

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: May 11, 2021

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB20-0444, **1501 Collins Avenue.**

An application has been filed requesting a Certificate of Appropriateness for the partial demolition, renovation and restoration of the existing building, including the reconstruction of original interior floor plates and a variance to reduce the required side facing a street setback.

RECOMMENDATION

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

BACKGROUND

On December 9, 2020, the City Commission adopted Ordinance No. 2020-4383, amending the nonconformances regulations of the City Code as follows:

Sec. 118-395(b)(3): As applicable to the restoration of a contributing building located within a designated local historic district, the historic preservation board may, at its discretion and subject to the certificate of appropriateness criteria in chapter 118, article X, of this Code, approve the reconstruction of original interior floor plates in accordance with historical documentation and/or building permit records if, prior to June 4, 1997, such floors were removed, even if the underlying lot is currently non-conforming as to floor area ratio (FAR).

On March 23, 2021, the Planning Board reviewed and continued to a date certain of April 27, 2021, a Conditional Use Permit for a Neighborhood Impact Establishment.

EXISTING STRUCTURES

Local Historic District: Ocean Drive/Collins Avenue
Classification: Contributing

Original Building (Bancroft Hotel)

Construction Date: 1939
Architect: Albert Anis

Addition (Ocean Steps)

Construction Date: 1999
Design Architect: Michael Graves

ZONING / SITE DATA

Legal Description: A portion of Lots 1, 2, 3, 4, 17, 18, 19, & 20, Block 56 of Fishers First Subdivision of Alton Beach, According to the Plat Thereof, as Recorded in Plat Book 2, Page 77, of the Public Records of Miami-Dade County, Florida.

Zoning: MXE, Mixed use entertainment
Future Land Use Designation: MXE, Mixed use entertainment

Lot Size*: 105,342 S.F. / 2.0 Max FAR
Existing FAR*: **297,837 S.F. / 2.82 FAR**, as represented by the applicant
Proposed FAR*: **303,022 S.F. / 2.87 FAR**, as represented by the applicant
*For zoning purposes, the subject property (1501 Collins Avenue) and the adjacent property to the east (1500 Ocean Drive) are considered a unified development site.

Existing Height: 45'-6", as represented by the applicant
Proposed Height: 47'-6", as represented by the applicant
Existing Use/Condition: Commercial
Proposed Use: Office and commercial

THE PROJECT

The applicant has submitted plans entitled "Bancroft Executive Office Suites", as prepared by Studio McG Architecture, dated March 8, 2021.

COMPLIANCE WITH ZONING CODE

The application, as submitted, is inconsistent with the following requirements of the City Code, in addition to the requested variances.

1. Additional information shall be provided to confirm the roof level mechanical structure was included in the FAR calculations during the 1995 renovation.

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 mixed-use office and commercial uses are **consistent** with the Future Land Use Map of the Comprehensive Plan.

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 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 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.
Satisfied
Only minor demolition is proposed as part of this application.
- (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 majority of the first finished floor is located at approximately 12.00' NGVD. The original lobby of the Bancroft Hotel is located at approximately 8.50' NGVD. The elevation of the subject property 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.
Partially Satisfied
The majority of the first finished floor is located at approximately 12.00' NGVD. The original lobby of the Bancroft Hotel is located at approximately 8.50' NGVD.
- (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
No habitable space is located below base flood elevation plus City of Miami Beach Freeboard.
- (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
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.
Satisfied
 - b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.
Satisfied
- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
 - a. Exterior architectural features.
Satisfied
 - b. General design, scale, massing and arrangement.
Satisfied
 - c. Texture and material and color.
Satisfied
 - d. The relationship of a, b, c, above, to other structures and features of the district.
Satisfied
 - e. The purpose for which the district was created.
Satisfied
 - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.
Satisfied
 - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.
Satisfied
 - h. The original architectural design or any subsequent modifications that have acquired significance.
Satisfied
- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public

interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Satisfied
- b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied
See Compliance with Zoning Code 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.
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 location of several of the rooftop cabanas at the perimeter of the Bancroft Hotel roof deck has an adverse visual impact on the character of the Contributing building.
- 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 Applicable

CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA

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

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

Satisfied

The existing structure is designated as part of the Ocean Drive/Collins Avenue 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 existing structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.

