



200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131

www.brzoninglaw.com

305.377.6229 office
305.377.6222 fax
gpenn@brzoninglaw.com

VIA ELECTRONIC SUBMITTAL

January 14, 2024

Michael Belush, Chief of Planning and Zoning
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: DRB24-0999 Modifying DRB18-0355

Design Progress Report Changes and Ground Level
Setback Variance for Convention Center Hotel Located at
1701 Convention Center Drive

Dear Mr. Belush,

This law firm represents MB Mixed Use Investment, LLC (the "Applicant") with regards to the property located at approximately 1701 Convention Center Drive (the "Property") within the City of Miami Beach (the "City"). Please let the following serve as the required letter of intent for minor design modifications and related variances of the ground level setbacks (collectively the "Variance") in order to develop the City's new Convention Center Hotel (the "Project"). The hotel is under building permit review and the instant application's technical requests are necessary for the permit issuance.

Property Description. The Property is approximately 110,884 square feet in size (2.55 acres) and is located at the northeast corner of the intersection of 17th Street and Convention Center Drive. The Property is a portion of the larger property identified by Miami-Dade County Property Appraiser folio number 02-3227-000-0090, which is all owned by the City and includes the Miami Beach Convention Center and the Jackie Gleason Theater. See Exhibit A, Property Appraiser Summary Report.

The City owns the Property and the Applicant has been approved to serve as a long term lessee on the Property pursuant to the Development & Ground Lease Agreement between the City and the Applicant. The Agreement includes the scope of the Project, described below. As noted above, the Project is anticipated to commence vertical construction in the short term.

The Property has a future land use designation of Public Facility: Convention Center Facilities ("PF-CCC"). The PF-CCC future land use designation allows for Convention Center uses and all facilities necessary to support the City's beautiful, new Convention Center. The Property has a zoning designation of CCC Civic and Convention Center District (the "CCC District"). The main permitted uses in the CCC District include hotels, as well as civic-type uses and parking garages.

Prior Approval. On July 2, 2019, the Design Review Board ("DRB") approved the construction of a new Convention Center Hotel (the "Project") to replace an existing surface parking lot, with a one-story office building and one and two story portions of the rear of the Fillmore Miami Beach at the Jackie Gleason Theater Building. See Exhibit B, Recorded Order, DRB18-0355.

The Project will complement and serve the neighboring Miami Beach Convention Center and the City, as a whole. The proposed hotel will be 185 feet in height with ground level retail, a parking deck on the second level, a ballroom and meeting rooms on levels 3 and 4, a pool deck on level 5 with approximately 30,000 square feet of restaurant use, and hotel units on levels 6 through 17. The ground level will consist of approximately 30,000 square feet of hotel accessory uses. The second level parking deck will provide 320 parking spaces to serve the hotel, which will be valet-operated. The fifth level will have a pool deck oriented towards the southwest corner of the Property with outdoor bar and cabanas. The pool will be complemented with multiple restaurant concepts. The tower portion of the hotel will consist solely of hotel units oriented along the north and east portions of the Property.

DRB Approval and Design Changes. The DRB approval contained several design conditions, including, but not limited to, that (1) the architectural "dimple" on the east façade shall be moved southward and enlarged to greater emphasis and visual effect, (2) the ground floor welcome center shall be further emphasized and more visible from 17th Street, and (3) A grade-level clear pedestrian pathway fully integrated with the abutting public sidewalks was required along both 17th and Convention Center Drive. The design details were required to be submitted to the Design Review Board at a future meeting date to provide the Board with a design progress report for further input. The Applicant

has incorporated all of the relevant changes in the submitted plan set and hereby asks that the Board's review of the instant application serve as the required progress report.

Need for Variance. Section 7.2.17.3.a(1) of the Resiliency Code establishes setback regulations for the CCC zone and therefore governs development of the Project. That section provides for a ten (10) foot setback at the ground level on both Convention Center Drive and 17th Street. The Code further provides that there shall be no permanent encroachments within the 10-foot setback at the ground level.

