The 36-story Fontainebleau II, located at the southwest corner of the site, which included the relocation of 44th Street, was constructed, designed by the architectural firm of Nichols Brosch Sandoval & Associates.

The 18-story Fontainebleau III (which replaced the former Sorento Hotel), was constructed at the southeast corner of the site, also designed by Nichols Brosch Sandoval & Associates.

ZONING / SITE DATA

Legal Description: Lot 'A', AND Lots 1 & 2, and the South ½ of Lot 3, of the Amended Plat of "The Indian Beach Corporation's Subdivision," according to the Plat thereof, recorded in Plat Book 8, page 61 of the Public Records of Dade County, Florida, AND the Northerly 125 feet of that certain tract marked and designated "R.P. Van Camp", AND all that certain tract of land designated as "J.H. Snowden," less the south 64.55 feet thereof, AND an exclusive easement over, across, and through the north 60 feet of lots 1 and 2, Block 40, on amended Map of Ocean Front Property of the Miami Beach Improvement Company, as recorded in Plat Book 5, pages 7 and 8, of the public records of Dade County, Florida.

Zoning: RM-3, Residential multifamily, high intensity
Future Land Use Designation: RM-3, Residential multifamily, high intensity

Lot Size: 696,892 S.F. / 3.00 Max FAR
Existing FAR: Not provided by the applicant
Remaining FAR: 143,821 S.F.
Proposed Additional FAR: 6,396 S.F.
Addition Proposed Height: 29'-0"

THE PROJECT

The applicant has submitted plans entitled "New Exterior Stair and Elevators Addition", as prepared by Nichols Brosch Wurst Wolfe & Associates, Inc., dated April 6, 2020.

The applicant is requesting the following variance(s):

1. A variance to eliminate the minimum required pedestal street side setback of 84'-10" in order to construct an elevated bridge structure at zero setback from the street side property line facing 44th Street.
2. A variance to reduce by 149'-8" the minimum required pedestal sum of the side yards of 169'-8" in order to construct an elevated bridge structure and provide a sum of the side yards of 20'-0".
 - Variances requested from:

Sec. 142-247. - Setback requirements.

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

Subterranean and Pedestal, Side facing a street: Sum of the side yards shall equal 16% of the lot width. Minimum 7'-6" or 8% of the lot width, whichever is greater.

A new elevated enclosed bridge is proposed to interconnect the hotel with a property located on the south side of 44th Street that will contain assembly uses. The south side property is subject to review by the Board for the construction of a 5-story building including variances. (HPB20 -0378)

The requested variances for the hotel property are related to the location of the bridge that abuts the south property line. As the property is one of the largest in Miami Beach with an unusually large front of approximately 1060' in length, any structure would require a street side setback of a minimum 84'-10". The existing structures constructed with variances are located at approximately 16'-0" from the south property line.

The bridge has a minimum footprint on the property and is located at a height exceeding 30'-0" from the sidewalk level. In order to provide a pedestrian circulation to the adjacent development on the surface parking lot to the south, its proposed location and the variances are the minimum variances necessary in order to provide the desired access. The construction of the proposed bridge over the right-of-way will require approval by the City Commission, where the associated public benefits to the city and the Fontainebleu site will be evaluated.

From a traffic and operational perspective, there is a significant advantage of having patrons of the new ballroom facility parking or utilizing ride-sharing services on the main Fontainebleau site, where such intensity and internal circulation can be provided. Staff is supportive of the variances requested due to the unique circumstances of the proposal and the tangible benefits that are provided with the operation, which will result in reduced traffic impacts on the immediate neighborhood.

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

The application, as submitted, with the exception of the variances requested herein, appears to be consistent with the City Code:

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 uses are **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.
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 land elevation of the site is consistent with the surrounding properties.
- (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.
Satisfied
- (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.
Not Applicable
- (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.
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 section of this report.
- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.
Satisfied

- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.
Satisfied
- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.
Satisfied
- f. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.
Satisfied
- g. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties and consistent with a City master plan, where applicable.
Satisfied
- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.
Not Applicable
- 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

- i. 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).

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.

