

Exhibit K

Bueno, Lizbeth

From: Tackett, Deborah
Sent: Monday, December 6, 2021 2:57 PM
Cc: Gonzalez, Jessica; Bueno, Lizbeth
Subject: FW: HPB21-0457, 1 Lincoln Road and 1671 Collins Ave. Email 1 of 3
Attachments: 2021.12.04.Letter.HPB.21-0457.Jack.Finglass.pdf

Good Afternoon HPB members,

Please see public comment attached.

MIAMIBEACH

Debbie Tackett, *Historic Preservation & Architecture Officer*
PLANNING DEPARTMENT
1700 Convention Center Drive, Miami Beach, FL 33139
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We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.
It's easy being Green! Please consider our environment before printing this email.

From: Paul Savage <psavage@rascoklock.com>
Sent: Monday, December 6, 2021 10:41 AM
To: Tackett, Deborah <DeborahTackett@miamibeachfl.gov>; Seiberling, James <JamesSeiberling@miamibeachfl.gov>
Subject: RE: HPB21-0457, 1 Lincoln Road and 1671 Collins Ave. Email 1 of 3

[THIS MESSAGE COMES FROM AN EXTERNAL EMAIL - USE CAUTION WHEN REPLYING AND OPENING LINKS OR ATTACHMENTS]

Good Morning,

The attached is an updated, higher resolution version of this letter to the Chairperson. Please include this one in the Item materials, and Board dissemination materials.

Thank you very much, as always,

Paul

Paul C. Savage, Esq.

RASCO KLOCK PEREZ NIETO
Partner
FLORIDA BAR BOARD CERTIFIED IN CITY, COUNTY AND LOCAL GOVERNMENT LAW

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*FLORIDA BAR BOARD CERTIFIED IN CITY, COUNTY AND LOCAL GOVERNMENT LAW

December 4, 2021

VIA EMAIL (jackfing@msn.com)

Jack Finglass, Board Chairperson
Historic Preservation Board
City of Miami Beach Planning Department
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

**Re: Ritz-Sagamore Certificate of Appropriateness Application No. HPB21-0457
for the Properties Located at 1 Lincoln Road and 1671 Collins Ave. (the
“Application” or “Project”)**

Dear Board Chairperson Finglass:

I am writing on behalf of Beach Hotel Associates, LLC, the owner of the property located at 1685 Collins Avenue (the “Delano Hotel” or “Neighboring Hotel”).¹ Our Neighboring Hotel is a contributing historic structure in the Ocean Drive/Collins Avenue Historic District (the “Historic District”) and the Miami Beach Architectural District (the “Architectural District”). The owners of the Neighboring Hotel are investing significant resources to faithfully refurbish and maintain their iconic property as a contributing resource of the Historic and the Architectural Districts. In contrast, the tower proposed by the Application in the heart of the Architectural and Historic Districts will only dilute the special character and architectural integrity of this unique neighborhood.

I. Historic Preservation and the Application for Certificate of Appropriateness.

The proposed Project seeks to construct a 200-foot, 17-story residential condominium tower in the heart of the iconic hotels along Collins Avenue and Miami Beach. The proposed modern, looming condominium tower is entirely inappropriate for the Historic District and the Architectural District, both as a matter of height, as well as compatibility with the surrounding contributing properties and neighborhood. The very first page of the Applicant’s plans depicts the inappropriate design, scale and massing of the Project, in comparison with the existing nearby built environment:

¹ The use of “Delano Hotel” herein is for ease of reference, and does not signal any affiliation with the DELANO Brand of luxury and lifestyle hotels. The historic “Delano Hotel” signage is maintained by the owner as a contributing feature of the building, as required by the City of Miami Beach Historic Preservation Board. The Delano Hotel is located approximately 115 feet to the north of the Project site, separated only by the National Hotel.

To: Jack Finglass, Board Chairperson
Re: HPB21-0457
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(Applicant's Updated Plans of November 12, 2021 at Sheet A0.00). As you can see, the proposed tower looms over the existing contributing Hotels and is out of place as a matter of scale, massing, arrangement, and relationship to the surrounding neighborhood.

In order to site the massive tower, the Applicant purports to combine two distinct parcels and existing hotels under a proposed "unified site plan" that seeks to treat the Ritz-Carlton Hotel property and the Sagamore Hotel property as a single unified site. The Applicant's Historic Overview establishes the historic significance of the seven-story Sagamore Hotel built in 1948:

HISTORIC OVERVIEW

The Sagamore and the Ritz Hotel are both located in the Collins Avenue / Ocean Drive Local Historic District and the National Register Historic District in the City of Miami Beach. The Miami Beach Architectural District, a National Register District, was established in 1979 through the efforts of the Miami Design Preservation League. The district is commonly referred to as the Art Deco Historic District. Four of the local Miami Beach Historic Districts (Espanola Way, Ocean Drive / Collins Avenue, Museum, and Flamingo Park) together comprise the National Register District.

"The subject structure (Sagamore) is an excellent example of the evolution of the City's resort architecture from the fashionable Art Deco styles of the pre-World War II era Art Deco to the Modern style(s) following the war (sometimes referred to collectively as the International style)." The Sagamore Hotel was built in 1948 on the northern portion of the former Seiberling estate property. The Sagamore was originally constructed with 113 hotel rooms and one apartment suite according to the City of Miami Beach Building Card.

