

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

MEETING DATE: November 9, 2021

PROPERTY/FOLIO: 4000 Collins Avenue / 02-3226-001-1930

FILE NO: HPB21-0480

IN RE: An application has been filed by Sukkah Miami Beach Acquisitions, LLC requesting modifications to a previously issued Certificate of Appropriateness for the partial demolition of the existing building on the site and the construction of an attached ground level addition including variances to reduce the required pedestal front, rear, street side and sum of the side setbacks and to exceed the maximum allowed projection within required yards. Specifically, the applicant is requesting to modify a condition of the order.

LEGAL: Lots 10, 11, 12, 13, 14 and 15, Block 34 of "Miami Beach Improvement Company", According to the Plat Thereof, as Recorded in Plat Book 5, at Page 8 of the Public Records of Miami-Dade County, Florida.

**CONSOLIDATED ORDER**

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

**I. Certificate of Appropriateness**

- A. The subject site is located within the Collins Waterfront Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
  - 1. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  - 2. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
  - 3. Is not consistent with Certificate of Appropriateness Criteria 'a', 'b', 'e' & 'o' in Section 118-564(a)(3) of the Miami Beach Code.
  - 4. Is consistent with Certificate of Appropriateness 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:



Page 2 of 8

HPB21-0480

Meeting Date: November 9, 2021

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
  - a. The vehicular entrance, service and loading corridor located along the western portion of the property shall be entirely enclosed with a solid green roof and walls with the exception of the entrance along 41<sup>st</sup> Street, in a manner consistent with the exterior design and surface finishes of the new building and the interior portions of the enclosure shall be designed and finished in a manner consistent with the exterior, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - b. All exterior doors at the first level of the proposed structure, facing Collins Avenue and 41<sup>st</sup> Street, shall consist of swing doors. Sliding doors shall be prohibited. The final design details, materials and dimensions of all swing doors shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - c. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - d. The final location and details of all exterior ramp and railings systems, including materials, dimensions and finishes, shall be provided in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - e. 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 pedestrian view, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - f. All building signage shall require a separate permit. Any proposed flat wall sign shall be composed of individual reverse channel letters with a natural brushed aluminum finish and any proposed projecting sign shall be composed of individual, pin-mounted non-illuminated reverse channel letters with a brushed aluminum finish or channel letters with brushed aluminum returns and a white acrylic face, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - g. All interior fixtures, including, but not limited to, shelving, partitions, and checkout counters, shall be setback a minimum of ~~ten (10')~~ five (5) feet from any portion of an exterior wall fronting Collins Avenue or 41<sup>st</sup> Street, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. This shall not prohibit moveable tables and chairs or substantially transparent fixtures for display purposes only. Additionally, there shall be no storage or stacking of goods within five (5) feet of the storefront windows within these setback areas.

Page 3 of 8

HPB21-0480

Meeting Date: November 9, 2021

- h. Interior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding historic district. Intensive 'white' lighting shall not be permitted within the retail area and all florescent lighting shall have a maximum temperature of 2700 K, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - i. The maximum footcandle level of lighting within the retail area shall not exceed 50 footcandles and the average level of all lighting shall not exceed 30 footcandles, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - j. The final design and details of all exterior and interior lighting shall be provided, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. All proposed interior lighting located within the retail area shall be recessed or small pendant lighting.
  - k. The design and layout of the physical connection between the existing hotel lobby and the proposed new accessory use shall be further developed and detailed, in a manner to be reviewed and approved by staff.
2. All new construction over 7,000 square feet or ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area 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.
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 utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the final revised landscape plan.
  - b. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.

In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.

## II. Variance(s)

Page 4 of 8

HPB21-0480

Meeting Date: November 9, 2021

- A. The applicant filed an application with the Planning Department for the following variance(s), the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were approved by the Board:

1. A variance to reduce by 5'-0" the required pedestal front setback of 20'-0" in order to construct a new building addition at 15'-0" from the front property line facing Collins Ave.
  2. A variance to reduce by 22'-0" the required pedestal street side setback of 27'-0 in order to construct a new building addition at 5'-0" from the street side property line facing 41<sup>st</sup> Street.
  3. A variance to reduce by 22'-0" the required pedestal sum of the side setbacks of 32'-0 in order to construct a new building addition with a sum of the side setbacks of 10'-0".
  4. A variance to exceed by 0'-9" (15%) the maximum allowed projection of 1'-3" (25%) for decorative features in order to construct a decorative frame with a projection of 2'-0" (40%) into the proposed street side yard.
  5. A variance to reduce by 9'-0" the required pedestal rear setbacks of 14'-0 in order to construct a new building addition at 5'-0" from the rear property line.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variance(s) II.A.1, II.A.2, II.A.3, II.A.4 and II.A.5, as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, only as it relates to variance(s), II.A.1, II.A.2, II.A.3, II.A.4 and II.A.5, as noted above:

