

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: October 13, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: HPB20-0420, **1030 6<sup>th</sup> Street.**

An application has been filed requesting a Certificate of Appropriateness for the partial demolition, renovation and partial restoration of all buildings on the site and the construction of an attached addition as part of a new hotel development, including one or more waivers and variances to reduce the required rear pedestal and tower setbacks, the required side interior tower setback and to reduce the required rear yard open space.

#### **STAFF RECOMMENDATION**

Continuance of the application to a date certain of December 8, 2020.

#### **EXISTING STRUCTURES**

Local Historic District:	Ocean Beach
Status:	Contributing
Construction Date:	1938
Architect:	Henry Hohausner

#### **ZONING / SITE DATA**

Legal Description: Lots 15 & 16, Block 98 of the Ocean Beach Addition No. 3, according to the Plat Thereof, as Recorded in Plat Book 2, Page 81, of the Public Records of Miami-Dade County, Florida.

Zoning: CPS-2, Commercial performance standard, general mixed-use commercial

Future Land Use Designation: CPS-2, Commercial performance standard, general mixed-use commercial

Lot Size: 15,000 S.F. / 2.0 Max FAR

Existing FAR: Not provided

Proposed FAR: 29,970 S.F. / 1.99 FAR

Existing Height: Not provided

Proposed Height: 69'-8", as represented by the applicant

Existing Use/Condition: Multi-family

Proposed Use: Hotel and restaurant

### **THE PROJECT**

The applicant has submitted plans entitled “The Hohausser Hotel”, as prepared by Studio McG Architecture, dated August 10, 2020.

The applicant is requesting the following variances:

1. A variance to reduce by 9'-0" the minimum required pedestal rear setback of 10'-0" in order to construct a multistory building addition at 1'-0" from the south rear property line.
2. A variance to reduce by 14'-0" the minimum required tower rear setback of 15'-0" in order to construct a multistory building addition at 1'-0" from the south rear property line.

- Variances requested from:

#### **Sec. 142-700. - Mixed use buildings.**

*The calculation of setbacks and floor area ratio for mixed use buildings shall be as follows:  
(1)Setbacks. When more than 25 percent of the total area of a building in a C-PS district is used for residential or hotel units, any floor containing such units shall follow the R-PS1, 2, 3, 4 setback regulations.*

#### **Sec. 142-697. – Setback requirements in the RPS-1, 2, 3, 4 districts.**

*(a) The setback requirements in the RPS-1, 2, 3, 4 are as follows:*

*Pedestal and subterranean, Rear: Nonoceanfront lots: 10% of the lot depth.*

*Tower, Rear: Nonoceanfront lots: 15% of the lot depth.*

*Tower, Interior side: The required pedestal setback plus 10% the height of the building.*

The applicant is proposing a seven-story ground level addition, primarily located along the south side of the property, which for zoning purposes has been determined to be a rear yard. The existing two-story contributing buildings facing 6<sup>th</sup> Street will be retained and renovated, including the retention of the substantially open courtyard located between both structures. Staff believes that the proposed location of the addition will have the least impact on the Contributing buildings and the integrity of the surrounding historic district. In the CPS-2 district, when hotel units exceed 25% of the floor area of the building, any floor containing those units is required to comply with the residential setbacks of the RPS districts. In this case, the required rear setback for the pedestal portion of the building is 10'-0" and the required rear setback for the tower portion of the building is 15'-0".

The applicant is proposing a 5'-0" setback for most of the building and a 1'-0" setback for the portion containing the elevators. Staff is supportive of both variance requests, as the existing buildings at the front will be restored and the portion retained in the rear, the third building, is separated from the new addition. This condition creates the practical difficulties that result in these two variance requests. Staff would also note that the portion of the buildings immediately adjacent to the property to the south are common corridors, stairs and elevators that would create a barrier from the actual hotel units and should not have a negative impact on the recently constructed commercial property to the south. In summary, staff recommends approval of variances #1 and #2.

