

# MIAMI BEACH

PLANNING DEPARTMENT, 1700 CONVENTION CENTER DRIVE, 2<sup>ND</sup> FLOOR  
MIAMI BEACH, FLORIDA 33139, WWW.MIAMIBEACHFL.GOV  
305-673-7550

## LAND USE BOARD HEARING APPLICATION

THE FOLLOWING APPLICATION IS SUBMITTED FOR REVIEW AND CONSIDERATION OF THE PROJECT DESCRIBED HEREIN BY THE LAND USE BOARD SELECTED BELOW. A SEPARATE APPLICATION MUST BE COMPLETED FOR EACH BOARD REVIEWING THE PROPOSED PROJECT.

- ☐ BOARD OF ADJUSTMENT
- ☐ VARIANCE FROM A PROVISION OF THE LAND DEVELOPMENT REGULATIONS
  - ☐ APPEAL OF AN ADMINISTRATIVE DECISION
- ☐ DESIGN REVIEW BOARD
- ☐ DESIGN REVIEW APPROVAL
  - ☐ VARIANCE RELATED TO PROJECT BEING CONSIDERED OR APPROVED BY DRB.
- ☒ HISTORIC PRESERVATION BOARD
- ☒ CERTIFICATE OF APPROPRIATENESS FOR DESIGN
  - ☐ CERTIFICATE OF APPROPRIATENESS TO DEMOLISH A STRUCTURE
  - ☐ HISTORIC DISTRICT / SITE DESIGNATION
  - ☒ VARIANCE RELATED TO PROJECT BEING CONSIDERED OR APPROVED BY HPB.
- ☐ PLANNING BOARD
- ☐ CONDITIONAL USE PERMIT
  - ☐ LOT SPLIT APPROVAL
  - ☐ AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS OR ZONING MAP
  - ☐ AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP
- ☐ FLOOD PLAIN MANAGEMENT BOARD
- ☐ FLOOD PLAIN WAIVER
- ☐ OTHER \_\_\_\_\_

SUBJECT PROPERTY ADDRESS: 3301 Indian Creek Drive

LEGAL DESCRIPTION: PLEASE ATTACH LEGAL DESCRIPTION AS "EXHIBIT A"

FOLIO NUMBER (S) 02-3226-001-1430

1. APPLICANT: ☒ OWNER OF THE SUBJECT PROPERTY   ☐ TENANT   ☐ ARCHITECT   ☐ LANDSCAPE ARCHITECT  
☐ ENGINEER   ☐ CONTRACTOR   ☐ OTHER \_\_\_\_\_

NAME 3420 Collins Avenue, LLC  
ADDRESS 3201 Collins Avenue, Miami Beach, FL 33140  
BUSINESS PHONE 305-535-3009 CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS sjalife@faenagroup.com

OWNER IF DIFFERENT THAN APPLICANT:

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
BUSINESS PHONE \_\_\_\_\_ CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS \_\_\_\_\_

2. AUTHORIZED REPRESENTATIVE(S):

☒ ATTORNEY:

NAME Neisen Kasdin, Akerman LLP  
ADDRESS 98 SE 7 Street, Suite 1100, Miami, FL 33131  
BUSINESS PHONE 305-374-5600 CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS neisen.kasdin@akerman.com

☐ AGENT:

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
BUSINESS PHONE \_\_\_\_\_ CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS \_\_\_\_\_

☒ CONTACT:

NAME use attorney as contact  
ADDRESS \_\_\_\_\_  
BUSINESS PHONE \_\_\_\_\_ CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS \_\_\_\_\_

3. PARTY RESPONSIBLE FOR PROJECT DESIGN:

☐ ARCHITECT   ☐ LANDSCAPE ARCHITECT   ☐ ENGINEER   ☐ CONTRACTOR   ☒ OTHER: designer

NAME Studio Job  
ADDRESS \_\_\_\_\_  
BUSINESS PHONE \_\_\_\_\_ CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS \_\_\_\_\_

FILE NO. \_\_\_\_\_

#### 4. SUMMARY OF APPLICATION – PROVIDE BRIEF SCOPE OF PROJECT:

See letter of intent for full description. Installation of sculpture at the Faena Forum property.

- 4A. IS THERE AN EXISTING BUILDING(S) ON THE SITE ☒ YES ☐ NO
- 4B. DOES THE PROJECT INCLUDE INTERIOR OR EXTERIOR DEMOLITION ☐ YES ☒ NO
- 4C. PROVIDE THE TOTAL FLOOR AREA OF THE NEW BUILDING (IF APPLICABLE) n/a SQ. FT.
- 4D. PROVIDE THE TOTAL GROSS FLOOR AREA OF THE NEW BUILDING (INCLUDING REQUIRED PARKING AND ALL USEABLE FLOOR SPACE). n/a SQ. FT.

#### 5. APPLICATION FEE (TO BE COMPLETED BY PLANNING STAFF) \$ \_\_\_\_\_

- A SEPARATE DISCLOSURE OF INTEREST FORM MUST BE SUBMITTED WITH THIS APPLICATION IF THE APPLICANT OR OWNER IS A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR TRUSTEE.
- ALL APPLICABLE AFFIDAVITS MUST BE COMPLETED AND THE PROPERTY OWNER MUST COMPLETE AND SIGN THE "POWER OF ATTORNEY" PORTION OF THE AFFIDAVIT IF THEY WILL NOT BE PRESENT AT THE HEARING, OR IF OTHER PERSONS ARE SPEAKING ON THEIR BEHALF.
- TO REQUEST THIS MATERIAL IN ALTERNATE FORMAT, SIGN LANGUAGE INTERPRETER (FIVE-DAY NOTICE IS REQUIRED), INFORMATION ON ACCESS FOR PERSONS WITH DISABILITIES, AND ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDINGS, CALL 305.604.2489 AND SELECT (1) FOR ENGLISH OR (2) FOR SPANISH, THEN OPTION 6; TTY USERS MAY CALL VIA 711 (FLORIDA RELAY SERVICE).

#### PLEASE READ THE FOLLOWING AND ACKNOWLEDGE BELOW:

- APPLICATIONS FOR ANY BOARD HEARING(S) WILL NOT BE ACCEPTED WITHOUT PAYMENT OF THE REQUIRED FEE. ALL CHECKS ARE TO BE MADE PAYABLE TO THE "CITY OF MIAMI BEACH".
- PUBLIC RECORDS NOTICE – ALL DOCUMENTATION, SUBMITTED FOR THIS APPLICATION IS CONSIDERED A PUBLIC RECORD SUBJECT TO CHAPTER 119 OF THE FLORIDA STATUTES AND SHALL BE DISCLOSED UPON REQUEST.
- IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 2-482 OF THE CODE OF THE CITY OF MIAMI BEACH, ANY INDIVIDUAL OR GROUP THAT WILL BE COMPENSATED TO SPEAK OR REFRAIN FROM SPEAKING IN FAVOR OR AGAINST A PROJECT BEING PRESENTED BEFORE ANY OF THE CITY'S LAND USE BOARDS, SHALL FULLY DISCLOSE, PRIOR TO THE PUBLIC HEARING, THAT THEY HAVE BEEN, OR WILL BE COMPENSATED. SUCH PARTIES INCLUDE: ARCHITECTS, LANDSCAPE ARCHITECTS, ENGINEERS, CONTRACTORS, OR OTHER PERSONS RESPONSIBLE FOR PROJECT DESIGN, AS WELL AS AUTHORIZED REPRESENTATIVES ATTORNEYS OR AGENTS AND CONTACT PERSONS WHO ARE REPRESENTING OR APPEARING ON BEHALF OF A THIRD PARTY; SUCH INDIVIDUALS MUST REGISTER WITH THE CITY CLERK PRIOR TO THE HEARING.

FILE NO. \_\_\_\_\_

- IN ACCORDANCE WITH SEC.118-31. - DISCLOSURE REQUIREMENT. EACH PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION FROM THE PLANNING BOARD, DESIGN REVIEW BOARD, HISTORIC PRESERVATION BOARD (INCLUDING THE JOINT DESIGN REVIEW BOARD/HISTORIC PRESERVATION BOARD), OR THE BOARD OF ADJUSTMENT SHALL DISCLOSE, AT THE COMMENCEMENT (OR CONTINUANCE) OF THE PUBLIC HEARING(S), ANY CONSIDERATION PROVIDED OR COMMITTED, DIRECTLY OR ON ITS BEHALF, FOR AN AGREEMENT TO SUPPORT OR WITHHOLD OBJECTION TO THE REQUESTED APPROVAL, RELIEF OR ACTION, EXCLUDING FROM THIS REQUIREMENT CONSIDERATION FOR LEGAL OR DESIGN PROFESSIONAL SERVICES RENDERED OR TO BE RENDERED. THE DISCLOSURE SHALL: (i) BE IN WRITING, (ii) INDICATE TO WHOM THE CONSIDERATION HAS BEEN PROVIDED OR COMMITTED, (iii) GENERALLY DESCRIBE THE NATURE OF THE CONSIDERATION, AND (iv) BE READ INTO THE RECORD BY THE REQUESTING PERSON OR ENTITY PRIOR TO SUBMISSION TO THE SECRETARY/CLERK OF THE RESPECTIVE BOARD. UPON DETERMINATION BY THE APPLICABLE BOARD THAT THE FOREGOING DISCLOSURE REQUIREMENT WAS NOT TIMELY SATISFIED BY THE PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION AS PROVIDED ABOVE, THEN (i) THE APPLICATION OR ORDER, AS APPLICABLE, SHALL IMMEDIATELY BE DEEMED NULL AND VOID WITHOUT FURTHER FORCE OR EFFECT, AND (ii) NO APPLICATION FROM SAID PERSON OR ENTITY FOR THE SUBJECT PROPERTY SHALL BE REVIEWED OR CONSIDERED BY THE APPLICABLE BOARD(S) UNTIL EXPIRATION OF A PERIOD OF ONE YEAR AFTER THE NULLIFICATION OF THE APPLICATION OR ORDER. IT SHALL BE UNLAWFUL TO EMPLOY ANY DEVICE, SCHEME OR ARTIFICE TO CIRCUMVENT THE DISCLOSURE REQUIREMENTS OF THIS SECTION AND SUCH CIRCUMVENTION SHALL BE DEEMED A VIOLATION OF THE DISCLOSURE REQUIREMENTS OF THIS SECTION.
- WHEN THE APPLICABLE BOARD REACHES A DECISION A FINAL ORDER WILL BE ISSUED STATING THE BOARD'S DECISION AND ANY CONDITIONS IMPOSED THEREIN. THE FINAL ORDER WILL BE RECORDED WITH THE MIAMI-DADE CLERK OF COURTS. THE ORIGINAL BOARD ORDER SHALL REMAIN ON FILE WITH THE CITY OF MIAMI BEACH PLANNING DEPARTMENT. UNDER NO CIRCUMSTANCES WILL A BUILDING PERMIT BE ISSUED BY THE CITY OF MIAMI BEACH WITHOUT A COPY OF THE RECORDED FINAL ORDER BEING INCLUDED AND MADE A PART OF THE PLANS SUBMITTED FOR A BUILDING PERMIT.

THE AFOREMENTIONED IS ACKNOWLEDGED BY: ☒ OWNER OF THE SUBJECT PROPERTY

☐ AUTHORIZED REPRESENTATIVE

SIGNATURE: \_\_\_\_\_

PRINT NAME: Sergio Jalife

FILE NO. \_\_\_\_\_



OWNER AFFIDAVIT FOR INDIVIDUAL OWNER

STATE OF \_\_\_\_\_  
 COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for removing this notice after the date of the hearing.

\_\_\_\_\_  
 SIGNATURE

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The foregoing instrument was acknowledged before me by \_\_\_\_\_, who has produced \_\_\_\_\_ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

\_\_\_\_\_  
 NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_  
 PRINT NAME

ALTERNATE OWNER AFFIDAVIT FOR  
CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY  
 (Circle one)

STATE OF \_\_\_\_\_  
 COUNTY OF \_\_\_\_\_

I, Sergio Jalife, being duly sworn, depose and certify as follows: (1) I am the Manager (print title) of 3420 Collins Avenue, LLC (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner or tenant of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (7) I am responsible for removing this notice after the date of the hearing.