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;



Page 5 of 8

HPB21-0480

Meeting Date: November 9, 2021

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

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

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

C. The Board hereby **Approves** the requested variance(s) #1, #2, #3, #4 and # 5, as noted and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. The new construction shall incorporate a minimum of 25% green roof, in a manner to be reviewed and approved by staff.
3. The ground level of the north façade shall be setback a minimum 7'-6" from the north property line fronting on 41<sup>st</sup> Street, in a manner to be reviewed and approved by staff.

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

**III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.**

A. This Final Order consolidates all conditions and requirements for Certificate of Appropriateness and variance approval as same as are contained herein, in the Order dated June 19, 2017 (HPB17-0097). Accordingly, this Order shall serve as the Final Order for the proposed project. In the event of a conflict between the provisions hereof and those of the previous Orders, the provisions hereof shall control.

B. A. As the proposed commercial use within this RM-2 district is only permitted as an accessory use that is incidental to the main permitted hotel use, the following shall apply to the proposed new structure:

1. A Temporary Certificate of Occupancy (TCO) or a Certificate of Occupancy (CO) for the proposed new accessory structure, shall not be issued prior to the issuance of a CO or Business Tax Receipt (BTR) for the main permitted hotel use on the site.
2. The accessory structure shall not be operated or utilized at any time while the main permitted hotel use is closed or non-operational.

Page 6 of 8

HPB21-0480

Meeting Date: November 9, 2021

3. The physical connection between the existing hotel lobby and the new accessory use shall remain open and operable at all times that the accessory use is open to the public.
- C. ~~B.~~ 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.
  - D. ~~C.~~ 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. ~~D.~~ 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.
  - F. ~~E.~~ The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
  - G. ~~F.~~ The FPL transformer or vault room may be permitted to be located between the existing building and the new addition at the western portion of the property, consistent with the location shown on 'Exhibit A', presented to the Board on June 19, 2017. Access shall be provided from the garage entrance, in a manner to be reviewed and approved by staff and Florida Power & Light (FPL). In the event FPL does not approve the transformer or vault room to be in this location, the transformer or vault room shall be located within the building envelope.
  - H. ~~G.~~ All applicable backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
  - I. ~~H.~~ Applicant agrees that in the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - J. ~~I.~~ Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
  - K. ~~J.~~ The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.



Page 7 of 8

HPB21-0480

Meeting Date: November 9, 2021

L. ~~K.~~ The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

M. ~~L.~~ Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code

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

PROVIDED, the applicant shall build substantially in accordance with the plans "New Retail Expansion for: Continental Hotel", as prepared by Charles H. Benson & Associates Architects, P.A., dated May 1, 2017 and plans entitled "HPB21-0480", as prepared by Boos Development Group, Inc., dated September 7, 2021, and as approved by the Historic Preservation Board, as determined by staff.

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

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

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

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

Dated this 17 day of November, 2021

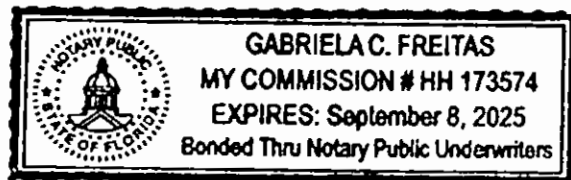
Page 8 of 8  
HPB21-0480  
Meeting Date: November 9, 2021

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]  
DEBORAH TACKETT  
HISTORIC PRESERVATION & ARCHITECTURE OFFICER  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 17th day of November 2021 by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.



[Signature]  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: Sept. 8, 2025

Approved As To Form:  
City Attorney's Office: [Signature] (11/15/2021)

Filed with the Clerk of the Historic Preservation Board on Jessica Gonzalez (11/17/2021 | 11:02 AM EST  
10FC3F3E9D654A5

Strike-Thru denotes deleted language  
Underscore denotes new language

[Signature]



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

**PROPERTY:** 4000 Collins Avenue.

**FILE NO.** PB 17-0101

**IN RE:** The applicant, Sukkah Miami Beach Acquisitions, LLC, requested Conditional Use Approval for the construction of a new four story parking structure with a commercial/retail space on the ground floor including mechanical parking pursuant to section 118, Article IV and section 130, Article II of the City Code.