3. A variance to reduce by 2'-2" the minimum required tower interior side setback of 14'-6" in order to construct a multistory building addition at 12'-4" from the east side property line.
  - Variance requested from:

**Sec. 142-700. - Mixed use buildings.**

*The calculation of setbacks and floor area ratio for mixed use buildings shall be as follows: (1)Setbacks. When more than 25 percent of the total area of a building in a C-PS district is used for residential or hotel units, any floor containing such units shall follow the R-PS1, 2, 3, 4 setback regulations.*

**Sec. 142-697. – Setback requirements in the RPS-1, 2, 3, 4 districts.**

*(a) The setback requirements in the RPS-1, 2, 3, 4 are as follows:*

*Tower, Interior side: The required pedestal setback plus 10% the height of the building.*

This variance request is also associated with the required setbacks when a hotel use is proposed in the CPS districts. In this regard, all floors containing hotel units must comply with the setback regulations in the RPS districts. The addition, as proposed, exceeds the required pedestal setback of 7'-6" as all floors of the building are located at 12'-4" from the east side property line. However, at the tower levels, above 50'-0" in height, the interior setback is required to be increased to 14'-6", based on the building height of 60'-8" proposed.

As the project retains and restores existing contributing buildings, the available locations for new floor area is limited, which creates practical difficulties in order to increase the floor area on the property. Additionally, the existing alley provides a buffer between the property and the adjacent neighboring site. Although not opposed to minor deviations from the required tower setback, staff finds that the addition does not fully comply with the Certificate of Appropriateness review criteria as the overall height proposed is not compatible with the surrounding properties, as well as the retained contributing structures. As such, staff would recommend a reduction in height, which would also reduce the intensity of the variance requested. With this modification, staff would recommend approval of variance #3.

4. A variance to exceed by 52.3 % (785 s.f.) the maximum area of 30% (450 s.f.) allowed for structures within the required rear yard of 10'-0" in order to construct a multistory building addition and occupy up to 82.3% (1,235 s.f.) within the rear yard of the property.
  - Variance requested from:

**Sec. 142-1132. Allowable encroachments within required yards for districts other than single-family districts.**

*The following regulations shall apply to allowable encroachments in all districts except single-family residential districts, unless otherwise specified in this Code.*

*(a) Accessory buildings. Accessory buildings which are not a part of the main building may be constructed in a rear yard, provided such accessory building does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line and 15 feet when facing a street. Areas enclosed by screen shall be included in the computation of area occupied in a required rear yard, but an open uncovered swimming pool shall not be included.*

(j) Hot tubs, showers, saunas, whirlpools, toilet facilities, decks. In all districts, hot tubs, showers, whirlpools, toilet facilities, decks and cabanas are structures which are not required to be connected to the main building but may be constructed in a required rear yard, provided such structure does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line. Freestanding, unenclosed facilities including surrounding paved or deck areas shall adhere to the same setback requirements as enclosed facilities.

Staff is supportive of the location of the new hotel addition in order to preserve the integrity of the contributing structures. Variance #1 substantially reduces the rear yard of the property and results in the request for variance #4, to reduce the required open space in the required rear yard, both of which are intrinsically linked. Staff has no objection to this variance request as it is related to the retention of the contributing structures and the improvements on the site in order to redevelop the property. As such, staff finds that the variance request #4 satisfies the practical difficulties criteria for approval.

#### **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 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 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 Applicable**  
**Only minimal demolition is proposed.**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Satisfied**  
**The windows proposed to be replaced will be impact resistant.**
- (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.  
**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.  
**Satisfied**  
**The first finished floor within the new construction is located at 9.00' 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.

**Satisfied**

- (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.

**Satisfied**

**Elevating the existing finish floor level to base flood elevation plus freeboard may not be reasonably feasible given the scope of work proposed.**

- (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.

**Satisfied**

**Additional information shall be provided at the time of building permit review.**

- (10) In all new projects, water retention systems shall be provided.

**Satisfied**

**Additional information shall be provided at the time of building permit review.**

- (11) Cool pavement materials or porous pavement materials shall be utilized.