\_\_\_\_\_  
 SIGNATURE

Sworn to and subscribed before me this 22 day of November, 2016. The foregoing instrument was acknowledged before me by Sergio Jalife, manager of 3420 Collins Ave. LLC, on behalf of such entity, who has produced \_\_\_\_\_ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP:



My Commission Expires:

11.6.18

\_\_\_\_\_  
 NOTARY PUBLIC

Mayelin Moreno  
 PRINT NAME

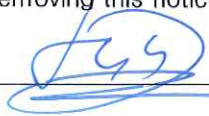
FILE NO. \_\_\_\_\_

POWER OF ATTORNEY AFFIDAVITSTATE OF  
COUNTY OF

I, Sergio Jalife, being duly sworn and deposed, certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application. (2) I hereby authorize Neisen Kasdin to be my representative before the Hist. Preserv. Board. (3) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (4) I am responsible for removing this notice after the date of the hearing.

Sergio Jalife, Manager of 3420 Collins Avenue, LLC

PRINT NAME (and Title, if applicable)


 \_\_\_\_\_  
SIGNATURE

Sworn to and subscribed before me this 22<sup>nd</sup> day of November, 2016. The foregoing instrument was acknowledged before me by Sergio Jalife, Manager of 3420 Collins Avenue who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP



My Commission Expires

11.6.18

 \_\_\_\_\_  
NOTARY PUBLIC

Mayelin Moreno  
PRINT NAME
CONTRACT FOR PURCHASE

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries, or partners. If any of the contract purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.\*

NAME

DATE OF CONTRACT

NAME, ADDRESS, AND OFFICE

% OF STOCK

 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is filed, but prior to the date of a final public hearing, the applicant shall file a supplemental disclosure of interest.

FILE NO. \_\_\_\_\_

CITY OF MIAMI BEACH  
DEVELOPMENT REVIEW BOARD APPLICATION

DISCLOSURE OF INTEREST

**1. CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY**

If the property that is the subject of the application is owned or leased by a corporation, partnership, or limited liability company, list ALL of the owners, shareholders, partners, managers, and/or members, and the percentage of ownership held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.\*

3420 Collins Avenue, LLC

NAME OF CORPORATE ENTITY

NAME AND ADDRESS

% OF OWNERSHIP

Leonard Blavatnik 730 5th Ave, New York, NY 10019

100%

NAME OF CORPORATE ENTITY

NAME AND ADDRESS

% OF OWNERSHIP

*IF THERE ARE ADDITIONAL CORPORATE OWNERS, LIST ALL SUCH OWNERS, INCLUDING CORPORATE NAMES AND THE NAME, ADDRESS, AND PERCENTAGE OF OWNERSHIP OF EACH ADDITIONAL OWNER, ON A SEPARATE PAGE.*

*NOTE: Notarized signature required on page 9*

FILE NO. \_\_\_\_\_

CITY OF MIAMI BEACH  
DEVELOPMENT REVIEW BOARD APPLICATION  
DISCLOSURE OF INTEREST

**2. TRUSTEE**

If the property that is the subject of this application is owned or leased by a trust, list any and all trustees and beneficiaries of the trust, and the percentage of interest held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.\*

TRUST NAME

NAME AND ADDRESS

% INTEREST


*NOTE: Notarized signature required on page 9*

FILE NO. \_\_\_\_\_



**3. COMPENSATED LOBBYIST:**

Pursuant to Section 2-482 of the Miami Beach City Code, all lobbyists shall, before engaging in any lobbying activities, register with the City Clerk. Please list below any and all persons or entities retained by the applicant to lobby City staff or any of the City's land development boards in support of this application.

	NAME	ADDRESS	PHONE #
a.	Neisen Kasdin	98 SE 7 Street, Suite 1100, Miami, FL 33131	305-374-5600
b.			
c.			

Additional names can be placed on a separate page attached to this form.

\*Disclosure shall not be required of any entity, the equity interests in which are regularly traded on an established securities market in the United States or other country, or of any entity, the ownership interests of which are held in a limited partnership or other entity, consisting of more than 5,000 separate interests, where no one person or entity holds more than a total of 5% of the ownership interests in the entity.

APPLICANT HEREBY ACKNOWLEDGES AND AGREES THAT (1) ANY APPROVAL GRANTED BY A LAND DEVELOPMENT BOARD OF THE CITY SHALL BE SUBJECT TO ANY AND ALL CONDITIONS IMPOSED BY SUCH BOARD AND BY ANY OTHER BOARD HAVING JURISDICTION, AND (2) APPLICANT'S PROJECT SHALL COMPLY WITH THE CODE OF THE CITY OF MIAMI BEACH AND ALL OTHER APPLICABLE CITY, STATE, AND FEDERAL LAWS.

**APPLICANT AFFIDAVIT**

STATE OF  
COUNTY OF

I, Sergio Jalife, being first duly sworn, depose and certify as follows: (1) I am the applicant, or the representative of the applicant. (2) This application and all information submitted in support of this application, including disclosures, sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief.

[Signature]  
SIGNATURE

Sworn to and subscribed before me this 27th day of November, 2016. The foregoing instrument was acknowledged before me by, who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP



My Commission Expires:

11.6.18

[Signature]  
NOTARY PUBLIC  
Mayelin Moreno  
PRINT NAME

FILE NO. \_\_\_\_\_

## Legal Description

### 3301 Indian Creek Drive

#### PARCEL 3:

ALL OF BLOCK 20 AND ALL THAT LAND LYING WEST OF INDIAN CREEK DRIVE AND BETWEEN THE NORTH LINE OF LOT 10 IN BLOCK 20 AND THE SOUTH LINE OF LOT 10 IN BLOCK 20 BOTH PRODUCED WESTERLY TO THE WATERS OF INDIAN CREEK, ALL OF THE AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, ACCORDING TO THE AMENDED PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, AND PAGES 7 AND 8 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

#### PARCEL 3 ALSO DESCRIBED AS FOLLOWS:

A PARCEL OF LAND BEING PORTION OF SECTION 26, TOWNSHIP 53 SOUTH, RANGE 42 EAST, LYING WITHIN THE CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINS AT THE SOUTHEAST CORNER OF LOT 9, BLOCK 20 OF THE AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGES 7 AND 8 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

THENCE N 07° 35' 14" E, ALONG THE EAST LINE OF LOTS 9, 8 AND 7 OF SAID BLOCK 20 AND THE WEST RIGHT-OF-WAY LINE OF STATE ROAD A1A (COLLINS AVENUE), A DISTANCE OF 131.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 7, BLOCK 20; THENCE N 82° 28' 02" W, ALONG THE NORTH LINE OF LOTS 7 AND 10, OF SAID BLOCK 20, AND THE SOUTH RIGHT-OF-WAY LINE OF 34<sup>TH</sup> STREET, A DISTANCE OF 200.48 FEET TO THE NORTHWEST CORNER OF SAID LOT 10, SAID POINT BEING REFERENCE POINT "A";

THENCE S 07° 25' 37" W, ALONG THE WEST LINE OF SAID LOT 10, AND THE EAST RIGHT-OF-WAY LINE OF INDIAN CREEK DRIVE, A DISTANCE OF 87.01 FEET TO THE SOUTHWEST CORNER OF SAID LOT 10;

THENCE S 70° 04' 28" E, ALONG THE SOUTH LINE OF SAID LOTS 10 AND 9, AND THE NORTH RIGHT-OF-WAY LINE OF 33<sup>RD</sup> STREET, A DISTANCE OF 204.97 FEET TO THE POINT OF BEGINNING;

#### TOGETHER WITH:

COMMENCE AT THE AFOREMENTIONED REFERENCE POINT "A"; THENCE N 82° 28' 02" W, ALONG THE WESTERN PROJECTION OF THE NORTH LINE OF SAID LOT 10 A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 82° 28' 02" W, A DISTANCE OF 7.94 FEET; THENCE S 11° 30' 22" W, A DISTANCE OF 73.30 FEET; THENCE S 70° 04' 28" E, ALONG THE WESTERN PROJECTION OF THE SOUTH LINE OF SAID LOT 10, A DISTANCE OF 13.47 FEET; THENCE N 07° 25' 37" E, ALONG THE WEST RIGHT-OF-WAY LINE OF SAID INDIAN CREEK DRIVE, A DISTANCE OF 76.02 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE WITHIN THE CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.



Akerman LLP  
Three Brickell City Centre  
98 Southeast Seventh Street  
Suite 1100  
Miami, FL 33131  
Tel: 305.374.5600  
Fax: 305.374.5095

December 27, 2016

**VIA HAND DELIVERY**

Chair and Members of the Historic Preservation Board  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, FL 33139

**RE: Faena Forum – "Tree of Life" sculpture**

Our firm represents 3420 Collins Avenue, LLC ("Owner") who is the owner of the Faena Forum located at 3301 Indian Creek Drive (the "Property"). The Forum is a cultural center and place of assembly as that term is defined in the Faena District Overlay.

The Owner is requesting after-the-fact permission to install a sculpture at the northeast corner of the Property. The sculpture requires a certificate of appropriateness ("COA") and a variance from the setback regulations.

The sculpture was created by Studio Job and is called the "Tree of Life." Studio Job was founded in 2000 by Job Smeets and Nynke Tynagel, both graduates of the venerated Design Academy Eindhoven. Their collaboration has created highly expressive, mainly one-off or limited-edition works, redefining the applied arts for the contemporary age. Studio Job's work is widely exhibited in New York, Tokyo, Los Angeles, Paris, London, Milan, Miami, Shanghai, Abu Dhabi and Basel, and their designs are in the collections of more than 40 museums worldwide.

Over the past four years, the Antwerp-based design collective has collaborated with Faena on custom symbology that appears on pavement, fences, wallpaper, sculptures, printed material, and banners throughout Faena District Miami Beach. Their commissions also include four gates around the District perimeter, which are constructed from steel and weaved chain link, and feature symbols of imagination, life, passion, and transformation—ideas central to the Faena Universe. The Faena Tree of Life is rooted in a depiction of Alan Faena's own South-American rose garden.

The sculpture sits on a concrete foundation that is 8'-6" square and 3'-6" deep. The sculpture is 21'-0" tall measured from grade (4'-2"). The opening under the Forum is only 15'-11" from grade at its tallest, therefore the sculpture could not be placed underneath the opening of the Forum. The sculpture is mounted on a steel pipe that is anchored into the concrete foundation and sticks up about 4' out of the foundation. The sculpture is hurricane resistant. All elements of the sculpture are made out of stainless steel. The sculpture will be lighted at night with the same landscaping up-lights that are used throughout the Property to light the landscaping. Lighting specifications have been provided with the HPB application.

The foundation is setback 6.3' from the property line along Collins Avenue and it is setback 13'-3.5" from the property line along 34<sup>th</sup> Street. The Collins side is considered the front yard with

a required setback of 20' and the 34<sup>th</sup> Street side is considered a side yard with a required setback of 10'-6". Therefore, a variance to waive 13.7' of the required front setback is requested.

Section 118-353(d) of the City's Zoning Code establishes seven (7) criteria by which requests for variances are evaluated by the Historic Preservation Board. These criteria are listed below in bold and underline text, with our response following each criteria in plain text.

The City Charter, Subpart B, Article I, Sec. 2 also says, "*Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of said Zoning Ordinance, the Board of Adjustment shall have the power in passing upon appeals, to vary or modify any regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done.*" We believe our responses below will show that there are practical difficulties and unnecessary hardships associated with our request for a variance.

1. **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.**

The Forum property has a subterranean parking garage that is built up to the front setback line and crosses underneath 34<sup>th</sup> Street connecting to the Faena-owned property on the north side of 34<sup>th</sup> Street (the Bazaar). There is only 6" of depth between grade and the top of the transfer slab of the subterranean parking garage. Therefore, it is physically impossible to put the 3'-6" deep foundation for the sculpture within the required front setback because of the location of the subterranean parking garage.