The original DiLido Hotel building was 8 stories tall and contained 303 hotel rooms plus a Coffee Shop, Dining Room and Cocktail Lounge, one 1-bedroom apartment plus 15 efficiency apartments.

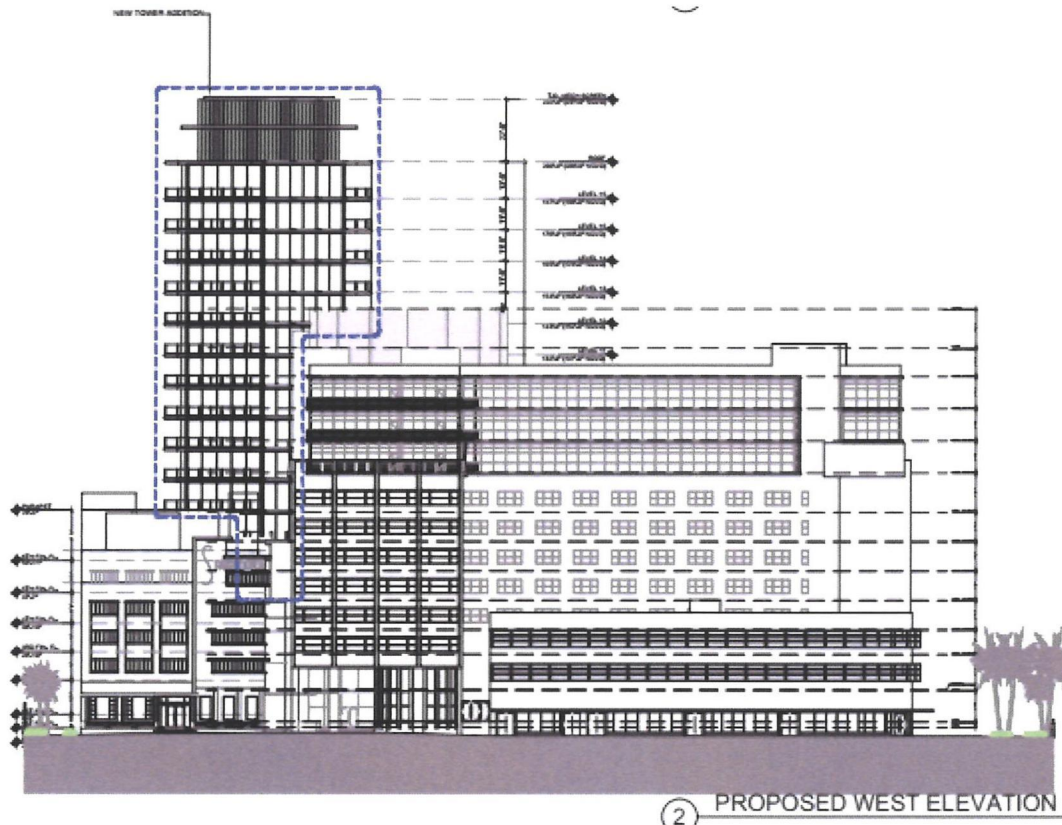
Both Structures are located in the 'Fisher's First Subdivision' as platted by Miami Beach in 1915. This was the first platted subdivision of the lands owned by Carl Fisher.

(Applicant's Plans, at Sheet A0.50). The forgoing explains that the original DiLido Hotel (now Ritz-Carlton Hotel) was eight stories tall. The present day Ritz-Carlton Hotel is eleven stories tall, and the Sagamore Hotel is seven stories tall. In spite of the modest height of these existing contributing historic structures, the Application seeks authorization for a *seventeen-story* tower at this location.

Thus, without the leaving the existing contributing buildings on the so-called "unified site," the proposed tower simply is not appropriate in terms of preserving the historic character of the

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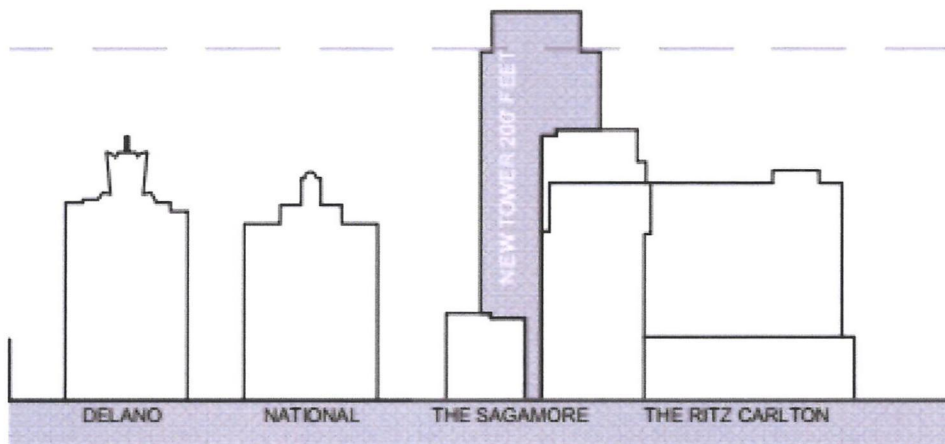
neighborhood and district, nor will it maintain compatibility with surrounding properties. The Applicant's own plans depict the fact that the proposed modern tower has no business in the heart of the Historic and Architectural Districts, due to both its massive height and conflicting architectural style. For example, the Applicant's proposed west elevation rendering illustrates how the proposed tower will dwarf and loom behind the existing Sagamore Hotel, as depicted below:



(Applicant's Plans at Sheet A4.10, depicting the west elevation facing Collins Avenue, with the existing Sagamore Hotel on the left hand side, with proposed tower behind it).

