MIAMIBEACH

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: HPB20-0440 a.k.a. HPB20-0380, **550 Washington Avenue**.

An application has been filed requesting modifications to a previously issued Certificate of Appropriateness for the partial demolition and renovation of the existing building including the construction of attached additions and modifications to original public interior spaces and a variance to exceed the maximum permitted building height. Specifically, the applicant is requesting to modify a condition of the final order to allow for the introduction of new signage on the vertical feature along Washington Avenue, a Certificate of Appropriateness for modifications to the marquee and a variance to exceed the maximum permitted size for signage.

RECOMMENDATION

Approval of the modifications to a previously issued Certificate of Appropriateness with conditions.
Approval of the variance with conditions.

BACKGROUND

On September 8, 2020, the Board reviewed and approved a Certificate of Appropriateness (HPB20-0380) for the partial demolition and renovation of the existing building including the construction of attached additions and modifications to original public interior spaces and a variance to exceed the maximum permitted building height.

EXISTING STRUCTURE

Local Historic District:	Ocean Beach
Classification:	Contributing
Original Construction Date:	1945
Original Architect:	Henry Hohauser

ZONING / SITE DATA

Legal Description: ALL OF LOT 2, BLOCK 48, OF OCEAN BEACH, FLORIDA, ADDITION NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, AT PAGE 87, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THE PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NE CORNER OF SAID LOT 2; THENCE RUN SOUTHWESTERLY ALONG THE EAST LINE OF SAID LOT 2, A DISTANCE OF 31.22 FEET MORE OR LESS TO THE POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH FACE OF A C.B.S. BUILDING; THENCE RUN WESTWARDLY ALONG THE NORTH FACE OF SAID C.B.S. BUILDING AND ITS WESTERLY EXTENSION, A DISTANCE OF 21.75 FEET, MORE OR LESS TO A BREAK IN SAID C.B.S. BUILDING; THENCE RUN SOUTH ALONG A FACE OF SAID C.B.S. BUILDING A DISTANCE OF 0.2 FEET, MORE OR LESS TO THE FACE OF A NORTH WALL OF SAID C.B.S. BUILDING; THENCE RUN WESTWARDLY ALONG THE FACE OF THE NORTH WALL OF SAID C.B.S. BUILDING, A DISTANCE OF 86.75 FEET, MORE OR LESS, TO A POINT, THENCE RUN NORTHWARDLY ALONG AN EAST FACE OF SAID C.B.S. BUILDING AND ITS NORTHERLY EXTENSION A DISTANCE OF 23.68 FEET, MORE OR LESS, TO A POINT, THENCE RUN WESTWARDLY ALONG A LINE PARALLEL TO THE NORTH LINE OF SAID LOT 2, FOR A DISTANCE OF 5.0 FEET TO A POINT; THENCE RUN NORTHWARDLY ALONG A LINE PARALLEL TO THE NORTHERLY EXTENSION OF SAID EAST FACE OF SAID C.B.S. BUILDING FOR A DISTANCE OF 7.0 FEET, MORE OR LESS, TO A POINT ON THE NORTH LINE OF SAID LOT 2; THENCE RUN EASTWARDLY ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 119.66 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

AND

THE WEST 735 FEET OF LOT 3 AND THE EAST 9.0 FEET OF THE WEST 744.0 FEET OF THE NORTH 8.0 FEET OF LOT 3, BLOCK 48, OF OCEAN BEACH, FLORIDA, ADDITION NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, AT PAGE 81, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Zoning:	C-PS2, Commercial general mixed-use
Future Land Use Designation:	C-PS2, Commercial general mixed-use

THE PROJECT

The applicant has submitted plans entitled “Paris Theater-Queen Exterior Signage”, as prepared by Art Sign Company, dated July 6, 2020.

COMPLIANCE WITH ZONING CODE

The application as submitted, appears to be consistent with the requirements of the City Code, with the exception of the variance requested as part of this application.

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 2040 COMPREHENSIVE PLAN
A preliminary review of the project indicates that the proposed **restaurant** use 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.
Not Applicable

(4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Not Applicable

(5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Not Applicable

(6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Not Applicable

(7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Not Applicable

(8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
Not Applicable

(9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.
Not Applicable

(10) In all new projects, water retention systems shall be provided.
Not Applicable

(11) Cool pavement materials or porous pavement materials shall be utilized.
Not Applicable

(12) The project design shall minimize the potential for a project causing a heat island effect on site.
Not Applicable

COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.
Not Satisfied
The requested modification of the theater marquee is not consistent with Standard 2 as the original signage boards are proposed to be removed and replaced with a new design that is not consistent with the historic character of the property.