As the Project continues through its final design process, it has become clear that some minor encroachments into the 10-foot setback will be necessary to accommodate the Project's design and engineering. The Project includes a wrapping raised porch along the west and south, with columns that support the structure above. Also, the organic shape of the building includes a slight encroachment at the northwest corner. These design elements are essential to the design and consistent with the DRB's approval.

Variance Request. The Variance requested, to allow ground floor encroachments, is consistent with the criteria provided in Section 2.8.3 of the Resiliency Code, as follows:

- 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;**

There are special conditions and circumstances that are peculiar to the City-owned land and need for a mixed-use, hotel development to support the Convention Center. The Property is immediately abutting the renovated Convention Center and must thoughtfully and practically be constructed in a manner that is oriented towards the pedestrians that will be walking between the properties. This condition and use are not applicable to any other lands in the City. Also, the Property has multiple active frontages that require certain features, such as a covered pedestrian experience, that is not applicable to other structures. Finally, the requirements of Section 7.2.17.3.a(1) of the Resiliency Code apply to no other land in the City.

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

The special conditions and circumstances in this case do not result from any actions of the Applicant. The Applicant has entered into an agreement with the City in order to satisfy a very specific City need. The design is necessary to accommodate the required

programming of the Project, with ground floor activation, sufficient parking, large ballroom space, amenities, and hotel units. A world-renowned, state-of-the-art hotel is necessary for the success of the Convention Center.

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;

Allowing certain improvements within the ground floor ten (10) foot front setback area will not confer any special privilege on the Applicant that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district. The CCC District is extremely limited in scope, which means approval of the variance will have no impact on any other lands, buildings, or structures. The Convention Center and Pride Park are fully developed and the Project is the last piece to complete the area. Approval of the Variance will have no impact on any other property owner.

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;

A literal interpretation of the provisions of the land development regulations would deprive the Applicant and City rights enjoyed by other properties in the same zoning district. Additionally, the Project has multiple prominent frontages to consider, with the west and south requiring shaded walkways. Further, denial of the Variance would be an unnecessary and undue hardship on the Applicant. The ground floor area was purposefully design to address needs of the City and included consideration of the DRB in 2019. The ground floor also purposefully and artfully addresses sea level rise with raised porches to the entrances.

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

The ground setback Variance is the minimum necessary to make possible the reasonable use of the approved structure. The encroachments, including the northwest corner of the building, the raised covered terraces, and the sporadic support columns, are essential to the required programming, design, and engineering of the building. The design also considers the future raising of streets and provides the ground level at base flood

elevation plus one (1) foot of freeboard. It is not possible to comply with the approved design without these features.

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;

Granting of the setback variance is in harmony with the general intent and purpose of the Resiliency Code overall. It is also consistent with the purpose of the CCC District, which is to support the Convention Center. The variance will not be injurious to the area involved because it will enhance the pedestrian experience.

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; and

Granting this request is consistent with the comprehensive plan and does not will reduce the levels of service set forth in the comprehensive plan.

8. The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

Compliance with the Resiliency Code and future raising of streets is of utmost importance to the Project. Therefore, granting of the variance to allow certain encroachments into the ground floor ten (10) foot setback will result in a structure and site that complies with the sea level rise and resiliency review criteria.

Practical Difficulty. The innovative design does the most possible to provide an enhanced pedestrian experience, include all programming necessary pursuant to the Applicant's agreement with the City, and ensure the building has the structural support necessary. There are multiple practical difficulties that must be addressed in order to make use of the Property for a mixed-use, hotel development that will support the City's Convention Center. The proximity to the Convention Center and proportion of the tower elements is a practical difficulty that must be accommodated and requires certain encroachments into the ground floor setback. Additionally, the Property has multiple active frontages. The frontage along the entire west and south of the building must be beautifully designed and functional – with active space throughout nearly seven hundred feet of frontage. The area on the ground floor must be raised to accommodate for sea

level rise, have multiple active uses, such as retail, while also supporting the new towers and amenity areas above.

