

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: December 13, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB16-0052, **929 Alton Road.**

The applicant, Alton Sobe, LLC, is requesting a Certificate of Appropriateness for the design of a new 5-story mixed-use building on a vacant lot, including a variance to not provide required off-street loading spaces.

STAFF RECOMMENDATION

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

BACKGROUND

On November 15, 2016, the Planning Board will reviewed and continued a request for Conditional Use approval for the construction of a new 5-story commercial development exceeding 50,000 square feet, including a parking garage, pursuant to Chapter 142, Article II and Chapter 118, Article IV of the City Code.

EXISTING SITE

Local Historic District: Flamingo Park

ZONING / SITE DATA

Legal Description: Lots 9 and 10, Block 123, of the Lenox Manor resubdivision, according to the Plat thereof recorded in Plat Book 7, page 15 of the Public Records of Miami-Dade County, Florida.

Zoning:	CD-2, Commercial medium intensity
Future Land Use Designation:	CD-2, Commercial medium intensity
Lot Size:	20,000 S.F. / 1.5 Max FAR
Existing FAR:	N/A
Proposed FAR:	29,566 S.F. / 1.48 FAR
Existing Height:	N/A
Proposed Height:	5 stories / 50'-0"
Existing Use/Condition:	N/A
Proposed Use:	Retail / Office / Parking

THE PROJECT

The applicant has submitted plans entitled “12-651US MIXED USE BUILDING” as prepared by International Design Engineering Architecture, dated August 3, 2016.

The applicant is requesting a Certificate of Appropriateness for the design of a new 5-story mixed-use building on a vacant lot including a variance to not provide required off-street loading spaces.

The applicant is requesting the following variance:

1. A variance from the requirement to provide three (3) off-street loading spaces for commercial uses with an aggregate area more than 20,000 s.f. and less than 40,000 in order to construct a new 5-story commercial building.

- Variance requested from:

Sec. 130-101. Space requirements.

When any building or structure is erected, structurally altered, or converted in use, accessory off-street loading spaces shall be provided for the building, structure, additional floor area or new use 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:

c. Over 20,000 but not over 40,000: Three (3) spaces.

The new commercial building contains over 21,310 sf of retail and office space that requires three loading spaces to be provided on site. The applicant is requesting a variance to eliminate the location of the loading spaces and the use of on-street designated loading zones in the surrounding area. The site has street access from Alton Road and no alley. This condition limits the vehicle access for parking and for loading services to the front of the building, which may create a traffic hazard with delivery vehicles coming in and out of the site and potentially backing up into Alton Road.

As many buildings in the area do not have loading spaces on site, the on-street loading is common in the area. Staff finds that the limitations of the interior site with only one street front and no alley at the rear create the practical difficulties for the granting of the variance. Considering that the commercial operation is limited to retail and office use, staff is supportive of the variance conditioned upon not increasing the commercial area or to a change of use to a restaurant or a more intense operation.

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. In this case, the requested variance is necessary in order to satisfy the Certificate of Appropriateness criteria and not to adversely impact the existing historic buildings.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application, as proposed, may be inconsistent with the following portions of the City Code:

1. A Conditional Use Permit is required, pursuant to Article IV Section 118, and Article II Section 142 of the Miami Beach City Code, for the construction of a commercial building exceeding 50,000 gross square feet, including parking.
2. Non-required (surplus) parking spaces and associated drive aisles shall count in the building's **FAR**.

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 Zoning Administrator prior to the issuance of a Building Permit.

CONSISTENCY WITH 2025 COMPREHENSIVE PLAN

A preliminary review of the project indicates that the proposed **commercial use** appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA

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

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to

Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

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

Satisfied

- b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.

Satisfied

- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. Exterior architectural features.

Not Satisfied

The horizontal louver system proposed to be installed along Alton Road appears highly industrial and utilitarian and is not appropriate for the primary façade of the structure.

- b. General design, scale, massing and arrangement.

Not Satisfied

The horizontal louver system proposed to be installed along Alton Road appears highly industrial and utilitarian and is not appropriate for the primary façade of the structure.