**LEGAL DESCRIPTION:** THE CONTINENTAL COLLINS AV CONDO MIAMI BEACH IMPROVEMENT CO SUB PB 5-7 & 8 LOTS 10 THRU 15 BLK 34 LESS NE CR OF LOT 13 BOUNDED BY THE TANGENTS TO AN ARC OF A CURVE HAVING A C/A OF 90 DEG & A RAD OF 20FT GRANTED TO THE CITY OF M B.

**MEETING DATE:** September 26, 2017

**CONDITIONAL USE PERMIT**

The applicant, Sukkah Miami Beach Acquisitions, LLC, requested a Conditional Use approval for the construction of a new (4) four story parking structure with a commercial/retail space on the ground floor including mechanical parking pursuant to section 118, Article IV and section 130, Article II of the City Code. 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:

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The property in question is located in the RM-2 – Residential, Medium Intensity Zoning District.

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

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;

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

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

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 the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

*MB*

1. This Conditional Use Permit is issued to Sukkah Miami Beach Acquisitions, LLC, to construct a four (4) story parking structure with a commercial/retail space on the ground floor including mechanical parking. Any proposed change to the uses approved in this Conditional Use shall require the review and approval of the Planning Board.
2. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 180 days from the issuance of the business tax receipt (BTR) for the hotel and the accessory use construction approved as part of this CUP, which shall include providing a full revised traffic study outlining the actual transportation operations on-site and in the surrounding initial study area, and including valet operations and loading/servicing of the building.

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).

3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property applicants, operators, and all successors in interest and assigns. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board, in advance, to affirm their understanding of the conditions listed herein.
4. The Planning Board shall retain the right to call the owner or operator back before them and make modifications to this Conditional Use Permit 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.
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, now and in the future, shall abide by all the documents and statements submitted with this application.
7. As part of the Building Permit plans for the project, the applicant shall submit revised architectural drawings, and landscape drawings, which shall be subject to the review and approval of staff; at a minimum, such plans shall satisfy the following:
  - a. Bike racks shall be located in the front of the building or within enclosed area of the building. Such bike racks shall be located within those areas of the property that are easily accessible, safe, and secure. The final design details, dimensions, location and quantity of exterior bike racks shall be subject to the review and approval of staff. Such plans shall also comply with all applicable regulations and requirements of the City Code.

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- b. An access gate for the proposed passageway along the south side of the property shall be provided, in order to secure the site, subject to the review and approval of staff.
  - c. The floor of the garage shall be designed and constructed to minimize tire noise, in a manner to be approved and certified by a qualified acoustic engineer, subject to the review and approval of staff.
  - d. A permanent generator sufficient to power the vehicular elevators shall be required, in a manner to be reviewed and approved by staff.
  - e. All existing overhead utilities shall be placed underground at the sole expense of the applicant.
8. All new construction over 7,000 square feet or ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area 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.
9. The following shall apply to the operation of the proposed parking garage:
- a. There shall be security personnel of at least one person, on-site, monitoring the garage during all hours of operation.
  - b. Signs prohibiting tire-screeching and unnecessary horn-honking shall be posted at the garage entrance.
  - c. Signs to minimize vehicle conflict in the driveways in and out of the property shall be posted in appropriate locations.
  - d. ~~All mechanical parking lifts must be inspected and certified as safe and in good working order by a licensed mechanical engineer at least once per year and the findings of the inspection shall be summarized in a report signed by the same licensed mechanical engineer or firm. Such report shall be furnished to the Planning Director and the Building Official.~~
  - e. All parking lifts shall be maintained and kept in good working order.
  - f. 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.
  - g. Any off-site valet operation use shall require the review and approval of the Planning Board as a modification to this Conditional Use Permit.
10. The Applicant agrees to the following operational conditions for all permitted 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

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part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:

