

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: June 15, 2021

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: HPB20-0448, **224 23rd Street, 211 22nd Street, 227 22nd Street & 245 22nd Street.**

An application has been filed requesting a Certificate of Appropriateness for the construction of a mixed-use building on an existing surface parking lot, one or more waivers and variances to reduce the minimum required driveway width and to reduce the number of required loading spaces.

#### **STAFF RECOMMENDATION**

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

#### **BACKGROUND**

On December 14, 2016, the City Commission granted a waiver pursuant to Sections 142-425(d) and (e) of the City Code, allowing for a maximum building height of 75'-0" (Resolution No. 2016-29679).

#### **EXISTING SITE**

Local Historic District: Museum

#### **Miami Beach Library (211 22nd Street, 227 22nd Street & 245 22nd Street)**

Classification: Non-Contributing  
Original Construction Date: 2004  
Original Architect: Robert A. M. Stern

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

Legal Description:

##### **Parcel 1 (224 23rd Street):**

Lots 7, 9 & 11 Less the north 10 feet for R/W & north 25 feet of Lots 10 & 12, Block 2, of the Miami Beach Improvement Company Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

##### **Parcel 2 (211 22nd Street):**

Lots 4 & 6, Block 2, of the Miami Beach Improvement Company Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

**Parcel 3 (227 22nd Street):**

Lot 8 & the east 20 feet of the south 100 feet of Lot 10 & the east 15 feet of the north 35 feet of the west 80 feet of the south 100 feet of Lots 10 & 12, Block 2, of the Miami Beach Improvement Company Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

**Parcel 4 (245 22nd Street):**

The west 80 feet of the south 100 feet of Lots 10 & 12 less the east 15 feet of the north 35 feet of the west 80 feet of the south 100 feet of lots 10 & 12, Block 2, of the Miami Beach Improvement Company Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

Zoning:	GU, Government use
Future Land Use Designation:	PF, Public facility, governmental uses
Lot Size:	48,516 S.F. / 2.75 Max FAR
Existing FAR:	43,256 S.F. / 0.89 FAR
Proposed FAR:	114,150 S.F. / 2.35 FAR
Existing Height:	35'-0" / 2-stories
Proposed Height:	75'-0" / 7-stories
Existing Use/Condition:	Public library and parking lot
Proposed Use:	Public library and mixed-use retail, ballet dormitories and artist workforce housing.

**THE PROJECT**

The applicant has submitted plans entitled "Collins Park Artist/Workforce Housing", as prepared by Shulman + Associates, dated April 5, 2021.

**COMPLIANCE WITH ZONING CODE**

The application as proposed, with the exception of the variance requested herein, appears to be consistent with the City Code.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a Building Permit.

**CONSISTENCY WITH 2040 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the public and mixed-use uses is **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.  
**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.

**Satisfied**  
**Operable windows have been provided.**

- (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**

**In response to projected sea level rise, the first habitable floor is proposed to be located at 26.00' 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.

**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.

**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 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**  
**Variances have been requested.**
  - 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).

**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.

**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**

### **STAFF ANALYSIS**

The applicant is proposing to construct a new mixed-use building on the surface parking lot located at the southeast corner of the intersection of Liberty Avenue and 23<sup>rd</sup> Street, directly to the north of the Miami Beach Public Library. The new structure consists of non-profit or retail space and a residential lobby at the ground level, dormitories for the students of the Miami City Ballet at the second level and 16 units per floor of affordable workforce artist housing at the upper 5 levels.

Staff commends the applicant and the design team on the sophisticated and forward-thinking approach to the project in which the scale, massing and height are all consistent with the built context of the south side of 23<sup>rd</sup> Street. More specifically, the proposed building is a similar height to the Contributing Shep Davis Plaza building located immediately to the east and to the recently completed Collins Park Parking Garage located across Liberty Avenue to the west. Further, staff is supportive of the overall contemporary design language of the proposed structure which has been developed in a manner that appropriately responds to the unique architectural character of the historic district. The street facing sides of the proposed building are defined by a pedestrian level colonnade (similar to the adjacent municipal parking garage) and scored stucco upper façades with interspersed floor-to-ceiling windows. The rear façade (which will be visible from certain vantage points within Collins Park) wraps the corner along Liberty Avenue and features projecting balconies with a playful paint scheme.

In summary staff is highly supportive of the proposed project and looks forward to the construction of a high-quality structure on the existing surface parking lot. If this parking lot was retained over the long term, it would have an increasingly negative impact on the developed urban context of the surrounding historic district. As such, staff recommends approval as noted below.

### **VARIANCE ANALYSIS.**

The applicant is requesting the following variances:

1. A variance to reduce by 6'-0" the minimum required width of 22'-0" for a two-way driveway in order to provide a 16'-0" wide two-way driveway for loading operation.
  - Variance requested from:

#### **Sec. 130-64. Drives.**

**Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic.**

The loading area for the project is proposed to be located internal to the site and will provide service to both the new building and the library. To reduce adverse impact on the historic urban character of the district, the applicant is proposing to minimize the curb cut along 23<sup>rd</sup> Street and provide a driveway 16'-0" in width, in lieu of the required 22'-0", resulting in the variance request. Staff believes that a 22'-0" wide curb cut for on-site loading would have an exceedingly negative impact on the pedestrian character of the neighborhood. Staff would also note that while the property has access along 22<sup>nd</sup> Street, 23<sup>rd</sup> Street and Liberty Avenue the introduction of vehicular access is limited to the 23<sup>rd</sup> Street frontage due to the existing site conditions. These conditions include the retention of the public library which occupies the entire 22<sup>nd</sup> Street frontage and the creation of a pedestrian paseo with restricted vehicular access connecting to Collins Park along Liberty Avenue. Further, the introduction of functional active use liners to screen the loading



spaces substantially limits the area for vehicular access along 23<sup>rd</sup> Street.

