MIAMIBEACH

PLANNING DEPARTMENT

Staff Report & Recommendation Historic Preservation Board

TO: Chairperson and Members DATE: October 12, 2021

Historic Preservation Board

FROM: Thomas R. Mooney, AICP

Planning Director

SUBJECT: HPB19-0367, **455 Lincoln Road**.

An application has been filed requesting a Certificate of Appropriateness for the installation of a retractable canopy structure at the roof deck and modification to the public interior space including a variance to exceed the hours of operations for

an outdoor bar.

RECOMMENDATION

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

BACKGROUND

On September 17, 2018, the Board reviewed and approved a Certificate of Appropriateness (HPB18-0225) for the introduction of an active roof deck including new rooftop elevator and stair enclosures. On January 28, 2020, the Planning Board reviewed and approved a conditional use permit (PB19-0330) for a neighborhood impact establishment with entertainment.

EXISTING STRUCTURE

Local Historic District: Flamingo Park Classification: Contributing

Original Construction Date: 1937

Original Architect: Robert M. Little

ZONING / SITE DATA

Legal Description: Lot 1, Block 3, of the Lincoln Road Subdivision A, according

to the Plat Thereof, as Recorded in Plat Book 34, Page 66, of the Public Records of Miami-Dade County, Florida.

Zoning: CD-3, Commercial high intensity Future Land Use Designation: CD-3, Commercial high intensity

THE PROJECT

The applicant has submitted plans entitled "Andres", as prepared by Form Group, Inc., dated July 6, 2021.

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application appears to be consistent with the City Code with the exception of the variances requested as part of this application. Additionally, based upon the final design and installation details of the proposed canopy, an FAR analysis may be required.

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 **commercial** 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 **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also **DO NOT** 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 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.

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):
 - The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.
 Satisfied
 - 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

C.

b. General design, scale, massing and arrangement.

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

The applicant is requesting a variance for the hours of operation of an outdoor bar counter.

c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.

Satisfied

d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.

Not Satisfied

The placement of additional elements onto to the structure of the proposed rooftop canopy will have an adverse visual impact on the appearance of the surrounding properties.

e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

Satisfied

f. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be

designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

Satisfied

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

Satisfied

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

Not Applicable

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

Satisfied

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

Satisfied

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

Satisfied

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

Not Applicable

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

Satisfied

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

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

ANALYSIS

The subject structure was constructed in 1937 and designed by Robert M. Little in the Streamline Moderne style of architecture. The building is currently undergoing renovations due to a fire that occurred in 2015. As noted in the Background section of this report, in 2018, the Board reviewed and approved a Certificate of Appropriateness for the introduction of an active roof deck including a new rooftop bar counter, as well as elevator and stair enclosures.

The applicant, a restaurant tenant, is currently requesting approval for a new interior design within the original public interior space and the introduction of a rooftop retractable canopy system. Staff would note that there are several inconsistencies within the plans; however, they do not impact the overall understanding of the project.

Original public interior space

A new interior design concept for the restaurant is proposed to be introduced within the main ground level space of the building. While the new interior design is a departure from the Streamline style of the building, staff has no significant concerns mainly due to the fact that this space was substantially altered in the past and, even prior to the fire in 2015, there were no original architectural features remaining within the space. As such, staff has no objection to the proposed modifications.

New rooftop retractable canopy system

The applicant is requesting approval for the introduction of a new 9'-2" tall retractable canopy system located at the roof deck of the building. The canopy structure is divided into a grid in which each section has independently operable retractable fabric. Additionally, the southwest corner of the canopy is proposed to be rounded, matching the curved corner of the Contributing building. Although the canopy is proposed to be setback approximately 15'-0" from the Lincoln Road façade and 8'-4" from the Drexel Avenue façade, the structure will be visible from across Lincoln Road.

Staff has no objection to the introduction of the canopy in concept, and more generally from a design standpoint. However, due to its visibility it is recommended that any lighting, fans, speakers, conduit etc. be integrated within the canopy frame so as to limit any adverse visual impact to the building and surrounding historic district. Additionally, based upon the final design and installation details of the proposed canopy, an FAR analysis may be required.

Finally, staff would note that important issues related to the operations of the project, including parking, traffic, noise, deliveries, sanitation and security were reviewed by the Planning Board as part of the conditional use approval for the proposed neighborhood impact establishment.

VARIANCE ANALYSIS

The applicant is requesting the following variance:

- 1. A variance to exceed the allowable hours of operation of an accessory outdoor bar counter until 3:00 am.
 - Variance requested from:

Sec. 142-334. Accessory uses.

The accessory uses in the CD-3 commercial, high intensity district are as follows:

(2) Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.

This variance request is associated with a 288-seat restaurant occupying the entire building, including the roof deck. The new restaurant will have two bar counters located within the interior and one outdoor bar counter located at the roof level. As per Section 142-334 of the City Code, an outdoor accessory bar may not be operated past 12:00 a.m. The applicant is currently requesting a variance to extend the hours of operation for the outdoor bar counter until 3:00 a.m. Staff would note that the subject property is located within the CD-3 zoning district and all of the abutting properties contain commercial uses, which should reduce the potential for adverse impacts on surrounding properties.

However, staff finds the variance requested lacks any practical difficulties or hardship and would note that the dining area of the roof level is permitted to operate until 4:00 a.m. and can continue to be serviced from the interior bar counters. Staff finds that there is reasonable use of the property without the granting of the requested variance. As such, staff does not support the approval of the variance request.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application for certificate of appropriateness be **approved** and that the variance request be **denied**, 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: October 12, 2021

PROPERTY/FOLIO: 455 Lincoln Road / 02-3234-005-0100

FILE NO: HPB19-0367

IN RE: An application has been filed requesting a Certificate of Appropriateness

for the installation of a retractable canopy structure at the roof deck and modification to the public interior space including a variance to exceed the

hours of operations for an outdoor bar.

LEGAL: Lot 1, Block 3, of the Lincoln Road Subdivision A, according to the Plat

Thereof, as Recorded in Plat Book 34, Page 66, 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 Flamingo Park 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' & 'd' 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:

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- a. Final design and details of the proposed aluminum wired screen located within the waiting area 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. Final design and details of the proposed south facing wall located within the waiting area shall be submitted, including material samples of the proposed ceramic tiles, 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. Final design and details of the proposed retractable canopy structure 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. Any lighting, fans, speakers, conduit etc. shall be integrated within the canopy frame.

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, withdrawn, or denied:

The following variance was **denied** by the Board:

- 1. A variance to exceed the allowable hours of operation of an accessory outdoor bar counter until 3:00 am.
- B. The applicant has submitted plans and documents with the application that DO NOT satisfy Article 1, Section 2 of the Related Special Acts as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also DO NOT 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

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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 <u>Denies</u> the variance request 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.

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

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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.

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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 "Andres", as prepared by Form Group, Inc., dated July 6, 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.

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	
		PRESERVATION BOA OF MIAMI BEACH, FL	
	BY:	PRESERVATION & A	RCHITECTURE OFFICER

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STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)SS)
	was acknowledged before me this day of 20 by Deborah Tackett, Historic Preservation & Architecture City of Miami Beach, Florida, a Florida Municipal Corporation, on 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 Histo	oric Preservation Board on ()