- a. As the proposed commercial use within this RM-2 district is only permitted as an accessory use that is incidental to the main permitted hotel use, the following shall apply to the proposed new structure:
  1. A Temporary Certificate of Occupancy (TCO) or a Certificate of Occupancy (CO) for the proposed new accessory structure, shall not be issued prior to the issuance of a CO or Business Tax Receipt (BTR) for the main permitted hotel use on the site.
  2. The accessory structure shall not be operated or utilized at any time while the main permitted hotel use is closed or non-operational.
  3. The physical connection between the existing hotel lobby and the new accessory use shall remain open and operable at all times that the accessory use is open to the public.
- b. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed retail area located on the ground floor with the criteria listed below:
  - i. Hours of operation: 7:00 AM to 10:00 PM.
- c. Delivery trucks shall only be permitted to make deliveries from the designated loading spaces contained within the property.
- d. Delivery trucks shall not be allowed to idle in the loading areas.
- e. ~~The size of all delivery/service vehicles shall be limited to the size of the loading zones provided on-site.~~
- f. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
- a. Deliveries and waste collections may occur daily between 8:00 AM and 4:00 PM.
- f. 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.
- g. 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. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.

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- h. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
  - i. Garbage dumpster covers shall be closed at all times except when in active use.
  - j. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day
  - k. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
  - l. 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.
  - m. Special Events shall not be permitted within the accessory building approved as part of this application.
11. The applicant shall address the following Concurrency and Traffic requirements, as applicable:
- a. Ingress into the garage shall be limited to right turn in only from 41<sup>st</sup> Street and egress from the garage shall be limited to right turn only onto 41<sup>st</sup> Street. Ingress and Egress shall be subject to approval from FDOT (Florida Department of Transportation for modifications to the intersection of 41<sup>st</sup> Street and Indian Creek Drive, including the elimination of the current prohibition on left turns from Indian Creek Drive to 41<sup>st</sup> Street. Should any required modifications to applicable intersections not be approved by the Transportation Department, the project shall require the further review of the Planning Board prior to the issuance of any building permit for the proposed addition.
  - b. The applicant shall provide a driveway analysis, as well as applicable adjacent intersection data, which shall be subject to the review and approval of the Transportation Department. Should any required modifications to applicable intersections not be approved by the Transportation Department, the project shall require the further review of the Planning Board prior to the issuance of any building permit for the proposed addition.
  - c. A Method of Transportation (MOT) shall be submitted 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.

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- d. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as may be determined as determined by the Concurrency Management Division.
  - e. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.
  - f. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Business Tax Receipt.
  - g. Valet or loading activities shall not block 41<sup>st</sup> Street, or surrounding streets at any time.
- 12. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a Building permit.
  - 13. The applicant shall obtain a full building permit within 18 months from the date of approval of this Conditional Use Permit, 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.
  - 14. 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.
  - 15. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
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- 16. 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.
  - 17. 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.

MB

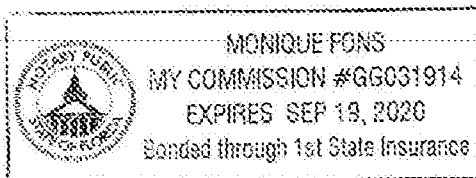
Dated this 9<sup>th</sup> day of FEBRUARY, 2018.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush  
Michael Belush, AICP  
Chief of Planning and Zoning  
For Chairman

STATE OF FLORIDA     )  
COUNTY OF MIAMI-DADE     )

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of FEBRUARY, 2018, by Michael Belush, Chief of Planning and Zoning for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



Monique Fons  
Notary:  
Print Name MONIQUE FONS  
Notary Public, State of Florida  
My Commission Expires: 9/19/2020  
Commission Number:

{NOTARIAL SEAL}

Approved As To Form:

Legal Department

Filed with the Clerk of the Planning Board on January 19, 2018 (2/9/18)

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MB



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

MEETING DATE: January 9, 2018

FILE NO: HPB17-0172

PROPERTY: 4000 Collins Avenue

APPLICANT: Sukkah Miami Beach Acquisitions, LLC

LEGAL: Lots 10, 11, 12, 13, 14 and 15, Block 34 of "Miami Beach Improvement Company", According to the Plat Thereof, as Recorded in Plat Book 5, at Page 8 of the Public Records of Miami-Dade County, Florida.

IN RE: The application for variances to exceed the maximum size for a wall sign and a projecting sign and to relocate a wall sign above the ground floor.

**ORDER**

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

**I. Certificate of Appropriateness**

A. Certificate of Appropriateness has not been requested as part of this application.

**II. Variance(s)**

A. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to exceed by 2.2 SF the maximum allowable area of 30 SF for a wall sign on the south façade in order to permit one wall sign with 32.2 SF fronting 40<sup>th</sup> Street.
2. A variance to relocate an allowable wall sign from the ground floor to the top of the building, fronting 40<sup>th</sup> Street.
3. A variance to exceed by 27.5 SF the maximum permitted area of 15 SF for a projecting sign in order to allow the installation of a projecting sign facing Collins Avenue with a total of 42.5 SF.