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

Satisfied

The existing structure is a distinctive example of the Streamline Moderne style of architecture and contributes to the character of the district.

- d. The building, structure, improvement, or site is a Contributing building, structure, improvement, site or landscape feature rather than a Non-Contributing 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 building is classified as a Contributing building in the Miami Beach Historic Properties Database.

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

Satisfied

The retention of the building promotes the general welfare of the City by providing an opportunity for study of local history, architecture and design.

- 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 the total demolition of the 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.

ANALYSIS

The Bancroft Hotel, located at the northeast corner of the intersection of Collins Avenue and 15th Street, was constructed in 1938 and designed by architect Albert Anis in the Streamline Moderne style of architecture. On August 2, 1994, the Joint Historic Preservation Board/Design Review Board reviewed and approved a Certificate of Appropriateness and Design Review approval for the partial demolition and renovation of the existing Bancroft Hotel and the construction of the existing courtyard retail plaza (Ocean Steps) and 16-story multifamily residential building (1500 Ocean).

Staff would note that as part of the 1990s renovations, portions of the 2nd and 3rd floors of the Bancroft Hotel were eliminated in order to introduce an entertainment venue. In 2020, the City Code, pursuant to voter approval, was amended to allow for the Historic Preservation Board to approve the reconstruction of original interior floor plates even if the site is non-conforming as to floor area ratio (FAR). Prior to these amendments, the reintroduction of the original floor plates could not be approved, because the overall development site (including 1500 Ocean) exceeds the maximum permitted FAR.

The applicant is proposing a welcome renovation of the Bancroft Hotel and Ocean Steps portions of the site including the conversion of the majority of these spaces into a new Class A office use. More specifically, at the Bancroft Hotel, the applicant is proposing to restore the building including the replacement of all windows and doors with new impact resistant windows and doors in an historically accurate configuration. Additionally, staff would note that the original hotel lobby space, previously occupied by Quality Meats restaurant, is substantially intact and no alterations are currently proposed. Further, consistent with the recently adopted ordinance, the applicant is requesting that the Board approve the reconstruction of original floor plates in the portions of the Bancroft Hotel building where the entertainment venue was previously located. Staff believes that the reintroduction of these floor plates will have a positive impact on the integrity of the

Contributing structure and surrounding historic district and recommends that the Board approve this request.

Staff has only one minor concern with regard to the cabana structures at the roof level of the Bancroft Hotel. Staff has no objection to these structures but recommends that they be further setback from the west and south sides to lessen their visual impact as viewed from Collins Avenue and 15th Street.

Within the Ocean Steps portion of the project, the applicant is proposing a more substantial exterior renovation of the building. Modifications include: a new paint scheme, the introduction of a trellis structure within the ground level courtyard, the introduction of projecting awnings at the circular wings, the elimination of the tower structure at the roof deck, enhanced landscaping and numerous rooftop trellis and cabana structures. Staff has no objection to the alterations proposed as they will not have any adverse impact on the adjacent Bancroft Hotel building or the surrounding historic district.

In summary, the applicant has presented a highly developed plan for the redevelopment of the site and staff would note that the unoccupied buildings have had an increasingly adverse impact on the developed urban context of the surrounding historic district. Staff believes that expediting the property's return to active use will greatly benefit the quality of life and character of the surrounding historic district and recommends approval as noted below.

VARIANCE ANALYSIS.

As part of the improvements to the property, the applicant is requesting the following variance:

1. A variance to reduce the existing street side setback to introduce a vertical accessibility lift, wall and planters at 2'-6" from the south street side property line facing 15th Street.
 - Variance requested from:

Sec. 142-547. – Setback requirements.