Strict compliance with the land development regulations of the CCC District would contradict the intent of the Resiliency Code to provide a resilient Project that satisfies the needs of the City, provides the beautiful design as approved in 2019, and is structurally sound.

Sea Level Rise and Resiliency Criteria. The Project advances the sea level rise and resiliency criteria in Section 7.1.2.4.a.1. of the Resiliency Code, as follows:

1. A recycling or salvage plan for partial or total demolition shall be provided.

A recycling and salvage plan for demolition of the existing home will be provided at permitting.

2. Windows that are proposed to be replaced shall be hurricane proof impact windows.

Hurricane proof impact windows will be provided.

3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

The Applicant will provide, where feasible, passive cooling systems.

4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

All landscaping will be Florida friendly and resilient.

5. Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.

The Applicant is proactively addressing sea level rise projections by raising the first floor of the home to the base flood elevation of 9' NGVD and 1' of freeboard.

6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.

The elevated ground floor ensures that the Project is adaptable to the raising of public rights-of-ways and adjacent land in the future.

7. Where feasible and appropriate. All critical mechanical and electrical systems are located above base flood elevation.

All mechanical and electrical systems will be located above base flood elevation.

8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

The Project is entirely new construction located well-above base flood elevation.

9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

No habitable space is located below base floor elevation.

10. Where feasible and appropriate, water retention systems shall be provided.

Where feasible, water retention systems will be provided.

11. Cool pavement materials or porous pavement materials shall be utilized.

Cool pavement materials or porous pavement materials will be utilized where possible.

12. The design of each project shall minimize the potential for heat island effects on-site.

The proposed design provides large open spaces and non-air-conditioned shaded spaces to strategically minimize the potential for heat island effects on site.

Conclusion. Granting this application with Variance will permit a beautifully designed hotel to fill the much-needed role of serving the Miami Beach Convention Center. The Project complies with all other Resiliency Code development regulations and

approval of this variance will have a no negative impact on abutting neighbors. Removing the encroachments at the ground level will hinder the overall pedestrian experience surrounding the Convention Center.

We look forward to your favorable review of the application. If you have any questions or comments in the interim, please give me a call at 305-377-6231.

Sincerely,

Graham Penn

Attachments

Cc: Eric Carpenter
Maria Hernandez
Michael Larkin, Esq.
Emily K. Balter, Esq.

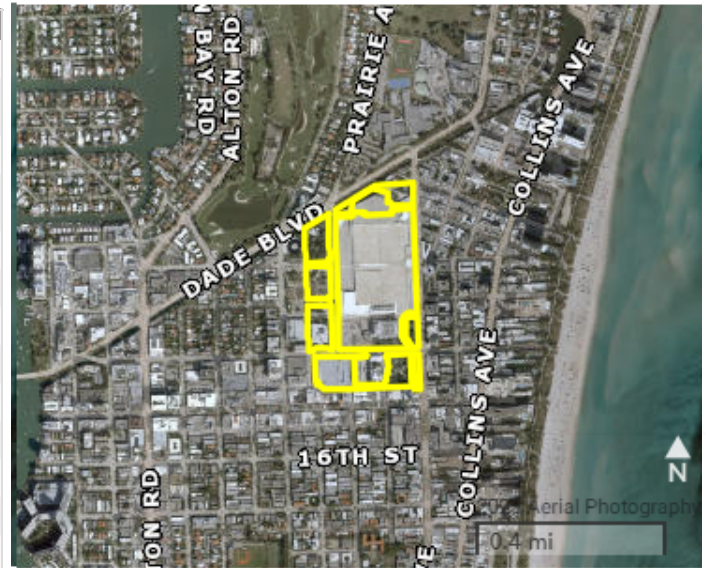


OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On: 01/14/2024

PROPERTY INFORMATION	
Folio	02-3227-000-0090
Property Address	1901 CONVENTION CENTER DR MIAMI BEACH, FL 33139-1825
Owner	CITY OF MIAMI BEACH
Mailing Address	FLA BAY SHORE CLUB COURSE MIAMI, FL 33125-3713
Primary Zone	8000 COMMUNITY FACILITIES
Primary Land Use	8940 MUNICIPAL : MUNICIPAL
Beds / Baths / Half	0 / 0 / 0
Floors	6
Living Units	0
Actual Area	2,264,053 Sq.Ft
Living Area	
Adjusted Area	2,210,062 Sq.Ft
Lot Size	5,977,860.77 Sq.Ft
Year Built	Multiple (See Building Info.)