The proposed 200 foot tower will dwarf the contributing existing structures such as the Sagamore at 65 feet tall, the National at 125 feet tall, our Neighboring Hotel at 135 feet tall (inclusive of the decorative tower and signage). The Applicant's plans further confirm that the proposed tower is more than 200 feet high, as the Application also relies on the additional height permitted for mechanical and decorative structures on top of the maximum height, as follows:

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(Applicant's Plans at Sheet A0.06) (with broken line demarcating 200 foot height).

The out-of-character tower also adversely impacts the architectural integrity of the contributing properties off the site. The following views of the proposed north elevation establish the tower's incompatibility with the architectural aesthetic of the area—the very aesthetic that the Historic and Architectural Districts were created to protect:



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(Applicant's Plans at Sheet A0.67) (Depicting proposed modern tower visible behind contributing historic Neighboring Hotel and National Hotel). The modern glass tower clashes with the adjacent contributing structures, as the Applicant's plans establish:



(Applicant's Plans at Sheet A4.05). Patrons of our Neighboring Hotel would experience the following views of the Project's north elevation:



(Applicant's Plans, at Sheet A0.65). The pedestrian experience of the view corridor from the beach fares no better, as the following rendering from the Applicant depicts:

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(Applicant's Plans, Depicting east elevation, at Sheet A0.63).

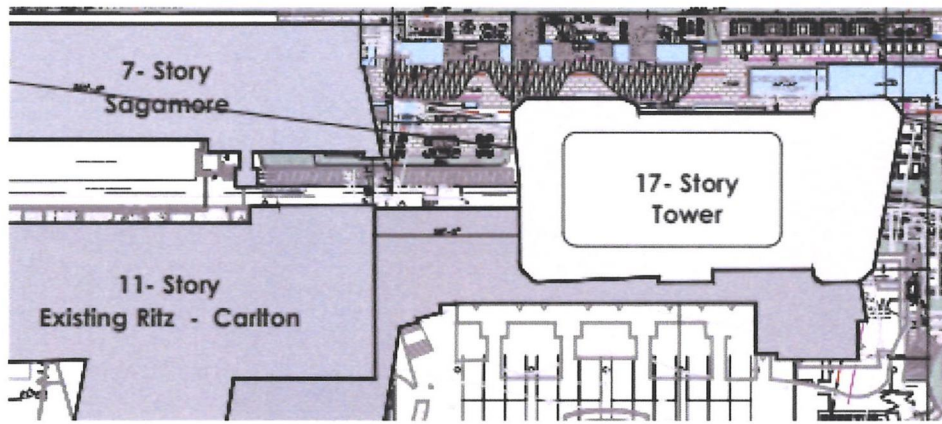
One of the Code-based criteria under which the Historic Preservation Board "shall" review applicant plans requires an evaluation of whether the proposed "structure, and/or additions to an existing structure are appropriate to and compatible with the environment and adjacent structures, and enhance the appearance of the surrounding properties, or the purposes for which the district was created." §118-564(a)(3)(d), Code of Ordinances. Based on the long-established modest degree of massing and height in the Historic and Architectural Districts (not to mention the world renowned Art Deco and International architectural styles in these Districts), we urge you to find that the proposed tower is inappropriate and incompatible with the adjacent contributing structures and surrounding community.

II. Outstanding Zoning Issues.

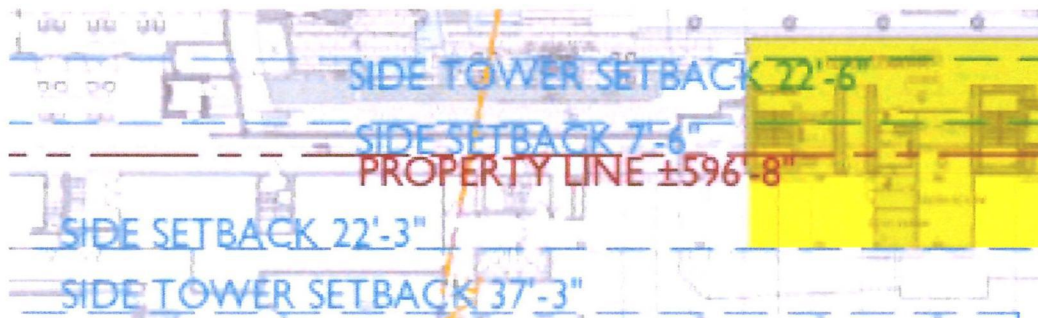
In addition to the factors of mass and scale appropriateness, and architectural compatibility with the nearby built environment, the Board is also required to consider "compliance with the requirements of the underlining zoning district" with regard to "structures, setbacks, parking spaces, floor area ratio, height, lot coverage" when reviewing applications for a Certificate of Appropriateness. §118-564(3)(b), Code of Ordinances. As a consequence, the Board tests compliance with zoning regulations as part of its Certificate of Appropriateness evaluation. With insufficient room to site the tower on either the Ritz-Carlton property or the Sagamore Hotel property, the Applicant creatively proposes to straddle the tower over both parcels and across the property line between the Ritz-Carlton and Sagamore Hotels. The Applicant achieves this by