*(a) The setback requirements for the MXE mixed use entertainment district are as follows:
(b) Existing structures which are being substantially renovated are permitted to retain the existing setback areas; however, the setback area shall not be reduced. When additional floors are constructed, they shall be permitted to retain the same setbacks as the existing floors.*

The applicant is proposing modifications to the south side of the property including the relocation of a vertical accessibility lift and the reconfiguration of portions of the stair and planter features. The new lift and wall are proposed to be setback 2'-6" from the south property line. The MXE zoning district regulations allows the continuation of existing non-conforming setbacks for additions to Contributing buildings that are retained and renovated. In this case, the existing raised terrace is setback approximately 5'-0" from the south property line. Staff has found that there are several unique factors that together result in a practical difficulty. First, there is an approximately 5'-0" difference in height from the sidewalk to the terrace level. This creates a significant challenge in complying with the Americans with Disabilities Act (ADA) regulations. Staff has explored alternatives including the introduction of a ramp, which would require significantly more demolition than is currently proposed. Second, in order to be consistent with the Certificate of Appropriateness criteria, a screening element is required in order to mitigate the visual impact of

this structure on the historic district. Third, the applicant is proposing to introduce natural landscape areas within the primarily paved terrace.

For these reasons, staff is supportive of a variance to allow the wall screening the lift and the planters to encroach into the required setback but recommends that the lift itself, be setback to match the existing terrace setback.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application be **approved** subject to the conditions enumerated in the attached draft Order.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: May 11, 2021

PROPERTY/FOLIO: 1501 Collins Avenue / 02-3234-163-0001

FILE NO: HPB20-0444

IN RE: An application has been filed by Bancroft Ocean Five Holdings, LLC requesting a Certificate of Appropriateness for the partial demolition, renovation and restoration of the existing building, including the reconstruction of original interior floor plates and a variance to reduce the required side facing a street setback.

LEGAL: A portion of Lots 1, 2, 3, 4, 17, 18, 19, & 20, Block 56 of Fishers First Subdivision of Alton Beach, According to the Plat Thereof, as Recorded in Plat Book 2, Page 77, 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 Drive/Collins Avenue Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
 - 1. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
 - 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
 - 3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
 - 4. Is not consistent with Certificate of Appropriateness Criteria 'b' & '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 remain 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 rooftop cabana located at the southeast corner shall be modified so that it is not considered FAR or the applicant shall provide evidence that this area was included in the FAR for the site as part of the 1990s renovations, 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. The existing Bancroft Hotel structure shall be renovated and restored consistent with the proposed plans, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. This shall include the removal of the existing non-original windows and doors to be replaced with new impact resistant doors and windows that shall incorporate a muntin configuration that is consistent with available historical documentation.
 - c. All rooftop trellises and cabanas located at the roof deck of the Bancroft Hotel building shall be setback a minimum of 5'-0" from the west and south sides of the building, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - d. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - e. 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 118-395(b)(3) of the City Code, the Board hereby approves the reconstruction of original floor plates within the original Bancroft Hotel building. The applicant shall provide clear diagrams indicating the portions of the floor plates to be reconstructed as well as historical documentation and/or building permit records in the plans submitted for building permit, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 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 42" in height at maturity.
- b. 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.
- c. The project design shall minimize the potential for a project causing a heat island effect on site.
- d. 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) which were either approved by the Board with modifications, or denied:
 1. A variance to reduce the existing street side setback to introduce a vertical accessibility lift, wall and planters at 23'-6" from the south street side property line facing 15th Street.
- 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 variance, 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. A revised survey shall be submitted at the time of the building permit to verify existing terrace south side setback.

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, if applicable. 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. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code, as applicable.
- E. 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.
- F. 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.
- G. 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.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. 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.
- J. 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.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. 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.
- M. 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.

The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by Deborah Tackett, Historic Preservation & Architecture Officer, 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 _____ ()