**Satisfied**

**Additional information shall be provided at the time of building permit review.**

- (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 Satisfied**

**The project is not consistent with Standard 9. The proposed addition is not compatible with the massing, size and scale of the existing Contributing buildings on the site.**

- 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.  
**Not Satisfied**  
**The proposed massing of the new addition is incompatible and overwhelms the 2-story Contributing structures on the site.**
  - b. General design, scale, massing and arrangement.  
**Not Satisfied**  
**The proposed massing of the new addition is incompatible and overwhelms the 2-story Contributing structures on the site.**
  - 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.  
**Not Satisfied**  
**The proposed massing of the new addition is incompatible and overwhelms the 2-story Contributing structures on the site.**
  - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.  
**Not Satisfied**  
**The proposed massing of the new addition is incompatible and overwhelms the 2-story Contributing structures on the site.**
  - 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.  
**Not Satisfied**  
**The applicant is proposing the demolition of certain character defining features of the Contributing building.**
- 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.  
**Not Satisfied**  
**The proposed massing of the new addition is incompatible and overwhelms the 2-story Contributing structures on the site.**
- 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.  
**Not Satisfied**  
**The scale and massing of the new addition is incompatible with the surrounding Contributing properties within the Ocean Beach Historic District as well as the adjacent Flamingo Park Historic District.**
- f. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these



roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

**Satisfied**

- g. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties and consistent with a City master plan, where applicable.

**Satisfied**

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

**Satisfied**

- i. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, adjacent properties and pedestrian areas.

**Satisfied**

- j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

**Satisfied**

- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Satisfied**

- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Satisfied**

- m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

**Not Satisfied**

**The proposed massing of the new addition is incompatible and overwhelms the 2-story Contributing structures on the site.**

- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.

**Satisfied**

- o. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

**Satisfied**

### **CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA**

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

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

**Satisfied**

**The existing structures are designated as Contributing within the Ocean Beach 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 buildings are of such design, craftsmanship, or material that they could be reproduced only with great difficulty and/or expense.**

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

**Satisfied**

**The existing buildings are distinctive examples of the Mediterranean Revival/Art Deco Transitional style of architecture 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 buildings are classified as Contributing buildings 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 buildings 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 Miami Dade County Unsafe Structures Board has not ordered the demolition of the structure.**

**STAFF ANALYSIS**

The subject collection of buildings, originally known as the Lenox Villas, was constructed in 1938 and designed by Henry Hohausser in the Mediterranean Revival/Art Deco Transition style of architecture. The site contains three identical buildings arranged around a central courtyard fronting onto 6<sup>th</sup> Street.

The applicant is currently proposing the construction of an attached 7-story addition at the rear of the site (along the south property line) as part of a new hotel development. The proposed project consists of 64 hotel units, a rooftop pool deck and an 80-seat restaurant. In order to construct the new addition, the applicant is proposing to demolish the rear portion (approximately 70%) of the center building. The portion of the center building to be retained, and the entirety of the remaining two buildings, are proposed to be substantially restored.

Staff is supportive of the contemporary design language of the proposed addition, which incorporates variations in surface materials and changes in plane. Additionally, the proposed location of the addition along the rear of the site, adjacent to the 53'-0" tall BLVD at Lenox building and across the street from the 73'-5" tall 5<sup>th</sup> & Alton building, minimizes its impact on the surrounding historic districts. However, staff is concerned that as presently configured, the proposed 7-story addition overwhelms the existing 2-story Contributing structures on the site.

In order to reduce the impacts of the addition on the exiting Contributing buildings, staff recommends that the applicant explore ways to reduce the overall mass of the new addition. One option would be to construct the addition at a 5'-0" setback on the east and west side property lines, in line with the existing Contributing buildings. This, in combination with the elimination of

the approximately 4'-0" wide gaps between the center portion of the building and the wings, could result in the relocation of 8 hotel units and a reduction of one full level of the addition.

Finally, the applicant is requesting a waiver of the off-street loading space requirements outlined in Section 130-101 of the City Code. The project is required to provide three off-street loading spaces. As currently proposed, the applicant is providing one off-street loading space. The Historic Preservation Board may waive the requirements for off-street loading spaces for properties containing a Contributing structure, provided that a detailed plan delineating on-street loading is approved by the Parking Department. The applicant has preliminarily met with the Parking Department and will submit an on-street loading plan as required. Consequently, staff does not object to the granting of this waiver.