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misusing and combining the Code's 200-foot height allowance for certain larger properties (§142-246(f)) and the "unified development site" concept. See §118-5, Code of Ordinances. These provisions never contemplated what is being done here: using a larger property that has no room for the tower on its present site but will qualify for the 200-foot height (the Ritz-Carlton property) and transferring or sharing the height with a small parcel (the Sagamore property) that would never qualify for the 200-foot height on its own. This sleight-of-hand is accomplished by claiming that the two properties constitute a "unified site plan." The Applicant misuses this two-step process to purportedly legalize a lot combination that places the proposed tower within what is supposed to be the side setback area of these two lots:



(Project Site Plan, at Sheet A1.50). Property owners cannot build in the setback, of course, and if the two parcels are considered separately (as they legally are), the proposed tower clearly lies within the applicable side setback on both parcels, as illustrated here by yellow highlighting at the location of the proposed tower:



The proposed combination of these properties is nothing like a true assemblage and traditional unified development. To the contrary, the operations of the Ritz-Carlton and the Sagamore Hotels will continue as they do today, with separate brand flags and operations, as the Applicant's own Letter of Intent explains.

In fact, our concern over the Application's departure from the Zoning Code is so great that we have submitted a formal request for Decisions or Determinations of the Planning Director. This request centers on three distinct issues pertaining to the Application's proposed development

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entitlements, and development capacity allocation as between the Ritz-Carlton Hotel parcel and the Sagamore Hotel parcel, and seeks official explication of the Code's provisions as it relates to the Application's reliance upon:

(1) the proposed transfer or sharing of the height entitlement from the Ritz-Carlton lot onto the Sagamore lot under Ordinance 2019-4285 (codified at Section 142-246(f) of the City Code);

(2) the proposed transfer or allocation of proposed Floor Area Ratio ("FAR") square footage from the Ritz-Carlton lot onto the Sagamore lot (and whether the increase in FAR to the Sagamore lot runs afoul of the City Charter); and

(3) the bonus FAR of 20,000 square feet "solely" for new "hotel amenities" under Section 142-246 of the Code.

The Director has not yet issued a Determination on these Zoning Code issues, all of which are fundamental to the viability of the proposed tower at this location.

III. Conclusion.

As a matter of Historic Preservation and compatibility, the looming proposed residential modern condominium tower in excess of 200 feet tall is entirely incompatible with the "post card" skyline of the contributing Hotels lining Miami Beach in the iconic Historic and Architectural Districts. As a matter of zoning, the proposed increase in height and FAR on the Sagamore property by way of transfer from the Ritz-Carlton property is not authorized by the Zoning Code. For all of the foregoing reasons, including the clearly detrimental impact to the Historic and Architectural Districts, and well as serious outstanding zoning questions that go to the very legality of the Project, I urge you to deny or continue the pending Application. My lobbyist registration is duly filed and I invite you to contact me at paul@rascoklock.com or 786-280-7814 to discuss this Project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul C. Savage", with a stylized flourish at the end.

Paul C. Savage, Esq.

cc: Beach Hotel Associates, LLC

Bueno, Lizbeth

From: Tackett, Deborah
Sent: Monday, December 6, 2021 2:58 PM
Cc: Gonzalez, Jessica; Bueno, Lizbeth
Subject: FW: HPB21-0457, 1 Lincoln Road and 1671 Collins Ave. Email 2 of 3
Attachments: 2021.12.03.HBP21.0457.Beach.Hotel.Planning.Director..pdf

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Debbie Tackett, *Historic Preservation & Architecture Officer*
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We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.
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From: Paul Savage <psavage@rascoklock.com>
Sent: Friday, December 3, 2021 5:36 PM
To: Tackett, Deborah <DeborahTackett@miamibeachfl.gov>; Seiberling, James <JamesSeiberling@miamibeachfl.gov>
Subject: HPB21-0457, 1 Lincoln Road and 1671 Collins Ave. Email 2 of 3

[THIS MESSAGE COMES FROM AN EXTERNAL EMAIL - USE CAUTION WHEN REPLYING AND OPENING LINKS OR ATTACHMENTS]

Dear Debbie and James,

I am writing on behalf of Beach Hotel Associates LLC to submit the attached letter addressed to Planning Director Mooney, and to respectfully request that you include this letter in the City's file on this Item, and disseminate to the Board Members with the Board Member materials in connection with the upcoming hearing now set for December 13.

Thank you, in advance, for your help, and please do not hesitate to contact me concerning this Item,

Paul

Cell 786-280-7814

Paul C. Savage, Esq.