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





Page 2 of 4  
HPB17-0172  
Meeting Date: January 9, 2018

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

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

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

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

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

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

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

C. The Board hereby **Approves** the requested variance(s) and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

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

**III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.**

- A. 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.
- B. 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.

Page 3 of 4

HPB17-0172

Meeting Date: January 9, 2018

- C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. 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.
- E. 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.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans "HPB Final Submittal" as prepared by Kieffer & Co., Inc., signed and sealed November 18, 2017, and as approved by the Historic Preservation Board, as determined by staff.

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

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

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

Page 4 of 4  
 HPB17-0172  
 Meeting Date: January 9, 2018

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.

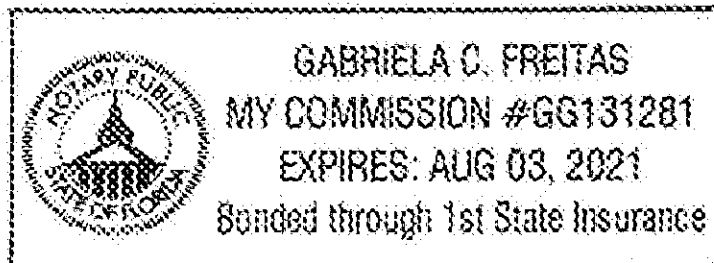
Dated this 16 day of January, 20 18

HISTORIC PRESERVATION BOARD  
 THE CITY OF MIAMI BEACH, FLORIDA

BY [Signature]  
 DEBORAH TACKETT  
 CHIEF OF HISTORIC PRESERVATION  
 FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of January, 2018 by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



[Signature]  
 NOTARY PUBLIC  
 Miami-Dade County, Florida  
 My commission expires: 8-3-21

Approved As To Form: \_\_\_\_\_  
 City Attorney's Office: Nick Kallergis (1/12/2018)

Filed with the Clerk of the Historic Preservation Board on Jessica Gulyan (1/16/18)



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

MEETING DATE: June 19, 2017

FILE NO: HPB17-0097

PROPERTY: 4000 Collins Avenue

APPLICANT: Sukkah Miami Beach Acquisitions, LLC

LEGAL: Lots 10, 11, 12, 13, 14 and 15, Block 34 of "Miami Beach Improvement Company", According to the Plat Thereof, as Recorded in Plat Book 5, at Page 8 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for a Certificate of Appropriateness for the partial demolition of the existing 'Contributing' 5-story structure on the site and the construction of an attached 4-story ground level addition including variances to reduce the required pedestal front, rear, street side and sum of the side setbacks and to exceed the maximum allowed projection within required yards.

**ORDER**

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

**I. Certificate of Appropriateness**

- A. The subject site is located within the Collins Waterfront Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
  1. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  2. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
  3. Is not consistent with Certificate of Appropriateness Criteria 'a', 'b', 'e' & 'o' in Section 118-564(a)(3) of the Miami Beach Code.
  4. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(f)(4) of the Miami Beach Code.



Page 2 of 8

HPB17-0097

Meeting Date: June 19, 2017

C. The project would be consistent with the criteria and requirements of section 118-564 if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
  - a. The vehicular entrance, service and loading corridor located along the western portion of the property shall be entirely enclosed with a solid green roof and walls with the exception of the entrance along 41<sup>st</sup> Street, in a manner consistent with the exterior design and surface finishes of the new building and the interior portions of the enclosure shall be designed and finished in a manner consistent with the exterior, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - b. All exterior doors at the first level of the proposed structure, facing Collins Avenue and 41<sup>st</sup> Street, shall consist of swing doors. Sliding doors shall be prohibited. The final design details, materials and dimensions of all swing doors shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - c. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - d. The final location and details of all exterior ramp and railings systems, including materials, dimensions and finishes, shall be provided in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - e. 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 pedestrian view, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - f. All building signage shall require a separate permit. Any proposed flat wall sign shall be composed of individual reverse channel letters with a natural brushed aluminum finish and any proposed projecting sign shall be composed of individual, pin-mounted non-illuminated reverse channel letters with a brushed aluminum finish or channel letters with brushed aluminum returns and a white acrylic face, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - g. All interior fixtures, including, but not limited to, shelving, partitions, and checkout counters, shall be setback a minimum of ten (10') feet from any portion of an exterior wall fronting Collins Avenue or 41<sup>st</sup> Street, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria

Page 3 of 8  
HPB17-0097

Meeting Date: June 19, 2017

and/or the directions from the Board. This shall not prohibit moveable tables and chairs or substantially transparent fixtures for display purposes only.