### **VARIANCE ANALYSIS**

A new 7-story addition is proposed at the rear of the site and four (4) variances are being requested for the location of the new structure. Staff believes that the variances proposed are the minimum necessary to develop the property and preserve the existing structures. However, the overall height of the building is not compatible with the retained contributing structures and the surrounding historic district. Staff recommends that the building be reduced in height to comply with the certificate of appropriateness review criteria, as noted above and reduce the intensity of variance #3.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application be **continued to a date certain of December 8, 2020** in order to address the concerns noted herein. In the event the Board should approve the application, including the variances requested, staff recommends that the conditions in the attached draft order be included, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and/or Practical Difficulty and Hardship criteria, as applicable.

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

MEETING DATE: October 13, 2020

PROPERTY/FOLIO: 1030 6<sup>th</sup> Street / 02-4203-009-7860

FILE NO: HPB20-0420

IN RE: An application by Fernandez Properties Inc for a Certificate of Appropriateness for the partial demolition, renovation and partial restoration of all buildings on the site and the construction of an attached addition as part of a new hotel development, including one or more waivers and variances to reduce the required rear pedestal and tower setbacks, the required side interior tower setback and to reduce the required rear yard open space.

LEGAL: Lots 15 & 16, Block 98 of the Ocean Beach Addition No. 3, according to the Plat Thereof, as Recorded in Plat Book 2, Page 81, of the Public Records of Miami-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 Ocean Beach Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
  1. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
  2. Is not consistent with the Certificate of Appropriateness Criteria 'a' in Section 118-564(a)(1) of the Miami Beach Code.
  3. Is not consistent with Certificate of Appropriateness Criteria 'a', 'b', 'e', 'f' & 'h' in Section 118-564(a)(2) of the Miami Beach Code.
  4. Is not consistent with Certificate of Appropriateness Criteria 'b', 'd', 'e', & 'm' 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 existing structures on site shall be fully renovated and restored, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board; at a minimum, this shall include the following:
      - i. All through-the-wall air conditioning units shall be removed and replaced with a central air conditioning system, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
      - ii. The existing non-original windows shall be replaced with new impact resistant casement windows and shall incorporate a muntin configuration that is 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. 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.
    - c. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  2. In accordance with Section 130-101(d) of the City Code, the requirement pertaining to providing off-street loading spaces is hereby waived, provided that a detailed plan delineating on-street loading is approved by the Parking Department.
  3. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
    - a. All hedge and ground cover plantings within the street facing yards shall not exceed 36" in height at maturity.
    - b. Prior to issuance of a Building Permit, the applicant shall provide a Tree Report prepared by a Certified Arborist for any existing canopy shade trees with a DBH of 3" or greater located in public or private property, which may be scheduled for

removal or relocation for the review and approval of the City of Miami Beach Urban Forester.

- c. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain.
- d. The project design shall minimize the potential for a project causing a heat island effect on site.
- e. Cool pavement materials or porous pavement materials shall be utilized.

**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 9'-0" the minimum required pedestal rear setback of 10'-0" in order to construct a multistory building addition at 1'-0" from the south rear property line.
  2. A variance to reduce by 14'-0" the minimum required tower rear setback of 15'-0" in order to construct a multistory building addition at 1'-0" from the south rear property line.
  3. A variance to reduce by 2'-2" the minimum required tower interior side setback of 14'-6" in order to construct a multistory building addition at 12'-4" from the east side property line.
  4. A variance to exceed by 52.3 % (785 s.f.) the maximum area of 30% (450 s.f.) allowed for structures within the required rear yard of 10'-0" in order to construct a multistory building addition and occupy up to 82.3% (1,235 s.f.) within the rear yard of the property.
- 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 issuance of a building permit is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.
- C. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- D. 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.
- E. 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.
- F. 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.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. 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.
- I. 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.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. 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.
- L. 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 "**The Hohausser Hotel**", as prepared by **Studio McG Architecture**, dated **August 10, 2020**, as approved by the Historic Preservation Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

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

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

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

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

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT

CHIEF OF HISTORIC PRESERVATION  
FOR THE CHAIR

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

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

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