Additionally, as per the structural engineer, the roof slab of the parking garage has a large amount of reinforcement that would have been comprised by the anchorage of the sculpture to the roof of the parking garage.

Also, the Forum property is unique in that it is bounded on all four sides by streets and it narrows from east to west, creating a uniquely shaped property. In order for the sculpture to be placed within the required setbacks the building envelope of the Forum and the size of the underground parking garage would have had to have been reduced to make room for the sculpture foundation.

2. **The special conditions and circumstances do not result from the action of the applicant.**

The Owner did not create the odd shape of the Property, which has two frontages and two side street yards and side lots lines that are not parallel to each other.

3. **Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district.**

The Property is situated within the Faena Overlay District, a collection of several properties owned and operated by the Owner and its related entities. The sculpture will serve as a visual symbol for the Faena District and the arts oriented mission of Faena Arts, Inc., the operator of the Forum. There isn't a similarly situated property in the RM-2 zoning district.

4. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant.

Although defined as a structure, the sculpture is not a structure in the traditional sense. To require the sculpture to meet the required setbacks, which are geared towards buildings, would be an undue hardship on the Owner given the constraints of the site due to its unique shape and configuration. The only way to accommodate the foundation of the sculpture within the required setbacks would have been to alter the design of the Forum building and underground parking garage significantly. The Forum is a uniquely designed building, unlike any building in the City, and the parking garage provides much needed parking for an area of the City deprived of off-street parking.

5. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

The sculpture is placed far enough away from the intersection of Collins and 34<sup>th</sup> Street so as to not interfere with the sight triangle at the intersection.

6. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Allowing the sculpture to be placed in its proposed location will be in harmony with the Faena Overlay District and the sculpture is not detrimental to the public welfare.

7. 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 variance is consistent with the comprehensive plan and does not reduce the level of service for any public facility.

We submit that the sculpture is an interesting and suitable element for the Forum and will help convey the theme of the Faena District in an artistic way that is appropriate given the use of the Forum as a place of assembly and cultural institution. We respectfully request the Historic Preservation Board's favorable review of the request.

Sincerely,



Neisen O. Kasdin



# INVOICE (00036924)

**BILLING CONTACT**

Mathew Barnes  
Akerman LLP  
98 Se 7  
Miami, FL 33131

**MIAMI BEACH**

1700 Convention Center Drive  
Miami Beach, Florida 33139  
305.673.7000

INVOICE NUMBER	INVOICE DATE	INVOICE DUE DATE	INVOICE STATUS	INVOICE DESCRIPTION
00036924	11/18/2016	11/18/2016	Paid In Full	NONE

REFERENCE NUMBER	FEE NAME	TOTAL
HPB16-0078	New Application	\$2,500.00
3301 Indian Creek Dr Miami Beach, FL -331400000		<b>SUB TOTAL</b> \$2,500.00

**TOTAL** **\$2,500.00**

Any refund associated with this invoice will only be issued to the billing contact listed herein.

Please note that the following fees will be invoiced at the time of the final submittal:

1. Variance fee - \$1,000
2. After the fact up charge (Planning Department)-\$5,000
3. Advertisement-\$1,500
4. Board Order Recording- \$100
5. Posting (per site)- \$100
6. Courier (per package)- \$70
7. Mail Label Fee (\$4 per mailing label)-\$792

Total Outstanding Balance = \$8,562



zoning public notification packages | lists of property owners within a specific radius + radius maps + mailing labels  
rdrmiami.com | diana@rdrmiami.com | 305.498.1614

November 22, 2016

City of Miami Beach  
Planning Department  
1700 Convention Center Dr.  
Miami Beach, FL 33139

**Re: Property Owners List within 375 feet of:**

**SUBJECT:** 3301 Indian Creek Drive, Miami Beach, FL 33140

**FOLIO NUMBER:** 02-3226-001-1430

**LEGAL DESCRIPTION:** MIAMI BEACH IMP CO SUB PB 5-8 LOTS 7 TO 10 INC & TR OPP  
SAME FACING IND CR BLK 20

This is to certify that the attached ownership list, map and mailing labels are a complete and accurate representation of the real estate property and property owners within 375 feet radius of the external boundaries of the subject property listed above, including the subject property. This reflects the most current records on the file in Miami-Dade County Property Appraisers' Office.

Sincerely,

Rio Development Resources, LLC

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Diana B. Rio

Total number of property owners without repetition: **198, including 2 international**

*Rio Development Resources, LLC ("RDR") has used its best efforts in collecting the information published in this report and the findings contained in the report are based solely and exclusively on information provided by you and information gathered from public records and that local government. By acceptance of this report, you agree to hold RDR harmless and indemnify RDR from any and all losses, damages, liabilities and expenses which can be claimed against RDR caused by or related to this report.*

## 375' RADIUS MAP



**SUBJECT:** 3301 Indian Creek Drive, Miami Beach, FL 33140

**FOLIO NUMBER:** 02-3226-001-1430

**LEGAL DESCRIPTION:** MIAMI BEACH IMP CO SUB PB 5-8 LOTS 7 TO 10 INC & TR OPP  
SAME FACING IND CR BLK 20

JOSE E DA SILVA V ANDRADE JTRS MARIA  
BERNARDA PEREIRA JTRS JANET DA SILVA  
JTRS  
CALLE LISANDRO ALVARADO QUINTA YALICE  
SANTA MONICA  
CARACAS  
VENEZUELA