RASCO KLOCK PEREZ NIETO

Partner

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*FLORIDA BAR BOARD CERTIFIED IN CITY, COUNTY AND LOCAL GOVERNMENT LAW

December 3, 2021

VIA EMAIL (ThomasMooney@miamibeachfl.gov)

Thomas Mooney, Planning Director
Planning Department
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

RE: Request for Decisions or Determinations of the Planning Director in Connection with the Ritz-Sagamore Application No. HPB21-0457 for Property Located at 1 Lincoln Road and 1671 Collins Ave. (the “Application” or “Project”)

Dear Director Mooney:

I am writing on behalf of Beach Hotel Associates, LLC, the owner of the property located at 1685 Collins Avenue, which is a contributing historic structure in the Ocean Drive/Collins Avenue Historic District and the Miami Beach Architectural District (the “Delano Hotel” or “Neighboring Hotel”).¹ The purpose of this letter is to formally request Decisions or Determinations of the Planning Director on three distinct issues pertaining to the proposed development entitlements, and development capacity allocation as between the Ritz-Carlton lot and the Sagamore lot, as follows:

(1) the proposed transfer or sharing of the height entitlement from the Ritz-Carlton lot onto the Sagamore lot under Ordinance 2019-4285 (codified at Section 142-246(f) of the City Code);

(2) the proposed transfer or allocation of proposed Floor Area Ratio (“FAR”) square footage from the Ritz-Carlton lot onto the Sagamore lot; and

(3) the Application’s reliance upon the bonus FAR of 20,000 square feet “solely” for new “hotel amenities” under Section 142-246 of the Code.

Each of these issues and requests are explained below, in turn.

¹ The use of “Delano Hotel” herein is for ease of reference, and does not signal any affiliation with the DELANO Brand of luxury and lifestyle hotels. The historic “Delano Hotel” signage is maintained by the owner as a contributing feature of the building, as required by the City of Miami Beach Historic Preservation Board. The Delano Hotel is located approximately 115 feet to the north of the Project site.

To: Thomas Mooney, Planning Director
Re: HPB21-0457
Date: December 3, 2021

I. Proposed Condominium Tower Height of 200 Feet Under Ordinance No. 2019-4285.

The Application proposes a new 200-foot tower with its base on the Sagamore lot that will cantilever over the Ritz-Carlton lot. The Application relies upon Ordinance No. 2019-4285 in support of its entitlement of the 200-foot height. *See* Updated Application Letter of Intent at page 7. The Ordinance is codified in Section 142-246, and provides in pertinent part:

(f) Notwithstanding the above, for oceanfront lots located in the architectural district, with an area greater than 115,000 square feet, a ground floor addition, whether attached or detached, may exceed 50 feet in height, but shall not exceed 200 feet in height, in accordance with the following provisions:

(1) Placement of the structure. The ground floor addition shall be located internal to the site, and shall be set back a minimum of 100 feet from the front property line, 75 feet from the street side property lines, and 100 feet from the rear (oceanfront) property line.

§142-246, City of Miami Beach Code of Ordinances (or “City Code”).

The Ritz-Carlton lot is listed as being 163,813 square feet in size by the Applicant’s Zoning Data Sheet, thus bringing the Ritz-Carlton lot potentially under Ordinance No. 2019-4285 (and its 200-foot height limit). The Sagamore lot, however, is listed as being 44,848 square feet in size, which is less than the 115,000 square foot threshold for the additional height permitted by Ordinance No. 2019-4285.

The Code is clear that no “building shall be erected ...” that will “exceed the height limit herein established” §114-4(4), City Code. The applicable height limitation for the Sagamore lot is listed as 50 feet for new ground floor additions, whether attached or detached. §142-246(d), City Code. Section 114-4 does not provide or contemplate exceptions to this requirement.

Finally, while the Code contemplates “unified development sites,” nothing in the Code expressly authorizes the sharing of a height entitlement onto a lot that would not otherwise qualify, thus essentially granting a height variance to the receiving lot (in this case an additional 150 feet beyond the applicable 50 foot limit). *See* §§114-4; 118-5; §142-1164, City Code. It is noted that Ordinance No. 2019-4285 added the new text for those lots in excess of 115,000 square feet in the Architectural and RM-3 District, but changed no text in other sections concerning height regulations or unified development sites. *See Exhibit A* (Resolution No. 2019-4295, as adopted). We respectfully request a Determination or Decision of the Planning Director on the applicability of these provisions and other Code provisions to this Application, and specifically whether the Code authorizes the transfer of a height entitlement from the Ritz-Carlton lot to authorize a 200-foot structure on the Sagamore lot.

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 Re: HPB21-0457
 Date: December 3, 2021

II. Floor Area Ratio Allocations.

The Ritz-Sagamore Zoning Data Sheet also recites that the Sagamore lot has 28,405 square feet of FAR available, as follows:

EXISTING FAR TO REMAIN RITZ AND SAGAMORE BLDG				
RITZ HOTEL			Sagamore	
	FAR AREA			FAR AREA
Basement	8,785 **		Basement	0 **
Ground	66,541		Ground	10,620
2nd Floor	65,856		2nd Floor	11,726
3rd Floor	60,169		3rd Floor	11,726
4th Floor	44,244		4th Floor	11,726
5th Floor	26,639		5th Floor	11,275
6th Floor	24,397		6th Floor	4,218
7th Floor	24,393		Totals	61,291
8th Floor	24,397			
9th Floor	24,327			
10th Floor	24,387			
11th Floor	24,383			
Totals	418,518		Total FAR to remain	479,809
RITZ	LOT AREA	FAR RATIO	MAX FAR	FAR AVAILABLE
PER SURVEY	163,813	3	511,439	92,922 *
SAGAMORE	LOT AREA	FAR RATIO	MAX FAR	FAR AVAILABLE
Lot AREA	44,848	2	89,696	28,405
FAR SUMMARY				
Ritz FAR		Sagamore FAR	Total FAR Available	
92,922 *		28,405	121,327	

* Includes 20,000 SF per Sec. 142-246 (a)(3)