2. A variance to reduce by 2 the required 3 loading spaces for the new commercial and residential uses in order to provide 1 loading space on site.

- Variance requested from:

**Sec. 130-101. - Space requirements and location.**

*When any new building or structure is erected, or an existing building is modified resulting in an increase in FAR, accessory off-street loading spaces shall be provided for the new building, new structure, or increase in floor area in accordance with the following schedule: (1) For each retail store, department store, restaurant, wholesale house, warehouse, repair, general service, manufacturing or industrial establishment, or similar use, which has an aggregate floor area in square feet of:*

*a. Over 2,000 but not over 10,000: One space.*

*(3) For any residential building or hotel building:*

*b. Over 50 units but not more than 100 units: Two spaces.*

The new mixed-use building contains a small approximately 3,700 sq. ft. commercial space, 80 workforce housing units and dormitory units for the ballet requiring 3 on site loading spaces. While the plans submitted indicate the introduction of 2 loading spaces, only 1 space satisfies the minimum back up dimension for the size of the truck specified. The applicant is therefore, requesting a variance to reduce the required loading by 2 spaces. Staff finds that the limitations of the site as noted above, create the practical difficulties for the granting of the variance.

Although supportive of both requested variances, staff has the following recommendations in order to minimize the impact of the project:

- Additional details should be provided regarding the loading operation including how the entering and exit of the vehicles will be handled safely to minimize traffic impact on 23<sup>rd</sup> Street.
- The driveway access shall be closed when not in use to limit noise spilling and visibility from the street.
- At least one of the loading spaces should be modified to meet the length of the largest vehicle proposed of 28'-0", as noted in the traffic study.
- Additional information should be provided regarding the possible use of on street loading spaces as may be permitted by the Parking Department.

In summary, due to the unique site characteristics, staff finds that practical difficulties relative to the subject variances do exist and recommends approval subject to the conditions outlined in the draft order attached.

**RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the application be **approved** including the variances requested, 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: June 15, 2021

PROPERTY/FOLIO: 224 23<sup>rd</sup> Street / 02-3226-001-0460  
211 22<sup>nd</sup> Street / 02-3226-001-0490  
227 22<sup>nd</sup> Street / 02-3226-001-0480  
245 22<sup>nd</sup> Street / 02-3226-001-0470

FILE NO: HPB20-0448

IN RE: An application has been filed by Servitas, LLC requesting a Certificate of Appropriateness for the construction of a mixed-use building on an existing surface parking lot, one or more waivers and variances to reduce the minimum required driveway width and to reduce the number of required loading spaces.

LEGAL: Parcel 1 (224 23rd Street):  
Lots 7, 9 & 11 Less the north 10 feet for R/W & north 25 feet of Lots 10 & 12, Block 2, of the Miami Beach Improvement Company Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

Parcel 2 (211 22nd Street):  
Lots 4 & 6, Block 2, of the Miami Beach Improvement Company Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

Parcel 3 (227 22nd Street):  
Lot 8 & the east 20 feet of the south 100 feet of Lot 10 & the east 15 feet of the north 35 feet of the west 80 feet of the south 100 feet of Lots 10 & 12, Block 2, of the Miami Beach Improvement Company Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

Parcel 4 (245 22nd Street):  
The west 80 feet of the south 100 feet of Lots 10 & 12 less the east 15 feet of the north 35 feet of the west 80 feet of the south 100 feet of lots 10 & 12, Block 2, of the Miami Beach Improvement Company Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, 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 Museum 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 not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(2) of the Miami Beach Code.
  - 4. Is consistent with Certificate of Appropriateness Criteria 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 exterior handrails and guardrails shall have a flat profile and shall return directly to the ground (no loops), 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. 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. The proposed landscape plan shall satisfy minimum landscape code requirements as prescribed by CMB Code Chapter 126.

- 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.
- e. The use of Silva Cells or approved equal should be specified for canopy shade trees planted in areas where rooting space may be limited, inclusive of street trees, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s):
  - 1. A variance to reduce 6'-0" from the minimum required width of 22'-0" for a two-way driveway in order to provide a two-way driveway with 16'-0" in width for loading operation.
  - 2. A variance to reduce 2 of the required 3 loading spaces for retail and residential uses proposed in order to provide one (1) loading space on site.
- 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 complete operational plan for the project shall be required prior to the issuance of a building permit including, hours of operation and size of all vehicles required to service all loading operations, subject to the review and approval of applicable City Departments. Such operational plan shall include additional details how the entering and exit of the vehicles will be handled safely to minimize traffic impact on 23<sup>rd</sup> Street.
3. The driveway access shall be closed when not in use to limit noise spilling and visibility from the street.
4. At least one of the loading spaces shall be modified to meet the length of the largest vehicle proposed of 28'-0", as noted in the traffic study.
5. Alternative approved on street loading zones within the immediate area shall also be identified, as well as a plan indicating the procedures that delivery vehicles shall be required to take if the loading spaces on site are occupied, subject to the review and approval of the Parking Department.

**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. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- 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 not be located within a required yard and, with the exception of the valve (PIV), shall not be visible 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.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "**Collins Park Artist/Workforce Housing**", as prepared by **Shulman + Associates**, dated **April 5, 2021**, 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.