NATIONAL REALTY LTD P O BOX F 40170  
FREEPORT GRAND BAHAMA ISLAND  
GRAND BAHAMA ISLAND  
BAHAMAS

3200 COLLINS 10 5 LLC  
6580 INDIAN CREEK DR 603  
MIAMI BEACH, FL 33141

3200 COLLINS AVE UNIT 33 LLC  
2 SKILLMAN ST STE 205  
BROOKLYN, NY 11205

3201 HOTEL LLC  
3201 COLLINS AVE  
MIAMI BEACH, FL 33140

3420 COLLINS AVE LLC  
3201 COLLINS AVE  
MIAMI BEACH, FL 33140

3420 COLLINS AVENUE LLC  
3201 COLLINS AVE  
MIAMI BEACH, FL 33140-4006

3425 COLLINS LLC  
3201 COLLINS AVE  
MIAMI BEACH, FL 33140

3500 HOTEL LLC  
3500 COLLINS AVE  
MIAMI BEACH, FL 33140

449 BCB LLC  
449 STERLING ST  
BROOKLYN, NY 11225

AARON & SHLOMO WEISS TRS & RACHEL  
AUSCH TRS  
1269 56 ST  
BROOKLYN, NY 11219

AARON CYWAIK & W DEBBIE & SAMUEL  
CYWAIK & W VIVIAN & EDALS  
3200 COLLINS AVE UNIT 6-8  
MIAMI BEACH, FL 33140-4030

ABRAHAM ACKERMAN TR  
1453 47 ST  
BROOKLYN, NY 11219

ABRAHAM FLEISCHER & SHIMSHON  
FLEISCHER JTRS  
PO BOX 190521  
BROOKLYN, NY 11219

ABRAHAM GOTTLIEB TRS SRG FAMILY  
TRUST REBECCA BERGER TRS  
1417 56 ST  
BROOKLYN, NY 11219

ABRAHAM GUBITZ TRS  
3411 INDIAN CREEK DR #601  
MIAMI BEACH, FL 33140-4058

ABRAHAM MORDOWITZ & W MARLENE  
141-26 73 AVE  
FLUSHING, NY 11367

ALBERTINA ROCA  
3200 COLLINS AVE STE 7-4  
MIAMI BEACH, FL 33140

ALEXANDER KORCHEVSKY & W HELEN  
3200 COLLINS AVE UNIT 9-8  
MIAMI BEACH, FL 33140-4030

ALICIA A F GONZALEZ DE MENENDEZ ROGER  
FERRER  
3200 COLLINS AVE 12 6  
MIAMI BEACH, FL 33140

ALICIA A F GONZALEZ DE MENENDEZ ROGER  
FERRER  
3200 COLLINS AVE 12-5  
MIAMI BEACH, FL 33140

ALPORTEL CORP  
3200 COLLINS AVE # 9-7  
MIAMI BEACH, FL 33140

ANDREA F MANCA TRS ANDREA F MANCA  
REVOCABLE TRUST ANDREA F MANCA  
3200 COLLINS AVE UNIT 9-6  
MIAMI BEACH, FL 33139

ANDREA MAYARD  
1645 47 ST  
BROOKLYN, NY 11204

ANTONIO R C FIGUEIREDO & W ADELINA  
3200 COLLINS AVE UNIT 7-3  
MIAMI BEACH, FL 33140-4030

ARIE ROSENBAUM & W GENE  
3200 COLLINS AVE UNIT 3-4  
MIAMI BEACH, FL 33140-4028

ARMANDO BAEZ  
3200 COLLINS AVE UNIT 12-8  
MIAMI BEACH, FL 33140-4004

ARMIN KAUFMAN  
1515-51 ST  
BROOKLYN, NY 11219

ARTHUR PREISLER TRS P AND K FAMILY  
TRUST JACOB KLEIN TRS  
1766 48 ST  
BROOKLYN, NY 11204

ASHER J BERLINER & NATHAN BERLINER  
MARTIN & ABRAHAM BERLINER  
1350 EAST 13 ST  
BROOKLYN, NY 11230



ASHER PADEH &W ILONKA  
3355 FLAMINGO DR  
MIAMI BEACH, FL 33140-3920

BARBARA RESSLER  
3005 FLAMINGO DR  
MIAMI BEACH, FL 33140-3918

BARUCH ROSENFELD  
3535 INDIAN CREEK DR #304  
MIAMI BEACH, FL 33140

BEATRICE DIB  
3200 COLLINS AVE #7-7  
MIAMI BEACH, FL 33140-4030

BENNY S AMAR  
1901 51 ST #1B  
BROOKLYN, NY 11204

BERTHA MANDELBAUM JTRS CHAIM  
MANDELBAUM JTRS  
1324 EAST 23 ST  
BROOKLYN, NY 11210

CARLOS DIEGO PEREYRA MARIA MARCELA  
PEREYRA  
3919 ANDERSON RD  
CORAL GABLES, FL 33134

CARLOS R GARCIA  
3411 INDIAN CREEK #1003  
MIAMI BEACH, FL 33140

CELINA ZYLBERBERG & ESTER BERKO  
614 OAK DR  
WEST LAWRENCE, NY 11691

CENTRAL FLA INVEST INC  
5601 WINDHOVER DR  
ORLANDO, FL 32819

CHAIM PARNES MIRIAM PARNES  
1 RAYWOOD DR  
MONROE, NY 10950

CHAIM LIPSCHITZ (TR)  
5116 17 AVE  
BROOKLYN, NY 11204

CHESKEL SCHWIMMER  
211 WALLABOUT ST  
BROOKLYN, NY 11206

CITY OF MIAMI BEACH CITY HALL  
1700 CONVENTION CTR DR  
MIAMI BEACH, FL 33139

CLAUDIA FERRO  
3411 INDIAN CREEK DR APT 902  
MIAMI BEACH, FL 33140-4063

COLLINS 3300 LLC  
3201 COLLINS AVE  
MIAMI BEACH, FL 33140

COOPEAR CORP  
3200 COLLINS AVENUE #1-7  
MIAMI BEACH, FL 33140

DANIEL LANDAU ELI LANDAU SUSAN GENUD  
1137 45 ST  
BROOKLYN, NY 11219

DANIEL S & GARY SIMONSOHN  
3200 COLLINS AVE #8-6  
MIAMI BEACH, FL 33140-4030

DAVID & MOSHE LLC  
1675 56 STREET  
BROOKLYN, NY 11204

DAVID & RONALD MARX  
24 TIMBERLINE DR  
HUNTINGTON, NY 11743

DAVID BRODT &W HALINA  
3200 COLLINS AVE UNIT 3-7  
MIAMI BEACH, FL 33140-4029

DAVID ELLIOTT &W SVETLANA LYAKHOVA  
3411 INDIAN CREEK DR #603  
MIAMI BEACH, FL 33140-4058

DAVID L HENRY & MARIA L GARCIA  
3411 INDIAN CREEK DR 1001  
MIAMI BEACH, FL 33140-4063

DAVID LAURENCE HENRY  
3411 INDIAN CREEK DRIVE #1302  
MIAMI BEACH, FL 33140

DAVID LEMPEL  
3411 INDIAN CREEK DRIVE # 904  
MIAMI BEACH, FL 33140

DAVID POLATSECK BATIA POLATSECK  
3411 INDIAN CREEK DR #303  
MIAMI BEACH, FL 33140

DAVID RUBINSTEIN TRS RL 9 12 TRUST  
MARTIN RUBINSTEIN TRS  
1030 41 STREET  
BROOKLYN, NY 11219

EMILE SCHARF & BATYA LEVY & CREDIT  
SHELTER TRUST  
1628 E 7 ST  
BROOKLYN, NY 11230

ERICA FEIGER  
2109 AVENUE K  
BROOKLYN, NY 11210

ERVIN RUBINSTEIN  
1271-51 ST  
BROOKLYN, NY 11219

ESTEBAN PORCELLI MARIA PORCELLI  
3411 INDIAN CREEK DR 903  
MIAMI BEACH, FL 33140

ESTHER MARIA HERNANDEZ  
8231 NE 12 AVE  
MIAMI, FL 33138-4149

ESTHER RIEDER (TR) & ABRAHAM  
RAPAPORT (TR)  
1677 48 ST  
BROOKLYN, NY 11204

ESTHER SHEINWEXLER  
303 W 66 ST #2FW  
NEW YORK, NY 10023

EUGENIO & VERONIKA WALDMAN  
1148 59 ST #2  
BROOKLYN, NY 11219

FAGIE PAPIER  
1554 40 ST  
BROOKLYN, NY 11218

FRANCISCO T DOMINGUEZ QUINTANA  
AURORA DENIZ MATEO MARIA DEL PINO  
DOMINGUEZ DENIS  
3200 COLLINS AVE 6 2  
MIAMI BEACH, FL 33140