** 1/2 of the basement included in the calculation

Exhibit B (Pull out of the Data Zoning Sheet from latest Application Plans). The Project's FAR worksheet goes on to also reflect that the total square footage of the proposed new residential tower is 121,326 square feet, as follows:

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PROPOSED AREAS - NEW TOWER						
LEVELS	UNITS	COMMON AREA+BOH	AMENITIES	NEW BRIDGE CONNECTION	NEW RESIDENTIAL UNITS	FAR
ROOF		1,380 SQ.FT.				
LEVEL 17	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 16	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 15	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 14	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 13	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 12	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 11	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 10	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 9	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 8	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 7	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 6	6,487 SQ.FT.	1,596 SQ.FT.			4	8,083 SQ.FT.
LEVEL 5	-	1,596 SQ.FT.	8,224 SQ.FT.			9,820 SQ.FT.
LEVEL 4	3,387 SQ.FT.	1,430 SQ.FT.			1	4,817 SQ.FT.
LEVEL 3	3,407 SQ.FT.	1,670 SQ.FT.		378 SQ.FT.	1	5,455 SQ.FT.
LEVEL 2	-	-		378 SQ.FT.		378 SQ.FT.
LEVEL 1	-	3,860 SQ.FT.				3,860 SQ.FT.
	86,674 SQ.FT.	27,052 SQ.FT.	8,224 SQ.FT.	756 SQ.FT.	50	121,326 SQ.FT.

While the Project's exact allocation of FAR upon the Sagamore lot is unclear, the proposed configuration has the tower straddling over the two lots — half on one and half over the other — thus resulting in approximately half of the proposed tower, or approximately 60,000 square feet of the proposed residential tower over the Sagamore lot. As noted earlier, only 28,405 square feet of remaining FAR is authorized for the Sagamore lot, according to the Applicant's Zoning Data Sheet.

The City Charter prohibits increase to a property's FAR without prior submission to the electors. §1.03(c), City Charter. There is an exception for the aggregation of development rights on unified abutting parcels if "permitted by ordinance." *Id.* The Code expressly prohibits buildings not in conformity with the applicable FAR. *See* §114-4(7), City Code. The only exception contemplated is when a unified development site is located "over multiple zoning districts." *Id.* Section 118-5 similarly discusses unified development sites that span across different "districts." §118-5, City Code. In this Project, however, both the Ritz-Carlton and Sagamore lots are within the RM-3 Zoning District, and the subject lots have different FAR. No Code provision expressly authorizes the increase of a receiving parcel's FAR under a unified development site comprised of parcels with different FAR. It is noted that the Zoning Data Sheet for the Raleigh project reflects parcels with the same FAR.

We respectfully request a Determination or Decision of the Planning Director on the applicability of these provisions and other Code provisions to the Application, and whether the

To: Thomas Mooney, Planning Director
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Code truly authorizes the transfer or use of approximately 30,000 square feet above and beyond what is authorized for the Sagamore lot FAR. Specifically, we request a Determination or confirmation of:

(a) whether the City Charter and Code authorizes the transfer of additional FAR from the Ritz-Carlton site to be transferred and used on the Sagamore lot;

(b) whether the City Charter and Code authorizes the Sagamore Site to accommodate and use FAR that it is not presently zoned for; and

(c) how much FAR as described in square feet is proposed to be used by the Project's tower on the Ritz-Carlton lot, and how much FAR as described in square feet is proposed to be used by the Project's tower on the Sagamore lot.

III. Bonus FAR for New Hotel Amenities.

The Applicant's updated Zoning Data Sheet also reflects reliance on 20,000 square feet of additional FAR under Section 142-246(3) of the City Code. *See Exhibit B.* This provision provides: "Notwithstanding the above, lots which, *as of the effective date of this ordinance* (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 square feet with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 square feet." §142-246(3) City Code (emphasis added).

Bonus FAR Authorization. The Code section authorizing the bonus FAR is limited by its text to those lots with 100,000 square feet as of November 14, 1998. The Sagamore site was not and is not 100,000 square feet in size. Moreover, as explained in the prior section, the Code does not expressly authorize the transfer of FAR from one lot to another. Finally, the Application does not reflect where precisely this proposed bonus FAR is going to be used in the Project, although indicates it is going to be used for the new residential tower.

Use Restriction of Bonus FAR. The subject provision authorizes the bonus FAR for the use of "the sole purpose of providing hotel amenities." §142-246(3) City Code. The Zoning Data Sheet reflects that all of the existing FAR is being used for the existing Ritz-Carlton and Sagamore Hotels, respectively, and that all of the proposed available FAR of 121,326 square feet is going into the proposed new Tower:

PROPOSED PROJECT FAR		
RITZ		418,518 SQ.FT.
SAGAMORE		61,291 SQ.FT.
TOWER		121,326 SQ.FT.
GRAND TOTAL		601,135 SQ.FT.

Exhibit B (Application Zoning Data Sheet).

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Re: HPB21-0457
Date: December 3, 2021

If all of the proposed new FAR — including the bonus FAR — is allocated to the proposed residential condominium tower, then this bonus FAR is *not* being used for new hotel amenities as required by the Code. Finally, the firm position of the City on other applications seeking to obtain this hotel amenity bonus FAR is that this provision authorizes the provision of *new* hotel amenities, and not the refurbishment of existing amenities.