ASSESSMENT INFORMATION			
Year	2023	2022	2021
Land Value	\$1,368,897	\$1,368,897	\$1,368,897
Building Value	\$429,781,952	\$434,131,884	\$382,602,015
Extra Feature Value	\$19,880,571	\$19,948,295	\$19,982,611
Market Value	\$451,031,420	\$455,449,076	\$403,953,523
Assessed Value	\$451,031,420	\$444,348,875	\$403,953,523

BENEFITS INFORMATION				
Benefit	Type	2023	2022	2021
Non-Homestead Cap	Assessment Reduction		\$11,100,201	
Municipal	Exemption	\$451,031,420	\$444,348,875	\$403,953,523

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

SHORT LEGAL DESCRIPTION	
35 53 42 137.2328 AC	
PARK EAST OF BAYSHORE GOLF COURSE	
& PARK SO OF CANAL & E OF	
WASHINGTON AVE LESS PARCEL TO BPI	
PER OR 976-566 & LESS GREATER	

TAXABLE VALUE INFORMATION			
Year	2023	2022	2021
COUNTY			
Exemption Value	\$451,031,420	\$444,348,875	\$403,953,523
Taxable Value	\$0	\$0	\$0
SCHOOL BOARD			
Exemption Value	\$451,031,420	\$455,449,076	\$403,953,523
Taxable Value	\$0	\$0	\$0
CITY			
Exemption Value	\$451,031,420	\$444,348,875	\$403,953,523
Taxable Value	\$0	\$0	\$0
REGIONAL			
Exemption Value	\$451,031,420	\$444,348,875	\$403,953,523
Taxable Value	\$0	\$0	\$0

SALES INFORMATION			
Previous Sale	Price	OR Book-Page	Qualification Description

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

**DESIGN REVIEW BOARD
City of Miami Beach, Florida**

MEETING DATE: July 02, 2019

FILE NO: DRB18-0355

PROPERTY: **555 17th Street, 1701-1799 Convention Center Drive – Convention Center Hotel**

APPLICANT: MB Mixed Use Investment, LLC

LEGAL: See 'Exhibit A'

IN RE: The Application for Design Review Approval for the construction of a new convention center hotel to replace an existing surface parking lot, one-story office building and one and two story portions of the rear of the Fillmore Miami Beach at the Jackie Gleason Theater building.

ORDER

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- 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 inconsistent with Design Review Criteria 9 and 19 in Section 118-251 of the Miami Beach Code.
- C. 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 inconsistent with Sea Level Rise Criteria 1, 9, 10, 11 and 12 in Section 133-50(a) of the Miami Beach Code.
- D. The project would remain consistent with the criteria and requirements of Section 118-251 and/or Section 133-50(a) if the following conditions are met:
 1. The design and detailing of the following areas of the project shall be further refined and explored: (1) the architectural "dimple" on the east façade shall be moved southward and enlarged to greater emphasis and visual effect, (2) the ground floor welcome center shall be further emphasized and more visible from 17th Street, (3) the Hohauser building details shall be further refined and detailed in their materials, location, and prominence in the welcome center and along the stand alone mechanical vault building, (4) the final design details, color, material, location and connection structural attachment systems of the proposed balcony



unit dividers shall be submitted, (5) landscape plans clearly identifying the ground materials for the hardscape areas, the areas where root barriers and/or structural soils Silva Cells, or suspended pavement systems , are proposed, and (6) all on-site trees proposed for retention and relocation. These design details shall be subject to the review and approval of staff and shall be submitted to the Design Review Board at a future meeting date to provide the Board with a design progress report for further input.