FRANK BORSA JEFFREY M WALLACE  
3411 INDIAN CREEK DR # 1104  
MIAMI BEACH, FL 33140-4050

FULVIO MAZZUCHI & FLAVIA ROBOTTI  
3411 INDIAN CREEK DR #PH-1  
MIAMI BEACH, FL 33140-4075

G 3120 COLLINS LLC  
200 SOUTH BISCAYNE BLVD STE 4700  
MIAMI, FL 33131

G 3120 COLLINS LLC C/O THOMAS V EAGAN  
ESQ  
200 S BISCAYNE BLVD #4700  
MIAMI, FL 33131

GABRIEL GRUNBLATT  
1726 49 STR  
BROOKLYN, NY 11204

GALENO C RIVERA &W GEORGIANNA  
3200 COLLINS AVE #10-2  
MIAMI BEACH, FL 33140-4030

GASTON DUPRE  
3411 INDIAN CREEK DR #1102  
MIAMI BEACH, FL 33140-4063

GERARDO GUERRERO  
3200 COLLINS AVE #10-1  
MIAMI BEACH, FL 33140-4030

GERARDO GUERRERO  
3200 COLLINS AVE #9-3  
MIAMI BEACH, FL 33140-4030

GRACIELA TAGLIABUE  
3200 COLLINS AVE #11-3  
MIAMI BEACH, FL 33140-4031

GRAHAM CHARLES FISH LILIAN CAROL FISH  
960 NE 175 ST  
NORTH MIAMI BEACH, FL 33162

GRUNFELD FAMILY TRUST  
75 WILSON ST #11F  
BROOKLYN, NY 11211

GUMUCIO FAMILY HOLDING LLC  
3411 INDIAN CREEK DRIVE #1301  
MIAMI BEACH, FL 33140

HELEN PERLE LE REM SYLVIA WEST REM  
LAWRENCE H PERLE  
3200 COLLINS AVE 2 1  
MIAMI BEACH, FL 33140

HELMUTH ENRIQUE HAEUSLER  
3411 INDIAN CREEK DR #1203  
MIAMI BEACH, FL 33140

HENRY SPITZER TRS  
24 ROSS ST  
BROOKLYN, NY 11211

HERMAN LEIMZIDER &W MIRIAM LEIMZIDER  
3535 INDIAN CREEK DR # 405  
MIAMI BEACH, FL 33140

HERSHEL SCHWARTZ  
100 HEWES ST  
BROOKLYN, NY 11211

ISAK RICHTMAN &W ANICO  
1555 - 54 ST  
BROOKLYN, NY 11219

JACK HOLDER &W RITA  
3303 FLAMINGO DR  
MIAMI BEACH, FL 33140-3920

JACK ROSENTHAL  
5 GOLAR  
MONSEY, NY 10952

JACOB MENDELSON  
3535 INDIAN CREEK DR # 207  
MIAMI BEACH, FL 33140

JAIME R C FIGUEIREDO &W MARIA A  
3200 COLLINS AVE UNIT 7-2  
MIAMI BEACH, FL 33140-4030

JENO DAVIDOVICS TRS E AND S FAMILY  
TRUST ESTHER DAVIDOVICS TRS  
248 HEWES ST #B1  
BROOKLYN, NY 11211

JENOE KAHAN  
164 LYNCH ST  
BROOKLYN, NY 11216

JERRY HARTSTEIN  
369 GLOUCESTER ST  
ENGLEWOOD, NJ 07631

JESSICA FERNANDA RECHANI  
3200 COLLINS AVE #11-1  
MIAMI BEACH, FL 33140-4031

JESSICA RECHANI DR LUIS RECHANI  
3200 COLLINS AVE #11-2  
MIAMI BEACH, FL 33140

JITTA GOLDBERG  
1427 55 ST  
BROOKLYN, NY 11219

JORGE FERNANDEZ & ET AL C/O HENRY A  
LOPEZ-AGUIAR ESQ ELENA P FERNANDEZ  
2030 SW 123 COURT  
MIAMI, FL 33175

JOSE GONCALVES PITA &W MARIA  
2900 W 12 AVE #15  
HIALEAH, FL 33012

JOSE RODRIGUES FERREIRA % OCEAN BANK  
780 NW 42 AVE  
MIAMI, FL 33126-5540

JOSEFA TOIRAC  
3411 INDIAN CREEK DR #1404  
MIAMI BEACH, FL 33140

JOSEPH ABRAHAMS &W SARA  
3200 COLLINS AVE UNIT 8-4  
MIAMI BEACH, FL 33140-4030

JOSEPH ANGELONE  
PO BOX 1560  
JAMESPORT, NY 11947-1560

JOSEPH GOLDBERGER &W RYVKIE  
GOLDBERGER  
479 BEDFORD AVE  
BROOKLYN, NY 11211

JOSEPH MORDOWITZ &W LOLA  
141-24 73 AVE  
FLUSHING, NY 11367

JOSEPH SCHWARTZ  
209 ROSS ST  
BROOKLYN, NY 11211

JUAN GUILLERMO GOMEZ VALLECILLA  
3411 INDIAN CREEK DR 1103  
MIAMI BEACH, FL 33140

JUAN MIGUEL BRICENO &W BERTHA L  
3411 INDIAN CREEK DR UNIT 1004  
MIAMI BEACH, FL 33140-4063

KAREN E MOODY  
3411 INDIAN CREEK DR APT 1303  
MIAMI BEACH, FL 33140-4064

KARL KIZELNIK LE REM MOSES KIZELNIK  
REM AKIVA KIZELNIK  
1322 45 ST  
BROOKLYN, NY 11219

KATHY MERMELSTEIN & MIRIAM KOVACS  
232 STONEWAY LN  
MERION STATION, PA 19066

KENNETH H BELL  
3411 INDIAN CREEK DR #1304  
MIAMI BEACH, FL 33140-4064

LJUBO SKRBIC  
4012 GARDEN AVE #1  
WEST PALM BEACH, FL 33405

LOUIS LEIMZIDER TRS LEIMZIDER FAMILY  
TRUST SOLOMON LEIMZIDER TRS  
4 EAHAL CT # 202  
MONROE, NY 10950

LUCIA F FREYRE  
3200 COLLINS AVE UNIT 12-1  
MIAMI BEACH, FL 33140-4031

LUCIA FERNANDA HENRY  
3200 COLLINS AVE # 8-1  
MIAMI BEACH, FL 33140

LUIS SUAREZ MADELIN SUAREZ  
3200 COLLINS AVE #7-1  
MIAMI BEACH, FL 33140

LUZER KAUFMAN LEA KAUFMAN  
5310 FOURTEENTH AVE  
BROOKLYN, NY 11219

LYNDA FELDMAN TRS BERNARD  
GOLDGLANC FAM TRUST  
35 WEDGEWOOD LANE  
LAWRENCE, NY 11559

M & S PROPERTY HOLDINGS LP C/O THE  
BERNSTEIN LAW FIRM  
1688 MERIDIAN AVE # 418  
MIAMI BEACH, FL 33139

M J PERLSTEIN &W FANNI  
1532 - 57 ST  
BROOKLYN, NY 11219

MANUEL DE FARIA  
110 NW 34 AVE  
MIAMI, FL 33125-4929

MARIA I GRAJGER  
3200 COLLINS AVE #12-7  
MIAMI BEACH, FL 33140-4031

MARIA OLIVEIRA  
8110 SW 17 ST  
MIAMI, FL 33155

MARY ROSENSTEIN TRS MARY ROSENSTEIN  
REVOCABLE TRUST  
210 174 ST 2219  
SUNNY ISLES BEACH, FL 33160

MAX LAMPERT & ANNA OBSTFELD  
1705 59 ST  
BROOKLYN, NY 11204

MAYER LAUFER &W DORIS  
1402 59 ST  
BRKLYN, NY 11219

MICHAEL OBERLANDER &W PEARL  
OBERLANDER  
166 HEWES ST  
BROOKLYN, NY 11211

MIGUEL ONTIVEROS  
3200 COLLINS AVE UNIT 11-6  
MIAMI BEACH, FL 33140-4031

MOR KOSTELITZ  
1415 58 STREET  
BROOKLYN, NY 11219

MORDCHAI PREISEROWICZ RACHELLE  
PREISEROWICZ  
1784 E 21 ST  
BROOKLYN, NY 11229

MORRIS FORSPAN &W REGINA  
3200 COLLINS AVE UNIT 1-3  
MIAMI BEACH, FL 33140-4028

MORRIS LOWY  
1602 52 ST  
BROOKLYN, NY 11204

MOSES LEIFER &W CONSTANCE  
3411 INDIAN CREEK DR #802  
MIAMI BEACH, FL 33140

MOSES SCHLESINGER FREIDA  
SCHLESINGER  
3411 INDIAN CREEK DR UNIT 701  
MIAMI BEACH, FL 33140

MOSHE EHRENFIELD EDITH EHRENFIELD  
3200 COLLINS AVE #3-1  
MIAMI BEACH, FL 33140

NACHA BOCHNER TRS & BARBARA  
BAUMWOLSPINER TRS  
299 BROADWAY #1700  
NEW YORK, NY 10007

NERST LLC  
3200 COLLINS AVE UNIT 108  
MIAMI BEACH, FL 33140

NUTOVIC FAMILY LP C/O D OSTREICHER  
67 42 180 STREET  
FLUSHING, NY 11365

ORLANDO ESQUIVEL & GISELA LEGG JTRS  
3200 COLLINS AVE #8-8  
MIAMI BEACH, FL 33140-4030

PABLO A GOMES TEIXEIRA VIVIANA F PEREZ  
NJAIN  
3200 COLLINS AVE #11-8  
MIAMI BEACH, FL 33140

PAIS PALMERA LLC  
3411 INDIAN CREEK #1403  
MIAMI BEACH, FL 33140

PAIS PALMERA LLC  
3411 INDIAN CREEK DR #402  
MIAMI BEACH, FL 33140

PAULA LEVIN VELASQUEZ JUANITA SEINO  
1617 VIA TULIPAN  
SAN CLEMENTE, CA 92673

PEARL WEINSTOCK TRS RUTH SAMUEL  
(BEN)  
3535 INDIAN CREEK DR APT 302  
MIAMI BEACH, FL 33140

PESSE LISAUER  
1450 49 ST  
BROOKLYN, NY 11219

PHILIP H GREENBERG TRS MIRIAM  
WEINBERGER TRS  
2060 E 22 ST  
BROOKLYN, NY 11229

PORTUGAL TOWERS LLC  
3200 COLLINS AVE #9-1  
MIAMI BEACH, FL 33140

RACHEL BLUTH TRS MICHAEL BLUTH TRS  
339 LIVINGSTON PLACE  
CEDARHURST, NY 11516

RALPH R ELEFANT FRIEDA M ELEFANT  
SHELDON ELEFANT  
166 WASHINGTON AVE  
STATEN ISLAND, NY 10314

RALPH R ELEFANT JTRS FRIEDA M ELEFANT  
ETALS JTRS SHELDON ELEFANT JTRS  
3200 COLLINS AVE #12-4  
MIAMI BEACH, FL 33140

RENE KITZEN & GUSTAVO BARROSO  
3200 COLLINS AVE #7-6  
MIAMI BEACH, FL 33140-4030

RIKA KNOFF TRS  
1362 51 STREET  
BROOKLYN, NY 11219

RIKA KNOFF  
3535 INDIAN CREEK DR #204  
MIAMI BEACH, FL 33140-4037

RINALDI ROMANO G TR  
9580 BAY HARBOR  
BAY HARBOR, FL 33154

RIUTEL FLA INC  
3101 COLLINS AVE  
MIAMI BEACH, FL 33140

ROBERT J QUINTELA & CARLOS M CARRION  
3411 INDIAN CREEK DR #502  
MIAMI BEACH, FL 33140-4058

ROBERT PRIZONT  
3411 INDIAN CREEK DR #1402  
MIAMI BEACH, FL 33140-4064

ROGER STERN CLARA STERN  
3200 COLLINS AVE #10-8  
MIAMI BEACH, FL 33140

ROUAI HOLDING LLC  
301 ARTHUR GODFREY RD STE 402  
MIAMI BEACH, FL 33140

SALOMON WEISS TRS & ALICE WEISS TRS  
1348 52 ST UNIT 1  
BROOKLYN, NY 11219

SAMUEL BEILUS & HELEN SHIMON  
278 PENN ST  
BROOKLYN, NY 11211

SAMUEL PILICER LIVING TRU MOSHE PILICER  
TR  
1572 58 ST  
BROOKLYN, NY 11219

SANDOR OBERLANDER &W HELEN  
2107 DITMAS AVE  
BROOKLYN, NY 11226

SANDOR PAVEL &W JUDIT L E REM JSP  
RESIDENCE TRUST  
181 RUTLEDGE ST  
BROOKLYN, NY 11211

SARA F GOTTLIEB ANN R LAMET  
4601 N MERIDIAN AVE  
MIAMI BEACH, FL 33140

SARA GROSMAN LE REM JACOB GANZ  
3535 INDIAN CREEK DR #305  
MIAMI BEACH, FL 33140-4037

SARA WEINGARTEN  
1422 58 ST  
BROOKLYN, NY 11219

SARAH EISENBERG TRS SARAH EISENBERG  
TRUST  
3411 INDIAN CREEK DR 403  
MIAMI BEACH, FL 33140

SARAH WEINREB  
260 CENTRAL AVE APT 123  
LAWRENCE, NY 11559-1540

SETH GARLAND MILLER  
3411 INDIAN CREEK DR # 703  
MIAMI BEACH, FL 33140

SHAI BENAMO  
3411 INDIAN CREEK DR #1204  
MIAMI BEACH, FL 33140

SHAI BENAMO LLC  
3411 INDIAN CREEK DR APT 1204  
MIAMI BEACH, FL 33140

SHAVY HIRSCH & JACOB HIRSCH JTRS  
106 ROSS ST #1-R  
BROOKLYN, NY 11211

SIDNEY SCHLESINGER &W HELEN  
5520 15 AVE APT 1H  
BROOKLYN, NY 11219-4314

SLAVA FRENKEL  
3200 COLLINS AVE #1-4  
MIAMI BEACH, FL 33140-4028

SOHAIL & IRAJ DELFANI &W NIDA  
14595 SW 98 CT  
MIAMI, FL 33176

SOL EDELSTEIN TR  
2706 AVE N  
BROOKLYN, NY 11210

SOLOMON MENCHE ROCHELLE MENCHE  
241 VIOLA RD  
MONSEY, NY 10952

SOLOMON POLL LE REM ERNO POLL & LEAH  
RAAB ETAL  
3200 COLLINS AVE #4-2  
MIAMI BEACH, FL 33140-4029



SUSANA M LEVINE  
1345 WEST AVE #604  
MIAMI BEACH, FL 33139

TERRY SUE DIAMOND LE REM TERRY SUE  
DIAMOND REV TRUST  
3301 FLAMINGO DR  
MIAMI BEACH, FL 33140

THE EG SHELTER TRUST % GLUCK  
1647 50 ST  
BROOKLYN, NY 11204

THIAGO L GUERRA  
3411 INDIAN CREEK DR UNIT 1201  
MIAMI BEACH, FL 33140

TICHRI LLC C/O ANDREW FELDMAN ESQ  
1111 KANE CONCOURSE #200  
BAL HARBOR ISLAND, FL 33154

TOBIAS PERLSTEIN &W EVA  
1325-52 ST  
BROOKLYN, NY 11219

TOWER 3315 LLC  
3201 COLLINS AVE  
MIAMI BEACH, FL 33140

TRADEWINDS TAMARIN HOLDINGS LLC C/O  
ADORNO & YOSS LLP  
2525 PONCE DE LEON BLVD FL 4  
MIAMI, FL 33134

TWISTER TRADING INC  
8213 NW 30 TER  
DORAL, FL 33122

TZIVIA KAHAN MALKE SEIDENFELD  
1274 49 ST #151  
BROOKLYN, NY 11219

VICTOR MONEYPENNY  
96 WILLOW WOOD LANE  
STATEN ISLAND, NY 10308

VIEIRA HOUSE CORP  
3200 COLLINS AVE #11-4  
MIAMI BEACH, FL 33140-4031

WIGDOR MENDLOVIC  
543 BEDFORD AVE  
BROOKLYN, NY 11211

WILLIAM R HOLLOWAY JEAN LOUIS DENIOT  
4401 COLLINS AVE 2 1504  
MIAMI BEACH, FL 33140

WILLIAM STAR CORPORATION  
25 SE 2ND AVE #1235  
MIAMI, FL 33131

YOLAN ALTMAN (LE) REM B FOGEL & J  
ALTMAN  
3200 COLLINS AVE UNIT 5-7  
MIAMI BEACH, FL 33140-4029

ZBNTH CORP % RAFAEL RODRIGUEZ  
PO BOX 52-1181  
MIAMI, FL 33152

ZIGMOND BRACH &W JENNIE  
3411 INDIAN CREEK DR UNIT PH8  
MIAMI BEACH, FL 33140-4075

**HISTORIC PRESERVATION BOARD**  
City of Miami Beach, Florida

**CERTIFICATION**

THIS IS TO CERTIFY THAT THE ATTACHED DOCUMENT  
IS A TRUE AND ACCURATE COPY OF THE ORIGINAL ON  
FILE IN THE OFFICE OF THE PLANNING DEPARTMENT.

*[Signature]* **CITY OF MIAMI BEACH** **3-5-2012**  
(Signature of Planning Director or Designee) (Date)

Personally known to me or Produced ID:

*[Signature]*

Notary Public, State of Florida, at-large

Printed Name: **TERESA MARIA**  
My Commission Expires: (Seal)

**TERESA MARIA**

MY COMMISSION # DD 928148

EXPIRES: December 2, 2013

Bonded Thru Budget Notary Services

This document contains 10 pages

MEETING DATE: February 14, 2012

FILE NO: 7299

PROPERTY: 3301 Indian Creek Drive & 3400 - 3420 Collins Avenue

LEGAL: All of Block 20, and Lots 10, 11, 12, and 13, Block 22, Amended Map of the Miami Beach Improvement Company, According to the Plat Thereof, as Recorded in Plat Book 5, Pages 7 & 8, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for a Certificate of Appropriateness for the construction of a new 5-story hotel with an accessory assembly space located on the vacant parcel at 3301 Indian Creek Drive, the partial demolition, renovation and restoration of an existing 3-story hotel, located at 3400 Collins Avenue, along with the construction of a new roof-top addition, and the construction of a new 6-story parking garage with accessory retail and restaurant uses, located on the vacant parcel at 3420 Collins Avenue. Underground parking with mechanical lifts is also proposed spanning all three parcels, including beneath a portion of 34th Street.

**ORDER**

The applicants, Collins 3300, LLC, and 3420 Collins Avenue, LLC, filed an application with the City of Miami Beach Planning Department for a Certificate of Appropriateness.

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:

- A. The subject structure is classified as 'Contributing' (Historic) in the Miami Beach Historic Properties Database and is located within the Collins Waterfront Local Historic and National Register Districts.
- 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 is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code, is not consistent with Certificate of Appropriateness Criteria 'a' & 'd' in Section 118-564(a)(2) of the Miami Beach Code, is not consistent with Certificate of Appropriateness Criteria 'b-d', 'h-i' & 'm' in Section 118-564(a)(3) of the Miami Beach Code, and is consistent with the Certificate of Appropriateness

*[Signature]*

for Demolition Criteria in Section 118-564(f)(4) 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, consistent with the revised plans submitted at the public hearing, shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
  - a. The final design details for the proposed parking garage at the north end of the site, as well as the paving details for the entire site, shall be further developed and detailed in a manner to be approved by staff.
  - b. The final design and details of the proposed subterranean parking shall be provided and shall be modified so as not to impede in anyway the placement of large street trees within the public right-of-way in grade level planters as indicated on the landscape plan provided, subject to the review and approval of staff
  - c. The final design and details of the proposed new hotel structure on the southernmost block shall be provided, including materials and finishes, in a manner to be reviewed and approved by staff.
  - d. Doors for the loading dock fronting 34<sup>th</sup> Street shall be provided, in a manner to be reviewed and approved by staff, and such doors shall remain closed at all times except during the actual loading and unloading of vehicles.
  - e. With the exception of the exterior modifications proposed as part of this application, the exterior of the Atlantic Hotel shall be retained, preserved and restored in a manner consistent with historic documentation, subject to the review and approval of staff.
  - f. With the exception of the interior lobby modifications proposed as part of this application, the lobby of the Atlantic Hotel shall be retained, preserved and restored in a manner consistent with historic documentation, subject to the review and approval of staff.
  - g. Final details of all proposed storefront systems and associated details shall be provided for all of the structures on the project site, in a manner to be reviewed and approved by staff.
  - h. The final design and details of all exterior and interior railings for all buildings shall be provided, in a manner to be reviewed and approved by staff.
  - i. A comprehensive plan and drawings for the shoring and bracing of the exterior walls and lobby area of the historic Atlantic Beach Hotel shall be submitted to Planning staff for review, and submitted to the Building Department for approval and issuances of required building permits prior to the commencement of any demolition of the historic structure.



- j. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
- 2. In accordance with Section 118-395 of the City Code, the applicant may retain all non-conforming setbacks and parking credits.
- 3. 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. A paving scheme may be developed for the entire 34<sup>th</sup> Street right-of-way, subject to the review and approval of the Planning and Public Works Departments.
  - b. Street trees shall be required, and shall include the City standard bound aggregate system with fertilization trench, irrigation, and up-lighting along all street fronts, in a manner to be approved by Staff.
  - c. If for any reason the planting of any street tree is not feasible, then the applicant shall submit a monetary contribution to the City's Tree Program for the number of trees not installed and meeting these requirements, sufficient to cover their cost at market value. The same quantity, species and size tree shall be planted by the Parks and Recreation Department in any available public right-of-way area within the same corridor or as near to the subject property as possible. If trees are placed on a different street, then species may be change to follow the Street Tree Master Plan.
  - d. All exterior walkways and driveways shall consist of decorative pavers, set in sand or other equally semi-pervious material, subject to the review and approval of staff.
  - e. All landscape areas abutting driveways and parking areas shall be defined by decorative bollards.
  - f. 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.
  - g. The utilization of root barriers and/or structural soil, as applicable, shall be clearly delineated on the revised landscape plan.
  - h. The applicant's out lot, located on the west side of Indian Creek Drive, between 32<sup>nd</sup> and 33<sup>rd</sup> Streets, shall be designed in a manner consistent with



the Indian Creek Greenway Concept Plan, in a manner to be reviewed and approved by staff.