We respectfully request a Determination or Decision of the Planning Director on the applicability of this Code provision to the Application, and whether the Code authorizes 20,000 square feet of new hotel amenity bonus FAR, when one of the lots cannot qualify for the bonus, and the Application proposes to use all of the available FAR on the proposed residential tower. More specifically, we request a Determination or confirmation of:

(a) whether the City Code authorizes the new hotel amenity bonus FAR to be used on a lot that was less than 100,000 square feet as of November 14, 1998; and

(b) whether the City Code authorizes use of the new hotel amenity bonus FAR for use in a proposed residential condominium tower; and

(c) how much of the new hotel amenity bonus FAR as described in square feet is proposed to be used by the Project's tower on the Ritz-Carlton lot, and how much new hotel amenity bonus FAR as described in square feet is proposed to be used by the Project's tower on the Sagamore lot.

We thank you in advance for your careful consideration of our concerns with the Application and the requirements of the City Code. My lobbyist registration is duly filed and I invite you to contact me at paul@rascoklock.com or 786-280-7814 to discuss this Project.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul C. Savage', with a stylized flourish at the end.

Paul C. Savage, Esq.

cc. Nick Kallergis, Esq., Assistant City Attorney

To: Thomas Mooney, Planning Director
Re: HPB21-0457
Date: December 3, 2021

EXHIBIT A

Ordinance No. 2019-4285

**Height Increase for Ground Level Additions
on Oceanfront Lots in the Architectural District**

ORDINANCE NO. 2019-4285

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 3, ENTITLED "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION V, ENTITLED "RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY," BY AMENDING SECTION 142-246, ENTITLED "DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," TO INCREASE THE HEIGHT LIMIT FOR GROUND FLOOR ADDITIONS MEETING CERTAIN REQUIREMENTS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, the City's Land Development Regulations ("LDRs") provide for the regulation of land within the City; and

WHEREAS, this Ordinance provides for a height increase for ground floor additions on oceanfront lots in the Architectural District, with a lot area greater than 115,000 square feet, subject to the requirements set forth herein.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 3, "Residential Multifamily Districts," Subdivision V, "RM-3 Residential multifamily, high intensity," is hereby amended as follows:

CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 3. - RESIDENTIAL MULTIFAMILY DISTRICTS

* * *

SUBDIVISION V.- RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY

* * *

Sec. 142-246. - Development regulations and area requirements.

- (a) The development regulations in the RM-3 residential multifamily, high intensity district are as follows:
- (1) Max. FAR: Lot area equal to or less than 45,000 sq. ft.—2.25; lot area greater than 45,000 sq. ft.—2.75; oceanfront lots with lot area greater than 45,000 sq. ft.—3.0.
 - (2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.
 - (3) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 sq. ft.
- (b) The lot area, lot width, unit size and building height requirements for the RM-3 residential multifamily, high intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
7,000	50	New construction—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—400 Hotel units: 15%: 300—335 85%: 335+ For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the	New construction—800 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—550 Hotel units—N/A	150 Oceanfront lots—200 Architectural dist.: New construction—120; ground floor additions (whether attached or detached) to existing structures on oceanfront lots—50 (except as provided in section 142-1161)

		existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons.		
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(c) Notwithstanding the above, for oceanfront lots located within a locally designated historic district or site, but not within the architectural district, with less than 400 feet of lineal frontage along Collins Avenue and containing at least one contributing structure, the maximum building height for ground floor additions to existing structures, whether attached or detached, shall be as follows:

- (1) For existing structures greater than five stories in height, the maximum height shall be limited to ten stories or the height of the roof line of the main structure on site, whichever is less. At the discretion of the historic preservation board, the maximum height of the ground floor addition may exceed ten stories if the existing and surrounding structures are greater than five stories in height, provided the addition is consistent with the scale and massing of the existing structure.
- (2) For existing structures five stories or less in height, the maximum height shall be limited to five stories.

Additionally, the proposed addition shall not substantially reduce existing or established view corridors, nor impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.

(d) Notwithstanding the above, for oceanfront lots located in the architectural district, the overall height of an attached addition may exceed five stories and 50 feet, but shall not exceed the height of the roof line of the structure attached to, provided all of the following conditions are satisfied:

- (1) The proposed addition shall consist of the expansion of existing hotel units only and shall not result in an increased number of units.
- (2) The proposed addition shall be for hotel units only. A restrictive covenant, running with the land, or other similar instrument enforceable against the owner(s), acceptable to and approved as to form by the city attorney, shall be required to ensure that the units remain as hotel units for a minimum of 30 years. If the applicant is unable to provide such a covenant, this requirement may be waived by the city manager if it is demonstrated that the project provides an extraordinary public benefit to the surrounding area.