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
New signage boards are proposed to be introduced within the marquee structure which is inconsistent with the original design.

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.
Not Satisfied
The district was created to retain the special historic character of the neighborhood. The modification to the marque has an adverse impact on the historic integrity of the original theater building.

f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.
Not applicable

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
New signage boards are proposed to be introduced within the marquee structure which is inconsistent with the original design.

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.

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 Applicable

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.
Not Applicable

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

h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.
Not Applicable

i. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Not Applicable

j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Applicable

k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.
Not Applicable

l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Not Applicable

m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable

n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.
Not Applicable

o. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable

ANALYSIS

As noted in the Background section of this report, on September 8, 2020, the Board reviewed and approved modifications to the existing building including the construction of three small additions and interior modifications. As part of the proposed project, the existing "PARIS" signage located on the projecting vertical fin element along Washington Avenue was proposed to be restored. Additionally, the board imposed the following condition requiring that the Eiffel Tower icon be introduced:

I.C.1.a. The historic Paris signage located on the projecting vertical feature along Washington Avenue shall be restored inclusive of the Eiffel tower icon, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or directions of the Board.

Vertical projecting fin signage

The applicant is currently requesting to eliminate this condition in order to introduce new signage with the name of the restaurant, "QUEEN", replacing the existing "PARIS" signage. Two options have been presented to the Board for consideration, one with a Queen of Hearts scepter logo and the other without any logo.

Staff has no objection to the elimination of the condition and the signage replacement, as the proposed signs have been designed in a manner that is consistent with the original open-faced exposed neon signage of the theater. Additionally, as is often the case, the signage for this building has changed over time. The existing "PARIS" signage which replaced the original "VARIETY" theater signage was introduced in 1961. While staff believes that both options are suitable, staff finds that Option 2 with the logo better captures the spirit of the early Post War Modern theater architecture.

Marquee signage

The applicant is also requesting approval for the replacement of the existing internally illuminated marquee signage boards with new edge lit aluminum panels. Staff is not supportive of the removal of this character defining feature of the historic theater building and strongly recommends that the existing marquee be restored in its entirety, including the signage boards. The retention of the marquee features will not preclude the applicant from introducing new signage consistent with the signage currently proposed.

VARIANCE ANALYSIS

The applicant is requesting the following variance:

1. A variance to exceed by up to 57.4 sq. ft. the maximum sign area allowed of 15.1 sq. ft. for wall signs in order to install two signs on either side of the projecting vertical fin with a total aggregate area of 72.5 sq. ft.

    - Variance requested from:

    Sec. 138-16. Wall sign.
    Wall signs are signs attached to, and erected parallel to, the face of, or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall. Such signs shall be governed by the following chart:
    Maximum area calculation, Wall Sign Design Standards per District, CPS-2: 0.75 square feet for every foot of linear frontage, with a minimum of 15 square feet permissible, regardless of linear frontage.

The applicant is proposing the installation of two signs on the prominent vertical element above the marquee facing Washington Avenue for a new restaurant and entertainment venue. The signs with the copy “QUEEN’ are proposed to be placed on the north and south sides consistent with the historic location of previous signs on the building. Although the Code allows the re-creation of historic signs regardless of the current regulations, the proposed signs do not technically qualify as a change of copy for a historic sign due to the proposed change in font.

The maximum sign area, based on the length of the street façade for this building, is 15.1 squre feet. The larger of the two options proposed has an aggregate sign area of 72.5 square feet, which exceeds the maximum area allowed. Staff finds that the variance request satisfies the criteria for approval based on the retention of the historic building with the distinctive marquee and vertical signage fin that were designed by architect Henry Hohauser for the purpose of sign placement. In addition, the irregular shape of the property with minimal frontage on Washington Avenue, contributes to practical difficulties. As such, staff recommends approval of the variance as proposed.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application be **approved**, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Hardship and Practical Difficulties criteria, as applicable.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: June 15, 2021

PROPERTY/FOLIO: 550 Washington Avenue / 02-4203-009-1900

FILE NO: HPB20-0440

IN RE: An application by Big Time Productions, Inc. for a Certificate of Appropriateness for the partial demolition and renovation of the existing building including the construction of attached additions and modifications to original public interior spaces and a variance to exceed the maximum permitted building height.