- i. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow prevention devices. Backflow prevention devices shall not be permitted within any required yard or any area fronting a street or sidewalk, unless otherwise permitted by the Land Development Regulations. The location of all backflow prevention devices, and how they are screened from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff. The fire department shall require a post-indicator valve (PIV) visible and accessible from the street.
  - j. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all post-indicator valves (PIV), fire department connections (FDC) and all other related devices and fixtures, which shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
  - k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms; such transformers and vault rooms, and all other related devices and fixtures, shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of any exterior transformers, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
  - l. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect for the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.
4. All building signage shall be consistent in type, composed of flush mounted, non-plastic, individual letters and shall require a separate permit. Illuminated signs shall only be permitted facing Collins Avenue, and only non-illuminated signs shall be permitted facing all other streets.
  5. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
  6. A traffic mitigation plan, which addresses all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, if required, shall be submitted prior to the issuance of a Building Permit and the final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
  7. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required, prior to the issuance of a building permit.



8. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, in a manner to be approved by staff.
9. Revised drawings, with corresponding color photographs, that are separate from the construction documents, drawn to scale and clearly documenting the existing conditions of the subject building, shall be submitted. Such drawings and photographs shall include all four elevations and interior floor plans of the building, as well as a site plan.
10. An historic analysis of the existing structure, inclusive of a photographic and written description of the history and evolution of the original building on site, shall be submitted to and approved by staff, prior to the issuance of a Building Permit; such historic analysis shall be displayed prominently within the public area of the structure, in a location to be determined by staff.
11. All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC).
12. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy.
13. The applicant may be required to submit a separate analysis for water and sewer requirements, at the discretion of the Public Works Director, or designee. Based on a preliminary review of the proposed project, the following may be required by the Public Works Department:
  - a. A traffic and neighborhood impact study shall be conducted as a means to measure a proposed development's impact on transportation and neighborhoods. The study shall address all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, and if required, shall be submitted prior to the issuance of a Building Permit. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code. The developer shall refer to the most recent City of Miami Beach's Traffic and Neighborhood Impact Methodology as issued by the Public Works Department.
  - b. Remove/replace sidewalks, curbs and gutters on all street frontages, if applicable. Unless otherwise specified, the standard color for city sidewalks is red, and the standard curb and gutter color is gray.
  - c. Mill/resurface asphalt in rear alley along property, if applicable.
  - d. Provide underground utility service connections and on-site transformer location, if necessary.
  - e. Provide back-flow prevention devices on all water services.



- f. Provide on-site, self-contained storm water drainage for the proposed development.
  - g. Meet water/sewer concurrency requirements including a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.
  - h. Payment of City utility impact fees for water meters/services.
  - i. Provide flood barrier ramps to underground parking or minimum slab elevation to be at highest adjacent crown road elevation plus 8".
  - j. Right-of-way permit must be obtained from Public Works.
  - k. All right-of-way encroachments must be removed.
  - l. All planting/landscaping in the public right-of-way must be approved by the Public Works and Parks Departments.
14. The Applicant agrees to the following operational conditions for any and all permitted hotel and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part, in a covenant to be recorded in the public records, subject to the review and approval of the City Attorney, to comply with the following operational and noise attenuation requirements and/or limitations.
- a. RESTAURANT CONDITIONS
    - i. Any accessory restaurant use shall not operate between midnight and 6:00 A.M. This shall not apply to room service.
  - b. ROOFTOP CONDITIONS
    - i. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced. Owner agrees to include the rules and regulations set forth in these conditions in any contract or assignment.
    - ii. Rooftop facilities, inclusive of the roof deck, shall be for the exclusive use of registered hotel guests and their invitees. No bar counter shall be placed on the roof or on any terraces, private decks or balconies at any time.
    - iii. Any food served on the rooftop or on exterior public areas of the hotel shall be prepared in the hotel kitchen. Food and beverage service to the rooftop shall cease at 8PM, seven (7) days a week and all usage of the roof-top other than staff clean up shall cease by 11PM.





- iv. Rooftop lighting fixtures shall be designed to deflect light from spilling over to adjacent and nearby properties.
- v. All roof-top fixtures, air-conditioning units and mechanical devices shall be screened from view. In addition, Owner agrees to install an exhaust system for the kitchen that will substantially reduce all grease and smoke that would otherwise escape to the surrounding area. Finally, Owner agrees to install the fan in connection with the kitchen exhaust system within the interior of the building in order to reduce noise levels at the exhaust outlet.

c. NOISE CONDITIONS

- i. The Historic Preservation Board (HPB) or the Planning Director shall retain the right to call the owners and/or operators back before the HPB, at the expense of the owners and/or operators, to impose and/or modify the hours of operation, and the placement or use on the property of exterior loudspeakers, fixed or portable, or amend or impose other conditions, should there be a valid violation (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise or other conditions of this approval. An adverse adjudication of a violation against the owner or operator is not necessary for the board to have jurisdiction over the matter under this condition. This condition vests jurisdiction independent of any other condition hereof.
- ii. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended, shall be deemed a violation of this approval and subject the approval to modification in accordance with the procedures for modification of prior approvals as provided for in the Code, and subject the applicant to the review provided for in the first sentence of the above subparagraph.
- iii. No outdoor bar counters shall be permitted on the premises.
- iv. Except as may be required for fire or building code/Life Safety Code purposes, no loudspeakers shall be affixed to or otherwise located on the exterior of the premises.
- v. In addition to rooftop facilities, use of any pool or spa and pool or spa deck, courtyards and open air portions of the public areas of the hotel premises, as well as all terraces, private decks, and balconies associated with hotel units, shall be for the exclusive use of registered hotel guests and their invitees. No bar counter shall be placed on any of these areas at any time.
- vi. The hotel rules and practices shall prohibit registered guests, visitors, invitees and others using the hotel facilities or otherwise on the premises, from operating audio amplification equipment, inclusive of loudspeakers,

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radio receivers, television sets, musical instruments, or other machines or devices for the producing or reproducing of sound, that produces noise that is plainly audible at any apartment unit in the adjacent and nearby properties.

- vii. Notwithstanding the occupancy and seat counts shown on the plans submitted, calculations for required parking and concurrency for the project shall be determined by the Planning Department prior to approval of a building permit. Such parking and traffic calculations shall be based upon both the number of hotel rooms, and, additionally, the intensity of the proposed accessory restaurant as measured by the number of seats in dining areas, and by the square footage of the liquor service areas not included in the areas for which seats are calculated as provided for in this subparagraph.

d. OPERATIONAL CONDITIONS

- i. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
  - ii. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Doors shall remain closed and secured when not in active use.
  - iii. Garbage dumpster covers shall be closed at all times except when in active use and garbage pickups and service deliveries shall not take place between 7PM and 8AM.
  - iv. Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors will be contained within the premises. All kitchens and other venting shall be chased to the roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.
  - v. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
15. A drawn plan and written procedure for the proposed demolition shall be prepared and submitted by a Professional Structural Engineer, registered in the State of Florida, which fully ensures the protection of the public safety, as well as the protection of the existing structure on the subject site and all existing structures adjacent to the subject site during the course of demolition.
16. The Certificate of Appropriateness for Demolition shall only remain in effect for the period of time that there is an active Certificate of Appropriateness for the associated new construction on the subject property.



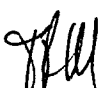
17. At the time of completion of the project, only a **Final** Certificate of Occupancy (CO) or **Final** Certificate of Completion (CC) may be applied for; the staging and scheduling of the construction on site shall take this into account. All work on site must be completed in accordance with the plans approved herein, as well as any modifications approved or required by the Building, Fire, Planning, CIP and Public Works Departments, inclusive of all conditions imposed herein, and by other Development Review Boards, and any modifications required pursuant to field inspections, prior to the issuance of a CO or CC. This shall not prohibit the issuance of a Partial or Temporary CO, or a Partial or Temporary CC.
18. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
19. 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.
20. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
21. 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 by the Board, that the Certificate of Appropriateness is GRANTED for the above-referenced project subject to those certain conditions specified in paragraph C of the Findings of Fact (Condition Nos. 1-21, inclusive) hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Historic Preservation Board, as determined by staff, entitled "Atlantic Hotels", as prepared by OMA Architecture, PC, dated 12-16-11.

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 a Certificate of Appropriateness 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



Page 10 of 10  
HPB File No. 7299  
Meeting Date: February 14, 2012

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 Certificate of Appropriateness was granted, the Certificate of Appropriateness will expire and become null and void. 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 Certificate of Appropriateness will expire and become null and void.

In accordance with Section 118-561 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 Certificate of Appropriateness to Section 118-564, City Code, for revocation or modification of the Certificate of Appropriateness.

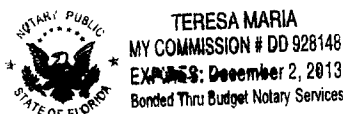
Dated this 21<sup>st</sup> day of February, 2012

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]  
THOMAS R. MOONEY, AICP  
DESIGN AND PRESERVATION MANAGER  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of February, 2012 by Thomas R. Mooney, Design and Preservation Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



[Signature]  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: 12-2-13

Approved As To Form: [Signature]  
Legal Department: (2-17-2012)

Filed with the Clerk of the Historic Preservation Board on \_\_\_\_\_ ( )

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**BEFORE THE  
BOARD OF ADJUSTMENT  
OF THE CITY OF MIAMI BEACH, FLORIDA**

**CFN 2012R0222959**  
DR Bk 28052 Pgs 1096 - 1101; (6pgs)  
RECORDED 03/29/2012 11:46:07  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

IN RE: The application of  
**COLLINS 3300, LLC. AND 3420 COLLINS AVENUE, LLC**  
**3301 INDIAN CREEK DR, 3400 COLLINS AVE, AND**  
**3420 COLLINS AVENUE**  
**MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA**  
(FOR LEGAL DESCRIPTION, PLEASE SEE EXHIBIT A)

**MEETING DATE: MARCH 2, 2012**  
**FILE NO. 3561**

**ORDER**

The applicant, Collins 3300, LLC and 3420 Collins Avenue, LLC, filed an application with the Planning Department for variances in order to develop three parcels of land into a unified project, consisting of a hotel, parking structure and the preservation of the historic Atlantic Hotel, as follows:

**Site 1: 3301 Indian Creek Drive**

1. A variance to waive 25'-0" of the minimum required 45'-0" front yard setback for the tower portion in order to locate the tower at 20'-0" from the west property line, facing Indian Creek.
2. A variance to waive 25'-0" of the minimum required 45'-0" front yard setback for the tower portion in order to locate the tower at 20'-0" from the east property line, facing Collins Avenue.
3. A variance to waive 9½" of the minimum required subterranean parking setback of 5'-9½" in order to build the subterranean parking at 5'-0" from the south property line.
4. A variance to waive all of the minimum required subterranean parking setback of 5'-9½" in order to build the subterranean parking up to the north property line.

**Site 2: 3400 Collins Avenue (Atlantic Hotel)**

5. A variance to waive all of the minimum required subterranean parking setback of 5'-0" in order to build the subterranean parking up to the south property line.
6. A variance to waive all of the minimum required subterranean parking setback of 5'-0" in order to build the subterranean parking up to the north property line.

7. A variance to waive 5'-0" of the minimum required rear pedestal setback of 10'-0" in order to build an addition at 5'-0" from the west property line, following the existing building line.
8. A. A variance to waive 3'-0" of the minimum required interior north side pedestal setback of 8'-0" in order to build an addition at 5'-0", following the existing building line.  
  