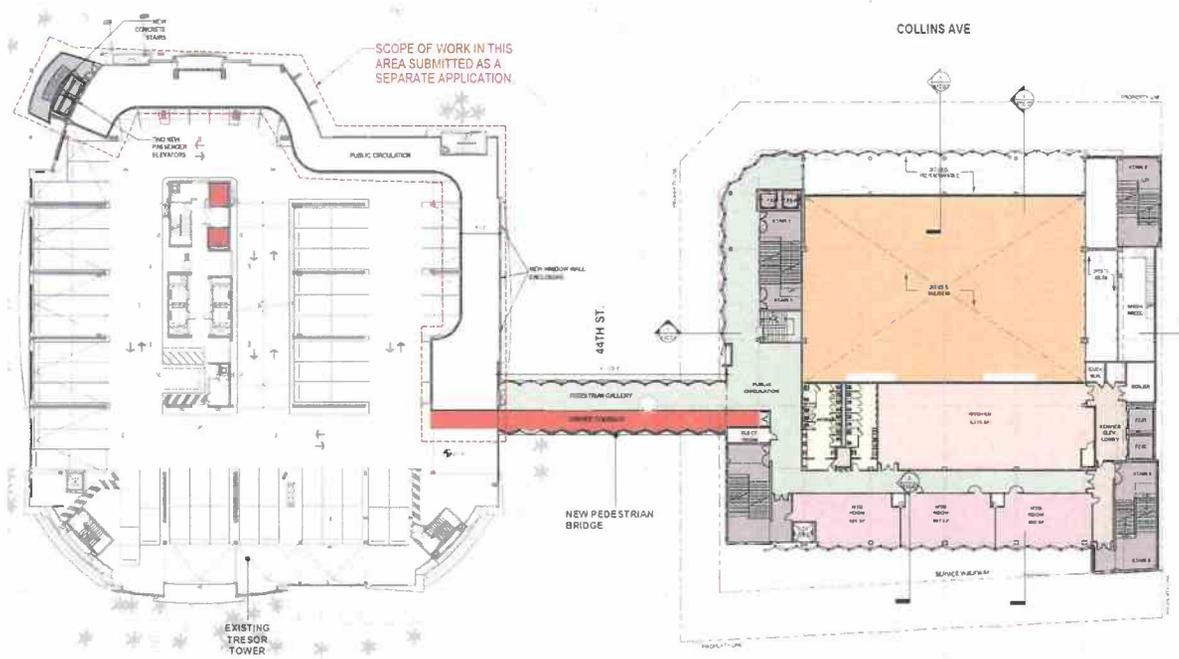
Not Applicable

- 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

ANALYSIS

A new 5-story building containing accessory meeting spaces for the Fontainebleau Hotel is proposed to be constructed in place of an existing surface parking lot located at 4360 & 4370 Collins Avenue (HPB20-0378). This companion application includes related work to the Fontainebleau Hotel site.



Proposed connection plan: 4th level Tresor Tower parking garage to 3rd level ballroom structure

The applicant is currently proposing to construct a stair and elevator addition at the northeast corner of the Tresor Tower. This addition will allow for a direct connection from the hotel to the new building via a new enclosed walkway at the fourth level of the Tresor Tower parking garage and a proposed pedestrian walkway over 44th street. In connection with the enclosure of a portion of the parking garage for a new walkway, certain existing louver openings along the perimeter of the parking level will be converted to windows.

The application is fairly straightforward, and staff has no design concerns. Further, the proposed modifications will not have any adverse impact on the historic structures on site or the surrounding historic district. As such, staff recommends approval as noted below.

VARIANCE ANALYSIS

The applicant is requesting two variances related to the construction of an elevated bridge over 44th Street from the Fontainebleau hotel on the north side of the street to the property on the south side of the street, also own by the same applicant. The intent is to expand the hotel operation to the south property.

As noted in the project portion of the staff recommendation, in order to provide a pedestrian circulation to the adjacent development on the surface parking lot to the south, the location of the proposed elevated bridge and the noted variances are the minimum variances necessary in order to provide the desired access. The construction of the proposed bridge over the right-of-way will require approval by the City Commission, where the associated public benefits to the city and the Fontainebleau site will be evaluated.

From a traffic and operational perspective, there is a significant advantage of having patrons of the new ballroom facility parking or utilizing ride-sharing services on the main Fontainebleau site, where such intensity and internal circulation can be provided. Staff is supportive of the variances requested due to the unique circumstances of the proposal and the tangible benefits that are provided with the operation, which will result in reduced traffic impacts on the immediate neighborhood.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Certificate of Appropriateness and variances 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: September 8, 2020

PROPERTY/FOLIO: 4441 Collins Avenue / 02-3223-002-0010,
02-3223-002-0015,
02-3226-001-2130

FILE NO: HPB20-0390

IN RE: The application for a Certificate of Appropriateness for modifications to the existing Tresor Tower including the construction of a new ground level vertical circulation structure in order to facilitate the construction of a new pedestrian bridge over the 44th Street right-of-way connecting the subject property to 4360 Collins Avenue, including variances to reduce the required street side and sum of the side setbacks.

LEGAL: Lot 'A', AND Lots 1 & 2, and the South ½ of Lot 3, of the Amended Plat of "The Indian Beach Corporation's Subdivision," according to the Plat thereof, recorded in Plat Book 8, page 61 of the Public Records of Dade County, Florida, AND the Northerly 125 feet of that certain tract marked and designated "R.P. Van Camp", AND all that certain tract of land designated as "J.H. Snowden," less the south 64.55 feet thereof, AND an exclusive easement over, across, and through the north 60 feet of lots 1 and 2, Block 40, on amended Map of Ocean Front Property of the Miami Beach Improvement Company, as recorded in Plat Book 5, pages 7 and 8, of the public records of Dade County, Florida.

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 Morris Lapidus/Mid-20th Century 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.

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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.
- 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 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.
 - b. 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.

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 eliminate the minimum required pedestal street side setback of 84'-10" in order to construct an elevated bridge structure at zero setback from the street side property line facing 44th Street.
 2. A variance to reduce by 149'-8" the minimum required pedestal sum of the side yards of 169'-8" in order to construct an elevated bridge structure and provide a sum of the side yards of 20'-0".
- 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 requested variances and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

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

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

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

- A. 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. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- 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.