2. Revised elevation, site plan, and floor plan drawings for the proposed new Convention Center Hotel at 555 17th Street shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department, in a manner to be reviewed and approved by staff.
 - b. The Applicant has voluntarily proffered and agreed to display a plaque on the ground floor of the building, which includes an image of the original structure, referencing Henry Hohausser as the original structure's architect, and describes the original structure's history and evolution. Prior to the issuance of a Building Permit, the Applicant shall submit the design for the plaque to the Planning department to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - c. The Applicant has voluntarily proffered and agreed to install keystone cladding, or other architectural elements of the Henry Hohausser building, on portions of the interior of the Miami Beach Welcome Center, which shall be located within the property, and visible from the adjacent sidewalk along 17th Street, to recall the characteristics of the original structure on the site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions of the Board.
 - d. A grade-level clear pedestrian pathway fully integrated with the abutting public sidewalks shall be provided along 17th Street and Convention Center Drive, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions of the Board.
 - e. The design of the pedestrian pathway on 17th Street shall be further refined to dynamically integrate the sidewalk with the project, and may include access stairs and ramps, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions of the Board.
 - f. Further details of the railings and handrails shall be provided for all balconies and terraces in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and shall require a separate permit.
 - g. Any railings at the ground or pedestal level shall be designed as glass or tension wire, or similar design element, in order to minimize obstruction and maintain transparency within both side yards for all balconies and terraces



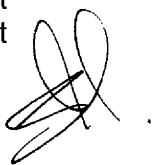
in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and shall require a separate permit.

- h. Further details and material samples for the proposed mechanical ancillary building shall be provided in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- i. Further details and material samples for the proposed metal screen on level 2 shall be provided in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and shall require a separate permit.
- j. Further details and material samples for the proposed “metal fins” shall be provided in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and shall require a separate permit.
- k. Material samples for all exterior paving areas shall be submitted in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- l. The final design details of exterior lighting shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- m. Any fence or gate at the front and street side of the property shall be designed in a manner consistent with the architecture of the new structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- n. All ground floor and first floor terrace exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff.
- o. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- p. 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.
- q. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- r. 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.

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. The applicant shall abide by the mitigation procedures for tree preservation outlined in Chapter 46, Division 2 of the City Code, where relevant, and the applicant shall cooperate with the City with regard to any proposed tree relocation provided that the City cover costs of said relocation.
 - b. Any existing plant material within the public right-of-way may be required to be removed, at the discretion of the Public Works Department.
 - c. 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.
 - d. The utilization of root barriers and/or structural soils and/or Silva Cells, shall be clearly delineated on the revised landscape plan. A suspended pavement system shall be required for instances where the proposed street trees are to be planted and where root system of the proposed tree will need to grow under impervious surfaces to obtain optimal growth for the selected species, in a manner that provides adequate soil volume as determined by the city's Urban Forester for the proper growth of the proposed trees. In instances where the root systems of proposed trees will be able to grow under impervious surfaces and later enter into a pervious greenspace area, the use of structural based soils may be used upon the approval of the city's Urban Forester.
 - e. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventers and all other related devices and fixtures. The location of backflow preventers, Siamese pipes or other related devices and fixtures, if any, 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.
 - f. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. 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.
 - g. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or 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.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. No variance(s) were filed as part of this application.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. The approval herein, and the issuance of a building permit, shall be subject to the adoption of pending ordinances pertaining to pedestal setbacks and mechanical parking by the City Commission. In the event such ordinances are modified, or not adopted, the applicant shall be required to modify the plans in order to comply with the requirements of the current code.
- B. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- C. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
- D. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- E. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- F. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.
- G. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.



- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. The proposed curved elements above the driveways along Convention Center Drive and 17th Street may encroach into the r-o-w, and may require a revocable right of way permit approved by the City Commission through the Public Works Department.
- J. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- K. 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.
- L. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- M. 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.