B. A variance to waive all of the minimum required interior north side pedestal setback of 8'-0" in order to allow a stairway to cross the interior side property line and to connect to the proposed building on Site 3.
9. A variance to waive 11'-2" of the minimum required sum of the side yards of 16'-0" in order to provide a sum of the side yards of 4'-10".

**Site 3: 3420 Collins Avenue**

10. A variance to waive all of the minimum required subterranean parking setback of 5'-0" in order to build the subterranean parking up to the south property line.
11. A variance to waive all of the minimum required interior south side pedestal setback of 8'-0" in order to allow a stairway to cross the interior side property line and to connect to the building on Site 2.
12. A variance to waive 8'-0" of the minimum required sum of the side yards of 16'-0" in order to provide a sum of the side yards of 8'-0".

Notice of the request for variance was given as required by law and mailed to owners of property within a distance of 375 feet of the exterior limits of the property on which application was made.

THE BOARD FINDS that the property in question is located in the RM-2 Zoning District.

THE BOARD FURTHER FINDS, based upon evidence, testimony, information and documentation presented to the Board, and portions of the staff report and recommendations, as applicable, which are incorporated herein by this reference, that with regard to the requested variance when conditioned as provided for in this Order:

*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.*

IT IS THEREFORE ORDERED, by the Board, that the variances be APPROVED as requested and set forth above; with the following conditions to which the applicant has agreed:

1. The applicant shall comply with all the conditions imposed by the Historic Preservation Board File No. 7299.
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.
3. A landscape plan for the entire site, prepared by a Professional Landscape Architect, inclusive of street trees as per the City of Miami Beach Master Street Tree Plan, shall be submitted to and approved by staff before a building permit is issued for construction.
4. The applicant shall comply with all conditions imposed by the Public Works Department.
5. All improvements in the public right-of-way associated with the subject project shall be subject to the final review and approval of the Planning Department Director, Public Works Director, and the Parks and Recreation Department Director, and shall require an agreement, subject to the review and approval of the City Attorney, providing for the assumption of maintenance and liability obligations by the Applicant, and its successors and assigns, executed and recorded before the issuance of a building permit.
6. The applicant shall obtain a full building permit within eighteen months (18) months from the date of this hearing. If the full building permit is not obtained within the specified time limits, the applicant shall, prior to expiration of such period, apply to the Board for an extension of time. At the hearing on such application, the Board



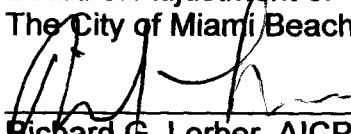
may deny or approve the request and modify the above conditions or impose additional conditions. Failure to comply with this order shall subject the variance to Section 118-356, City Code, for revocation or modification of the variance.

7. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
8. This 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.
9. 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, except to the extent of the variance granted herein.
10. This Order shall be recorded, at the expense of the applicant, in the Public Records of Miami-Dade County; the original or a certified copy shall be provided to the Planning Department prior to the issuance of a Building Permit.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Board of Adjustment, as determined by staff, entitled "Atlantic Hotels", as prepared by Revuelta Architecture International, dated January 10, 2012, modified in accordance with the conditions set forth in this Order and staff review and approval.

The applicant shall have a full building permit for the work contemplated herein issued by the Building Department on or before September 2, 2013 (within eighteen months of the date of this hearing) as per the above conditions. If the full building permit is not obtained within the specified time limits, the applicant shall apply to the Board for an extension of time prior to expiration of such period; otherwise, this Order will expire, and become null and void, unless the issuance of such permit is stayed by an appeal of this Order to a court of competent jurisdiction.

This Order does not constitute a building permit, but upon presentation of a recorded copy of this Order to the Planning Department, a permit shall be processed and approved (subject to compliance with the conditions hereof) in accordance with and pursuant to the ordinances of the City of Miami Beach.

Board of Adjustment of  
The City of Miami Beach, Florida  
By:   
Richard G. Lorber, AICP, LEED AP  
Acting Planning Director  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139

STATE OF FLORIDA           )  
COUNTY OF MIAMI-DADE   )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of MARCH, 2012, by Richard G. Lorber, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



TERESA MARIA  
MY COMMISSION # DD 928148  
EXPIRES: December 2, 2013  
Bonded Thru Budget Notary Services

A handwritten signature of Teresa Maria in cursive script.

Notary:

Print Name: TERESA MARIA

Notary Public, State of Florida

[NOTARIAL SEAL]

My Commission Expires:

Approved As To Form:

Legal Department gfiled 3-8-12

Filed with the Clerk of the Board of Adjustment on 3/20/12 AL

F:\PLAN\5zba\FINALORD\3561 - Order - 3301 Indian Creek Dr, 3400 Collins Av and 3420 Collins Av - 3-12.doc

LEGAL DESCRIPTIONS

Lots 10 and 11, Block 22, of Amended Map of The Miami Beach Improvement Company, According to the Plat thereof, as recorded in Plat Book 5, at Page 7 of the Public Records of Miami Dade County, Florida.

TOGETHER WITH

PARCEL 3: COLLINS PARCEL  
ALL OF BLOCK 20 AND ALL THAT LAND LYING WEST OF INDIAN CREEK DRIVE AND BETWEEN THE NORTH LINE OF LOT 10 IN BLOCK 20 AND THE SOUTH LINE OF BLOCK 20 BOTH PRODUCED WESTERLY TO THE WATERS OF INDIAN CREEK, ALL OF THE AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY'S SUBDIVISION ACCORDING TO THE AMENDED PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGES 7 AND 8 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

PARCEL 3 ALSO DESCRIBED AS FOLLOWS:

A PARCEL OF LAND BEING PORTION OF SECTION 26, TOWNSHIP 53, RANGE 42 SOUTH, LYING WITHIN THE CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINS AT THE SOUTHEAST CORNER OF LOT 9, BLOCK 20 OF THE AMENDED MAP OF THE OCEAN FRONT PROPERTY ON THE MIAMI BEACH IMPROVEMENT COMPANY'S SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGES 7 AND 8 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

THENCE N 07 DEGREES 35' 14" E, ALONG THE EAST LINE OF LOTS 9, 8 AND 7 OF SAID BLOCK 20, AND THE WEST RIGHT-OF-WAY LINE OF STATE ROAD A1A (COLLINS AVENUE), A DISTANCE OF 131.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 7, BLOCK 20;  
THENCE N 82 DEGREES 28' 02" W, ALONG THE NORTH LINE OF LOTS 7 AND 10, OF SAID BLOCK 20, AND THE SOUTH RIGHT-OF-WAY LINE OF 34TH STREET, A DISTANCE OF 200.48 FEET TO THE NORTHWEST CORNER OF SAID LOT 10, SAID POINT BEING REFERENCE POINT "A";

THENCE S 07 DEGREES 25' 37" W, ALONG THE WEST LINE OF SAID LOT 10, AND THE EAST RIGHT-OF-WAY LINE OF INDIAN CREEK DRIVE, A DISTANCE OF 87.01 FEET TO THE SOUTHWEST CORNER OF SAID LOT 10;

THENCE S 70 DEGREES 04' 28" E, ALONG THE SOUTH LINE OF SAID LOTS 10 AND 9, AND THE NORTH RIGHT-OF-WAY LINE OF 33RD STREET, A DISTANCE OF 204.87 FEET TO THE POINT OF BEGINNING;

TOGETHER WITH:

COMMENCE AT THE AFOREMENTIONED REFERENCE POINT "A";  
THENCE N 82 DEGREES 28' 02" W, ALONG THE WESTERLY PROJECTION OF THE NORTH LINE OF SAID LOT 10, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING;  
THENCE CONTINUE N 82 DEGREES 28' 02" W, A DISTANCE OF 7.94 FEET;  
THENCE S 11 DEGREES 30' 22" W, A DISTANCE OF 73.30 FEET;  
THENCE S 70 DEGREES 04' 28" E, ALONG THE WESTERN PROJECTION OF THE SOUTH LINE OF SAID LOT 10, A DISTANCE OF 13.47 FEET;  
THENCE N 07 DEGREES 25' 37" E, ALONG THE WEST RIGHT-OF-WAY LINE OF SAID INDIAN CREEK DRIVE, A DISTANCE OF 76.02 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE WITHIN THE CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH

LOT 12 AND LOT 13, BLOCK 22, ALL OF THE AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, AS RECORDED IN PLAT BOOK 5, AT PAGES 7 & 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

SAID LANDS SITUATE, LYING AND BEING WITHIN THE CITY OF MIAMI-BEACH, FLORIDA, CONTAINING 0.230 ACRES (10,000 SQUARE FEET) MORE OR LESS.

{22771789;1}



CFN 2013R1013025  
DR Bk 28969 Pgs 1954 - 1957 (4pgs)  
RECORDED 12/30/2013 10:29:43  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**BOARD OF ADJUSTMENT  
CITY OF MIAMI BEACH, FLORIDA**

**PROPERTY:** 3301 Indian Creek Drive and 3400-3420 Collins Ave

**FILE NO.** 3663

**IN RE:** The application for variances in order to leave subterranean construction sheet piles in place after the end of construction.

**LEGAL DESCRIPTION:** All of Block 20, and Lots 10, 11, 12, and 13, Block 22, Amended Map of the Miami Beach Improvement Company, According to the Plat Thereof, as Recorded in Plat Book 5, Pages 7 & 8, of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** October 4, 2013

**ORDER**

The applicants, Collins 3300, LLC, and 3400 Collins Avenue, LLC, filed an application with the Planning Department for the following variances in order to leave subterranean construction sheet piles in place after the end of construction:

**Site 1: 3301 Indian Creek Drive**

1. A variance to waive 4'-0" of the minimum required subterranean setback of 20'-0" in order to leave the piles at 16'-0" from the west property line, facing Indian Creek.
2. A variance to waive 4'-0" of the minimum required subterranean setback of 20'-0" in order to leave the piles at 16'-0" from the east property line, facing Collins Avenue.

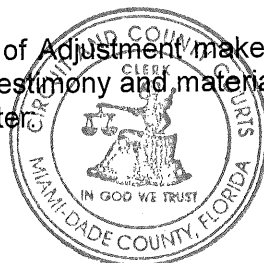
**Site 2: 3400 Collins Ave (Atlantic Hotel)**

3. A. A variance to waive 8'-0" of the minimum required subterranean setback of 20'-0" in order to leave the piles at 12'-0" from the east property line, facing Collins Avenue.

**Site 3: 3420 Collins Ave**

- B. A variance to waive 4'-0" of the minimum required subterranean setback of 20'-0" in order to leave the piles at 16'-0" from the east property line, facing Collins Avenue.
4. A variance to waive 6'-0" of the minimum required subterranean parking setback of 10'-0" in order to leave the piles at 4'-0" from the north property line, facing 35<sup>th</sup> Street.

The City of Miami Beach Board of Adjustment 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.



- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the Planning Department Staff Report, the project as submitted satisfies the requirements of Section 118-353(d) of the Miami Beach Code. Accordingly, the Board of Adjustment has determined the following:

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;

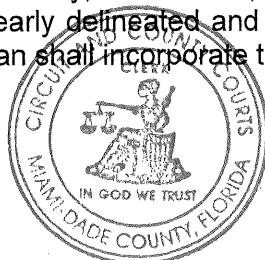
That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

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.

- B. The Board imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. The applicant shall comply with all the conditions imposed by the Historic Preservation Board File No. 7299.
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.
3. 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:

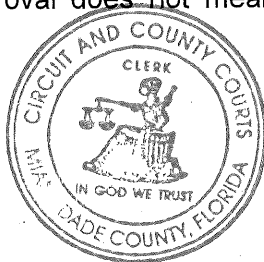


- a. All sheet piles on the subject property shall be located a minimum of three (3') feet below grade; however in areas where trees are proposed or required (as determined by staff), all sheet piles shall be located a minimum of four (4') feet below grade, in a manner to be reviewed and approved by staff.
4. The applicant shall comply with all conditions imposed by the Public Works Department.
5. This Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
6. This 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.
7. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
8. 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.
9. This Order shall be recorded, at the expense of the applicant, in the Public Records of Miami-Dade County; the original or a certified copy shall be provided to the Planning Department prior to the issuance of a Building Permit.