- (3) The proposed addition shall not be attached to front, street side or oceanfront elevations, nor along any other principal elevations or facades, as determined by the historic preservation board.
- (4) The proposed addition shall not substantially reduce existing or established view corridors, nor impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.
- (e) A ground floor addition relocating existing hotel units shall also meet the following conditions, in addition to subsection (d)(2)—(4) above:
 - (1) There shall be no neighborhood impact establishment, dancehall or entertainment use in the area of the proposed addition;
 - (2) No new outdoor or open air entertainment establishment shall be created on the property. Outdoor or open air entertainment establishments existing as of the effective date of this subsection (November 24, 2012) may continue but shall not be expanded if a property avails itself of this provision.
 - (3) Upon approval of the proposed addition by the historic preservation board, no building greater than two stories or 25 feet in height shall be constructed between the rear of the building and westward line of the dune overlay district. This provision shall not be subject to variance.
 - (4) Notwithstanding the provisions in subsection 142-1161(d), if the building presently contains unoccupied but built spaces enclosed on at least three sides by existing walls of a height that would conceal a new roof, such as false parapets or storage rooms, those spaces may be further enclosed as habitable floor area, up to the permitted floor area; and
 - (5) No new commercial uses shall be permitted on the rooftop or any open air decks of the existing structure or proposed addition.
- (f) Notwithstanding the above, for oceanfront lots located in the architectural district, with a lot area greater than 115,000 square feet, a ground floor addition, whether attached or detached, may exceed 50 feet in height, but shall not exceed 200 feet in height, in accordance with the following provisions:
 - (1) Placement of the structure. The ground floor addition shall be located internal to the site, and shall be set back a minimum of 100 feet from the front property line, 75 feet from the street side property lines, and 100 feet from the rear (oceanfront) property line.
 - (2) Limits on the floorplate of additions exceeding 50 feet in height. The maximum floor plate size for the portion of an addition that exceeds 50 feet in building height is 15,000 square feet per floor, excluding projecting balconies. The historic preservation board may approve an increase in this overall floor plate, up to a maximum of 20,000 square feet per floor, excluding balconies, in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 3. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

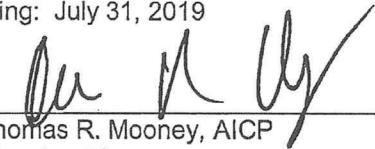
PASSED and ADOPTED this 31 day of July, 2019.

ATTEST:

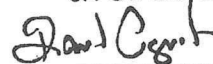

Dan Gelber, Mayor


Aug 13, 2019
Rafael E. Granado, City Clerk

First Reading: July 17, 2019
Second Reading: July 31, 2019

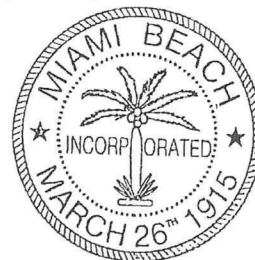
Verified by: 
Thomas R. Mooney, AICP
Planning Director

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 7/21/19
City Attorney Date

NK

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To: Thomas Mooney, Planning Director
Re: HPB21-0457
Date: December 3, 2021

EXHIBIT B

Application Zoning Data Sheet FAR Chart

To: Thomas Mooney, Planning Director
 Re: HPB21-0457
 Date: December 3, 2021

EXISTING FAR TO REMAIN RITZ AND SAGAMORE BLDG				
RITZ HOTEL		Sagamore		
	FAR AREA			FAR AREA
Basement	8,785 **	Basement		0 **
Ground	66,541	Ground		10,620
2nd Floor	65,856	2nd Floor		11,726
3rd Floor	60,169	3rd Floor		11,726
4th Floor	44,244	4th Floor		11,726
5th Floor	26,639	5th Floor		11,275
6th Floor	24,397	6th Floor		4,218
7th Floor	24,393	Totals		61,291
8th Floor	24,397			
9th Floor	24,327			
10th Floor	24,387			
11th Floor	24,383			
Totals	418,518	Total FAR to remain		479,809
RITZ	LOT AREA	FAR RATIO	MAX FAR	FAR AVAILABLE
PER SURVEY	163,813	3	511,439	92,922 *
SAGAMORE	LOT AREA	FAR RATIO	MAX FAR	FAR AVAILABLE
LOT AREA	44,848	2	89696	28,405
FAR SUMMARY				
Ritz FAR		Sagamore FAR	Total FAR Available	
92,922 *		28,405	121,327	

* Includes 20,000 SF per Sec.142-246 (a)(3)

** 1/2 of the basement included in the calculation

PROPOSED AREAS - NEW TOWER						
LEVELS	UNITS	COMMON AREA+BOH	AMENITIES	NEW BRIDGE CONNECTION	NEW RESIDENTIAL UNITS	FAR
ROOF		1,380 SQ.FT.				
LEVEL 17	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 16	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 15	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 14	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 13	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 12	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 11	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 10	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 9	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 8	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 7	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 6	6,487 SQ.FT.	1,596 SQ.FT.			4	8,083 SQ.FT.
LEVEL 5	-	1,596 SQ.FT.	8,224 SQ.FT.			9,820 SQ.FT.
LEVEL 4	3,367 SQ.FT.	1,430 SQ.FT.			1	4,817 SQ.FT.
LEVEL 3	3,407 SQ.FT.	1,670 SQ.FT.		378 SQ.FT.	1	5,455 SQ.FT.
LEVEL 2	-	-		378 SQ.FT.		378 SQ.FT.
LEVEL 1	-	3,860 SQ.FT.				3,860 SQ.FT.
	86,674 SQ.FT.	27,052 SQ.FT.	8,224 SQ.FT.	756 SQ.FT.	50	121,326 SQ.FT.

PROPOSED PROJECT FAR	
RITZ	418,518 SQ.FT.
SAGAMORE	61,291 SQ.FT.
TOWER	121,326 SQ.FT.
GRAND TOTAL	601,135 SQ.FT.