- 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

See Compliance with Zoning Code

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

Not Satisfied

The horizontal louver system proposed to be installed along Alton Road appears highly industrial and utilitarian and is not appropriate for the primary façade of the structure.

- 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.

Not Satisfied
Required off street loading spaces have not been provided.

STAFF ANALYSIS

The subject site, zoned CD-2, is located on the east side of Alton Road, within the westward expansion of the Flamingo Park Local Historic District, designated in 2008. One of the goals in expanding the Flamingo Park Historic District was to protect the character of the adjacent residential area of the Flamingo Park Historic District to the east, as well as the historically significant properties along Alton Road.

Since the adoption of the expanded historic district, neighborhood residents have expressed concerns regarding the compatibility of commercial uses adjacent to the historic residential areas in close proximity, as well as the traffic, parking and noise that may be generated by such uses along Alton Road. These concerns led to the adoption of the Alton Road Historic Buffer Overlay District in 2014. The overlay district regulations are intended to achieve a more compatible relationship of scale and massing between the Alton Road corridor and the adjoining residential neighborhoods, to promote mixed-use development that makes efficient use of parking, to minimize the concentration of impacts from intense retail and restaurant development and to encourage smaller neighborhood-oriented uses.

The applicant is seeking approval to build a 5-story building with retail, office space, a self-park garage with a total of 82 spaces, and an active rooftop deck. The total proposed floor area is approximately 29,566 S.F. of commercial space, including 10,248 S.F. of ground level retail and 11,062 S.F. of office uses.

It is important to note that on November 15, 2016, the Planning Board reviewed and continued a request for Conditional Use approval for the construction of a new 5-story commercial development exceeding 50,000 square feet, including a parking garage, pursuant to Chapter 142, Article II and Chapter 118, Article IV of the City Code. The Planning Board reviewed the project with regard to important issues related to the operations of the project, including parking, traffic, deliveries, sanitation and security.

Staff commends the applicant for proposing to construct a high quality mixed-use structure on an existing vacant lot. If this vacant lot continues over the long term, it will have an increasingly negative impact on the developing urban context of Alton Road as well as the adjacent historic district. Staff is very supportive of the modern design vocabulary proposed, for this new building located on the east side of Alton Road, one of the City's two major north-south corridors.

The overall design concept and its execution represent the direction of new architecture that has come to define Miami Beach over the last decade. The overall design language of the proposed structure has been well developed and when evaluated within the entirety of its surrounding context. In this regard, the strong horizontal proportions along with the dynamic shifting angles of this new contemporary design successfully relate to and complement the Post-War Modern architecture of the original Masonic Temple, immediately adjacent to the north and the exuberant contemporary architecture of the Walgreens building located on the northeast corner of 10th Street and Alton Road.

Further, the scale and massing of the proposed project is highly responsive to the adjacent, low scale residential portion of the Flamingo Park Historic District, located to the east, as well as the existing commercial buildings along Alton Road. The height of the rear portion of the building

abutting the residential district has been limited to 2-stories, with the massing of the upper three floors located to the east along Alton Road.

Although supportive of the overall design direction proposed for the application, staff has some concern with regard to the standard horizontal louver screening system proposed to be installed at the parking levels facing Alton Road. The system appears highly industrial and utilitarian and may not be the most appropriate option for the primary façade of the structure. Consequently, staff recommends the details of the screening system facing Alton Road be further developed. Alternatives to the proposed system may include a more decorative architectural screening element or a high quality cable rail system.

VARIANCE ANALYSIS

The subject site has been vacant since 2005. A 5-story mixed-use project was approved by the Design Review Board on 2005. The Board of Adjustment also approved variances for this project on 2007 associated with the reduction of the front setback. A permit for the construction of this project was never finalized and the approvals expired. A second project was approved by the Historic Preservation Board in 2014 that required a Conditional Use Permit obtained from the Planning Board on 2014. This project also obtained variances for front yard projections and to eliminate the required off-street loading requirements. The applicant applied for a building permit, however, due to the delays in the permitting process, all previous approvals have expired.