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 staff recommendations, as modified by the Board of Adjustment, that the application for Variance Approval is GRANTED for the above-referenced project, subject to those certain conditions specified in Paragraph B (Condition Nos. 1-9, inclusive) hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Board of Adjustment, as determined by staff, entitled "Atlantic Hotels" as prepared by Revuelta Architecture International, PA, dated June 14, 2013, modified in accordance with the conditions set forth in this Order and staff review and approval.

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 this Order 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.



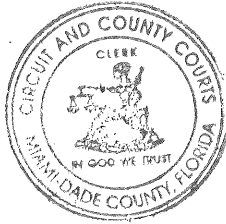
When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original Variance Approval was granted, the subject Approval will expire and become null and void, unless the applicant makes 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. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit 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), and not reinstated by the Building Official or designee, the Variance Approval will expire and become null and void.

Dated this 28<sup>th</sup> day of October, 2013.

BOARD OF ADJUSTMENT  
CITY OF MIAMI BEACH, FLORIDA

STATE OF FLORIDA, COUNTY OF DADE  
I HEREBY CERTIFY that this is a true copy of the  
original filed in this office on \_\_\_\_\_ day of  
DEC 30 2013, A.D. 20\_\_\_\_\_  
I TRUST my hand and Official Seal.  
HARVEY RUBIN, CLERK, of Circuit and County Courts  
D.C.



BY: [Signature]  
Richard G. Lorber, AICP, LEED AP  
Acting Planning Director  
For the Chair

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of October, 2013 by Richard G. Lorber, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

NOTARY PUBLIC  
TERESA MARIA  
MY COMMISSION # DD 928148  
EXPIRES: December 2, 2013  
Bonded Thru Budget Notary Services

[NOTARIAL SEAL]

[Signature]  
Notary:  
Print Name: Teresa Maria  
Notary Public, State of Florida  
My Commission Expires: 12-2-13  
Commission Number: DD 928148

Approved As To Form:  
City Attorney's Office ( 10-21-13 )

Filed with the Clerk of the Board of Adjustment on 10/29/13 [Signature]





CFN 2012R0223028  
OR Bk 28052 Pgs 1265 - 1270 (6pgs)  
RECORDED 03/29/2012 11:52:33  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**PLANNING BOARD  
CITY OF MIAMI BEACH, FLORIDA**

**PROPERTY:** 3301 Indian Creek Drive, 3400, and 3420 Collins Avenue  
Miami Beach, Florida

**FILE NO.** 2049

**IN RE:** The Request by Collins 3300, LLC, and 3420 Collins Avenue, LLC, requesting Conditional Use approval, pursuant to Sections 130-38 and 118-192 of the Land Development Regulations of the City Code, to develop the project as described on plans submitted by the architectural firm OMA, and dated December 30, 2011, on three parcels at the addresses mentioned above: to construct a 5-level mechanical parking structure on Site 3, a 1-level subterranean parking structure with mechanical parking, which spans underneath the 3 sites, accessory retail on the ground floor of the garage structure and either accessory retail or restaurant on the 5<sup>th</sup> floor, as well as to renovate the historic Atlantic Hotel and develop a small hotel and assembly hall on Sites 1 and 2.

**LEGAL  
DESCRIPTION:** See Exhibit "A" attached

**MEETING DATE:** February 28, 2012

**CONDITIONAL USE PERMIT**

The applicants, Collins 3300, LLC, and 3420 Collins Avenue, LLC, are requesting approval, pursuant to Sections 130-38 and 118-192 of the Land Development Regulations of the City Code, for a Conditional Use Permit. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach 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 of the record for this matter:

That the property in question is located in the RM-2 – Residential Multifamily, Medium Intensity Zoning District;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

**IT IS THEREFORE 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 is adopted herein, including staff recommendations, as modified by the Planning Board, that a Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Conditional Use Permit is issued to Collins 3300, LLC, and 3420 Collins Avenue, LLC, to construct a 5-level mechanical parking structure on Site 3, together with a 1-level subterranean parking structure with mechanical parking, spanning the entire project on Sites 1, 2 and 3, including accessory retail on the ground floor of the garage structure and either accessory retail or restaurant on the 5<sup>th</sup> level of the structure. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
3. Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
4. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
5. 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.
6. The applicant, its successors and assigns, now and in the future, shall abide by all the documents and statements submitted with this application.
7. All necessary variances for the entire project shall be applied for and obtained prior to applying for a Building Permit.
8. The intensity of uses for both the Saxony Hotel and residential tower project on the east and the Atlantic hotel project on the west, as a unified project, shall not exceed the 249 parking spaces that can be provided in a conventional manner, not utilizing mechanical devices.

9. **Parking operation shall be by valet attendants only. A contract with a valet operator shall be submitted to staff for review and approval prior to a final Certificate of Occupancy or Business Tax Receipt, whichever occurs first.**
10. **Calculations for required parking for the project shall be determined by the Planning Department. Such parking calculations shall be based upon both the number of hotel rooms, and the intensity of the proposed accessory uses as measured by the number of seats in dining areas, and by the square footage of the liquor service areas not included in the areas for which seats are calculated. A final determination for the required parking shall be conducted prior to approval of a Certificate of Occupancy or Business Tax Receipt, whichever comes first; a fee in lieu of providing the required parking shall be required should any deficiency be found, which shall be paid before the Certificate of Occupancy is issued.**
11. **Mechanical parking systems shall also satisfy the following conditions:**
  - (a) **The noise or vibration from the operation of mechanical parking lifts, car elevators, or robotic parking systems shall not be plainly audible to or felt by any individual standing outside an apartment or hotel unit at any adjacent or nearby property. In addition, noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage. The sound specifications on the mechanical parking system to be installed shall be submitted to staff for review and approval prior to the issuance of a building permit.**
  - (b) **For mechanical lifts, the parking lift platform must be sealed and of a sufficient width and length (minimum of eight feet by 16 feet) to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below;**
  - (c) **All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage; robotic garages and vehicle elevators must have backup generators sufficient to power the system;**
  - (d) **All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift;**
  - (e) **The ceiling heights of any parking level with parking lifts within the parking garage shall be a minimum of 11 feet by six inches;**
  - (f) **All parking lifts shall only be operated using a spring loaded underwriters laboratories (UL) approved key switch control. No push button is allowed;**
  - (g) **All electrical components of the lifts shall be underwriters laboratories (UL) approved;**
  - (h) **All mechanical parking systems, including lifts, elevators and robotic systems, must be inspected and serviced at least once per year with an annual safety report signed by a licensed mechanical engineer; and**
  - (i) **All parking lifts shall be maintained and kept in good working order.**

12. The City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division shall make the determination of the project's fair-share mitigation cost. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.
13. The applicant shall submit an MOT (Method of Transportation) to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
14. A landscape plan for the entire site, prepared by a Professional Landscape Architect, inclusive of street trees as per the City of Miami Beach Master Street Tree Plan, shall be submitted to and approved by staff before a building permit is issued for construction.
15. The applicant shall obtain a Certificate of Occupancy prior to the issuance of a Business Tax Receipt.
16. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this entertainment establishment.
17. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.
18. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load of the accessory uses proposed for the project should there be valid complaints about loud, excessive, unnecessary, or unusual noise. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.
19. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
20. This 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.
21. Within a reasonable time after applicant's receipt of this Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the

Planning Department. No building permit or certificate of completion shall be issued until this requirement has been satisfied.

22. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.
23. 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.

Dated this 5<sup>th</sup> day of March, 2012

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]  
Richard G. Lorber, AICP, LEED AP  
Acting Planning Director  
For Chairman

STATE OF FLORIDA     )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of March, 2012, by Jorge G. Gomez, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



TERESA MARIA  
MY COMMISSION # DD 928148  
EXPIRES: December 2, 2013  
Bonded Thru Budget Notary Services

[NOTARIAL SEAL]

[Signature]  
Notary:  
Print Name: Teresa Maria  
Notary Public, State of Florida  
My Commission Expires: 12-2-13  
Commission Number: DD 928148

Approved As To Form:  
Legal Department (gskl 13-5-12)

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LEGAL DESCRIPTIONS

Lots 10 and 11, Block 22, of Amended Map of The Miami Beach Improvement Company, According to the Plat thereof, as recorded in Plat Book 5, at Page 7 of the Public Records of Miami Dade County, Florida.

TOGETHER WITH

~~PARCEL 3: COLLINS PARCEL~~  
ALL OF BLOCK 20 AND ALL THAT LAND LYING WEST OF INDIAN CREEK DRIVE AND BETWEEN THE NORTH LINE OF LOT 10 IN BLOCK 20 AND THE SOUTH LINE OF BLOCK 20 BOTH PRODUCED WESTERLY TO THE WATERS OF INDIAN CREEK, ALL OF THE AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY'S SUBDIVISION ACCORDING TO THE AMENDED PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGES 7 AND 8 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

PARCEL 3 ALSO DESCRIBED AS FOLLOWS:

A PARCEL OF LAND BEING PORTION OF SECTION 28, TOWNSHIP 53, RANGE 12 SOUTH, LYING WITHIN THE CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINS AT THE SOUTHEAST CORNER OF LOT 9, BLOCK 20 OF THE AMENDED MAP OF THE OCEAN FRONT PROPERTY ON THE MIAMI BEACH IMPROVEMENT COMPANY'S SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGES 7 AND 8 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

THENCE N 07 DEGREES 35' 14" E, ALONG THE EAST LINE OF LOTS 9, 8 AND 7 OF SAID BLOCK 20, AND THE WEST RIGHT-OF-WAY LINE OF STATE ROAD A1A (COLLINS AVENUE), A DISTANCE OF 131.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 7, BLOCK 20;  
THENCE N 82 DEGREES 28' 02" W, ALONG THE NORTH LINE OF LOTS 7 AND 10, OF SAID BLOCK 20, AND THE SOUTH RIGHT-OF-WAY LINE OF 34TH STREET, A DISTANCE OF 200.48 FEET TO THE NORTHWEST CORNER OF SAID LOT 10, SAID POINT BEING REFERENCE POINT "A";

THENCE S 07 DEGREES 25' 37" W, ALONG THE WEST LINE OF SAID LOT 10, AND THE EAST RIGHT-OF-WAY LINE OF INDIAN CREEK DRIVE, A DISTANCE OF 87.01 FEET TO THE SOUTHWEST CORNER OF SAID LOT 10;

THENCE S 70 DEGREES 04' 28" E, ALONG THE SOUTH LINE OF SAID LOTS 10 AND 9, AND THE NORTH RIGHT-OF-WAY LINE OF 33RD STREET, A DISTANCE OF 204.97 FEET TO THE POINT OF BEGINNING;

TOGETHER WITH:

COMMENCE AT THE AFOREMENTIONED REFERENCE POINT "A";

THENCE N 82 DEGREES 28' 02" W, ALONG THE WESTERLY PROJECTION OF THE NORTH LINE OF SAID LOT 10, A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE N 82 DEGREES 28' 02" W, A DISTANCE OF 7.94 FEET;

THENCE S 11 DEGREES 30' 22" W, A DISTANCE OF 73.30 FEET;

THENCE S 70 DEGREES 04' 28" E, ALONG THE WESTERN PROJECTION OF THE SOUTH LINE OF SAID LOT 10, A DISTANCE OF 13.47 FEET;

THENCE N 07 DEGREES 25' 37" E, ALONG THE WEST RIGHT-OF-WAY LINE OF SAID INDIAN CREEK DRIVE, A DISTANCE OF 76.02 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE WITHIN THE CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH

LOT 12 AND LOT 13, BLOCK 22, ALL OF THE AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, AS RECORDED IN PLAT BOOK 5, AT PAGES 7 & 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

SAID LANDS SITUATE, LYING AND BEING WITHIN THE CITY OF MIAMI-BEACH, FLORIDA, CONTAINING 0.230 ACRES (10,000 SQUARE FEET) MORE OR LESS.

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