LEGAL: ALL OF LOT 2, BLOCK 48, OF OCEAN BEACH, FLORIDA, ADDITION NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, AT PAGE 87, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THE PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NE CORNER OF SAID LOT 2; THENCE RUN SOUTHWESTERLY ALONG THE EAST LINE OF SAID LOT 2, A DISTANCE OF 31.22 FEET MORE OR LESS TO THE POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH FACE OF A C.B.S. BUILDING; THENCE RUN WESTWARDLY ALONG THE NORTH FACE OF SAID C.B.S. BUILDING AND ITS WESTERLY EXTENSION, A DISTANCE OF 21. 75 FEET, MORE OR LESS TO A BREAK IN SAID C.B.S. BUILDING; THENCE RUN SOUTH ALONG A FACE OF SAID C.B.S. BUILDING A DISTANCE OF 0.2 FEET, MORE OR LESS TO THE FACE OF A NORTH WALL OF SAID C.B.S. BUILDING; THENCE RUN WESTWARDLY ALONG THE FACE OF THE NORTH WALL OF SAID C.B.S. BUILDING, A DISTANCE OF 86. 75 FEET, MORE OR LESS, TO A POINT,· THENCE RUN NORTHWARDLY ALONG AN EAST FACE OF SAID C.B.S. BUILDING AND ITS NORTHERLY EXTENSION A DISTANCE OF 23.68 FEET, MORE OR LESS, TO A POINT,· THENCE RUN WESTWARDL Y ALONG A LINE PARALLEL TO THE NORTH LINE OF SAID LOT 2, FOR A DISTANCE OF 5.0 FEET TO A POINT; THENCE RUN NORTHWARDLY ALONG A LINE PARALLEL TO THE NORTHERLY EXTENSION OF SAID EAST FACE OF SAID C.B.S. BUILDING FOR A DISTANCE OF 7.0 FEET, MORE OR LESS, TO A POINT ON THE NORTH LINE OF SAID LOT 2; THENCE RUN EASTWARDL Y ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 119.66 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

AND

THE WEST 735 FEET OF LOT 3 AND THE EAST 9.0 FEET OF THE WEST 744.0 FEET OF THE NORTH 8.0 FEET OF LOT 3, BLOCK 48, OF OCEAN BEACH, FLORIDA, ADDITION NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, AT PAGE 81, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

CONSOLIDATED 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', 'e' & 'h' in Section 118-564(a)(2) of the Miami Beach Code.

4. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(3) of the Miami Beach Code.

C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:

a. Final design and details of the "Queen" ~~The historic Paris~~ signage located on the projecting vertical feature along Washington Avenue shall be ~~restored~~ provided inclusive of the ~~Eiffel tower~~ logo icon consistent with Option 2, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or directions of the Board.

b. The existing marquee shall be restored in its entirety in working order inclusive of the signage boards, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or directions of the Board.

~~b.~~ c. Any new entry doors proposed along Washington Avenue shall consist of clear, colorless glass with minimal framing in a manner to recall the original open-air vestibule design. Final design and details of any replacement doors along Washington Avenue, including finishes and materials, 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.~~ d. The solid back portion of the curving walls within the corridor shall be eliminated. Vertical fins may be attached to the floor and ceiling, 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.~~ e. The westernmost portion of the original apartment building shall be restored consent with available historic documentation including original windows openings, muntin configurations and horizontal banding between window openings, 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.~~ f. The proposed mechanical screening at the roof of the original apartment building shall be setback a minimum of 2'-0" from the southwest corner parapet walls, 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 exceed by up to 57.4 sq. ft. the maximum sign area allowed of 15.1 sq. ft. for wall signs in order to install two (2) signs facing Washington Avenue with a total aggregate area of 72.5 sq. ft..

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. Revised FAR drawings shall be submitted at the time of the building permit to verify maximum FAR allowed.

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. This Final Order consolidates all conditions and requirements for Certificate of Appropriateness and variance approval as same as are contained herein, in the Order dated September 8, 2020 (HPB20-0380). Accordingly, this Order shall serve as the Final Order for the proposed project. In the event of a conflict between the provisions hereof and those of the previous Orders, the provisions hereof shall control.

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

~~C.~~ D. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.

~~D.~~ 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.

~~E.~~ 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.

~~F.~~ G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

~~G.~~ 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.

~~H.~~ 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.

~~I.~~ J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

~~J.~~ 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.

~~K.~~ 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 "Paris Theater Restaurant – 550 Washington Ave", prepared by Beilinson Gomez, dated May 29, 2020 and the plans entitled "Paris Theater-Queen Exterior Signage", as prepared by Art Sign Company, dated July 6, 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
HISTORIC PRESERVATION & ARCHITECTURE OFFICER
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, 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 _____ ( )

~~Strike-Thru~~ denotes deleted language
Underscore denotes new language