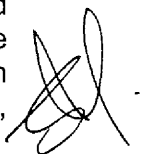
IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations which were adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "Miami Beach Convention Center Hotel Final Submittal", as designed by **Arquitectonica Architecture and Interior Design**, dated, signed, and sealed 2019.07.02, and as approved by the Design Review Board, as determined by staff.

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 Design Review Approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required.

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

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit,



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

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

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

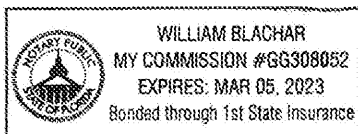
Dated this 15th day of July, 2019.

DESIGN REVIEW BOARD
 THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
 JAMES G. MURPHY
 CHIEF OF URBAN DESIGN
 FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 15th day of July, 2019 by James G. Murphy, Chief of Urban Design, 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: March 5th, 2023

Approved As To Form: Nick Callegas (7/9/2019)

Filed with the Clerk of the Design Review Board on Jessie Guley (7/15/19)

[Signature]

EXHIBIT A

LEGAL DESCRIPTION:

BEING A PARCEL OF LAND LYING IN SECTION 34, TOWNSHIP 53 SOUTH, RANGE 42 EAST, CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 22, ACCORDING TO THE AMENDED PLAT OF GOLF COURSE SUBDIVISION OF THE ALTON BEACH REALTY COMPANY, AS RECORDED IN PLAT BOOK 6, PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE N88°00'53"E, ALONG THE EASTERLY PROLONGATION OF THE NORTHERLY RIGHT OF WAY LINE OF 17TH STREET, SAID RIGHT OF WAY BEING 70 FEET IN WIDTH AS SHOWN ON SAID PLAT BOOK 6, PAGE 26, A DISTANCE 368.16 FEET; THENCE N02°04'00"W, ALONG THE EASTERN EDGE OF AN EXISTING 15 FEET WIDE SIDEWALK LYING ON THE EAST SIDE OF CONVENTION CENTER DRIVE AS NOW LAID OUT AND IN USE, A DISTANCE OF 39.94 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N02°04'00"W ALONG SAID EXISTING SIDEWALK, A DISTANCE OF 238.58 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 40.00 FEET, A CHORD WHICH BEARS N42°58'54"E; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 62.90 FEET, THROUGH A CENTRAL ANGLE OF 50°05'48"; THENCE N88°01'48"E A DISTANCE OF 13.05 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A"; THENCE CONTINUE N88°01'48"E A DISTANCE OF 297.49 FEET; THENCE S01°56'26"E, TO THE INTERSECTION WITH SAID EASTERLY PROLONGATION OF THE NORTHERLY RIGHT OF WAY OF 17TH STREET, A DISTANCE OF 318.50 FEET; THENCE S88°00'53"W, ALONG SAID EASTERLY PROLONGATION OF THE NORTHERLY RIGHT OF WAY OF 17TH STREET, A DISTANCE OF 309.96 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 40.00 FEET, A CHORD WHICH BEARS N47°01'33"W; THENCE NORTHWESTERLY ALONG THE ARC SAID CURVE A DISTANCE OF 62.78 FEET, THROUGH A CENTRAL ANGLE OF 89°55'08" TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 110,884 SQUARE FEET OR 2.55 ACRES MORE OR LESS.

TOGETHER WITH:

AN AIRSPACE PARCEL BEING A PARCEL OF LAND LYING IN SECTION 34, TOWNSHIP 53 SOUTH, RANGE 42, CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA, HAVING AS ITS LOWER BOUNDARY, A HORIZONTAL PLANE AT ELEVATION 23.69 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), HAVING AS ITS UPPER BOUNDARY, A HORIZONTAL PLANE AT ELEVATION 52.44 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETRICAL BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT SAID POINT "A"; THENCE N03°29'22"W A DISTANCE OF 53.99 FEET; THENCE N86°30'38"E A DISTANCE OF 30.00 FEET; THENCE S03°29'22"E A DISTANCE OF 54.78 FEET; THENCE S88°01'48"W A DISTANCE OF 30.01 FEET TO 11-E POINT OF BEGINNING SAID POINT ALSO BEING POINT "A".