The applicant has redesigned the project with a new 5-story commercial development, including ground level retail space, 3 split levels of parking and office space in the top level. As the gross area of the structure exceeds 50,000 sf, the project requires a Conditional Use permit from the Planning Board. The project as proposed requires three (3) off-street loading spaces. The applicant is requesting a variance from this requirement to provide all loading services using the nearby on-street designated loading spaces.

As the commercial use proposed is limited to retail and office, similar to the existing uses along Alton Road within the adjacent area, staff believes that the loading operation can take place on-street. The majority of the adjacent commercial buildings in the area can also utilize on-street loading spaces.

As the street access to the site is only from Alton Road, having commercial trucks accessing and exiting the site using Alton Road may have a negative impact on the current flow of traffic. The applicant has noted to staff that the use of the existing loading zone on 9th Street has been recommended by the Parking Department.

Staff finds that the applicant request satisfies the practical difficulties criteria for the granting of the variance, based on the size of the lot, the limited street access and current traffic flow in Alton Road. Since the project was also reviewed by the Planning Board regarding traffic and impact, operating conditions will be imposed to mitigate any negative impact of the project in the surrounding area. Staff also recommends that any change of use to a restaurant or area increase in the commercial spaces, would require that the applicant return to the Board for review and approval.

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 Practical Difficulty and Hardship criteria, as applicable.

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HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: December 13, 2016

FILE NO: HPB16-0052

PROPERTY: 929 Alton Road

APPLICANT: Alton Sobe, LLC

LEGAL: Lots 9 and 10, Block 123, of the Lenox Manor resubdivision, according to the Plat thereof recorded in Plat Book 7, page 15 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for a Certificate of Appropriateness for the design of a new 5-story mixed-use building on a vacant lot, including a variance to not provide required off-street loading spaces.

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 the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
 2. Is not consistent with Certificate of Appropriateness Criteria 'a' & 'b' in Section 118-564(a)(2) of the Miami Beach Code.
 3. Is not consistent with Certificate of Appropriateness Criteria 'b', 'c' & 'o' 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 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. The louver parking screening system facing Alton Road shall be further developed. Alternatives to the proposed system may include a more decorative architectural screening element or a high quality cable rail system, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - c. Final details of all proposed storefront systems and associated details shall be provided, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. The storefront frames finish shall be clear anodized aluminum or powder coated grey or silver and the glass shall be clear with the minimum tinting required to meet energy codes.
 - d. The internal garage lighting shall be shielded to inhibit direct views of all internal light sources from either the street or adjacent properties, 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. The final design and details of all exterior lighting shall be provided, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. Exterior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding historic district. No florescent or intensive 'white' lighting (or similar intensive lighting) visible from the adjacent public rights-of-way or adjacent properties shall be permitted.
 - f. All interior fixtures, including, but not limited to, shelving, partitions, and checkout counters, shall be setback a minimum of ten (10') feet from any portion of the ground level storefront windows fronting Alton Road, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. This shall not prohibit substantially transparent fixtures for display purposes only.
 - g. Kitchens shall be prohibited unless provisions are made during construction for all required ventilation to be chased internally through the building to the uppermost roof.
 - h. A fully enclosed air conditioned trash room that is sufficiently sized to handle the entire trash load of the building at all times shall be required, located within the envelope of the building, in a manner to be 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 utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the final revised landscape plan.
- 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. Right-of-way areas shall also be incorporated as part of the irrigation system.

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:
 1. A variance from the requirement to provide three (3) off-street loading spaces for commercial uses with an aggregate area more than 20,000 s.f. and less than 40,000 in order to construct a new 5-story commercial building.
- 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 also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

C. The Board hereby **Approves** the Variance request, and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Any change of use from the retail and office areas to a restaurant or a more intense use, will require that the applicant come back to the Board for review and approval of the proposed changes.
2. 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. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- B. 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.
- C. 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.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. Applicant agrees that in the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer

specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

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

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 "12-651US MIXED USE BUILDING" as prepared by International Design Engineering Architecture, dated August 3, 2016, and as approved by the Historic Preservation Board, as determined by staff.

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

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

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting

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

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

Dated this _____ day of _____, 20____.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
CHIEF OF HISTORIC PRESERVATION
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He 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 _____ ()