- h. Interior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding historic district. Intensive 'white' lighting shall not be permitted within the retail area and all florescent lighting shall have a maximum temperature of 2700 K, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - i. The maximum footcandle level of lighting within the retail area shall not exceed 50 footcandles and the average level of all lighting shall not exceed 30 footcandles, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - j. The final design and details of all exterior and interior lighting shall be provided, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. All proposed interior lighting located within the retail area shall be recessed or small pendant lighting.
  - k. The design and layout of the physical connection between the existing hotel lobby and the proposed new accessory use shall be further developed and detailed, in a manner to be reviewed and approved by staff.
2. All new construction over 7,000 square feet or ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area 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.
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 utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the final revised landscape plan.
  - b. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected**

Page 4 of 8  
 HPB17-0097  
 Meeting Date: June 19, 2017

**person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s), the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were approved by the Board:

1. A variance to reduce by 5'-0" the required pedestal front setback of 20'-0" in order to construct a new building addition at 15'-0" from the front property line facing Collins Ave.
  2. A variance to reduce by 22'-0" the required pedestal street side setback of 27'-0" in order to construct a new building addition at 5'-0" from the street side property line facing 41<sup>st</sup> Street.
  3. A variance to reduce by 22'-0" the required pedestal sum of the side setbacks of 32'-0" in order to construct a new building addition with a sum of the side setbacks of 10'-0".
  4. A variance to exceed by 0'-9" (15%) the maximum allowed projection of 1'-3" (25%) for decorative features in order to construct a decorative frame with a projection of 2'-0" (40%) into the proposed street side yard.
  5. A variance to reduce by 9'-0" the required pedestal rear setbacks of 14'-0" in order to construct a new building addition at 5'-0" from the rear property line.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variance(s) II.A.1, II.A.2, II.A.3, and II.A.5, as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, only as it relates to variance(s), II.A.1, II.A.2, II.A.3, and II.A.5, as noted above:

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;



Page 5 of 8

HPB17-0097

Meeting Date: June 19, 2017

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

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

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

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

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

C. The Board hereby **Approves** the requested variance(s) #1, #2, #3, #4 and # 5, as noted and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. The new construction shall incorporate a minimum of 25% green roof, in a manner to be reviewed and approved by staff.
3. The ground level of the north façade shall be setback a minimum 7'-6" from the north property line fronting on 41<sup>st</sup> Street, in a manner to be reviewed and approved by staff.

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

**III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.**

A. As the proposed commercial use within this RM-2 district is only permitted as an accessory use that is incidental to the main permitted hotel use, the following shall apply to the proposed new structure:

1. A Temporary Certificate of Occupancy (TCO) or a Certificate of Occupancy (CO) for the proposed new accessory structure, shall not be issued prior to the issuance of a CO or Business Tax Receipt (BTR) for the main permitted hotel use on the site.



Page 6 of 8

HPB17-0097

Meeting Date: June 19, 2017

2. The accessory structure shall not be operated or utilized at any time while the main permitted hotel use is closed or non-operational.
3. The physical connection between the existing hotel lobby and the new accessory use shall remain open and operable at all times that the accessory use is open to the public.
- B. 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.
- C. 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.
- D. 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.
- E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. The FPL transformer or vault room may be permitted to be located between the existing building and the new addition at the western portion of the property, consistent with the location shown on 'Exhibit A', presented to the Board on June 19, 2017. Access shall be provided from the garage entrance, in a manner to be reviewed and approved by staff and Florida Power & Light (FPL). In the event FPL does not approve the transformer or vault room to be in this location, the transformer or vault room shall be located within the building envelope.
- G. All applicable backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- H. Applicant agrees that in the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- I. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.



Page 7 of 8

HPB17-0097

Meeting Date: June 19, 2017

- J. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code

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

PROVIDED, the applicant shall build substantially in accordance with the plans "New Retail Expansion for: Continental Hotel", as prepared by Charles H. Benson & Associates Architects, P.A., dated May 1, 2017, and as approved by the Historic Preservation Board, as determined by staff.

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

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

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

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

Page 8 of 8  
 HPB17-0097  
 Meeting Date: June 19, 2017

the City Code, for revocation or modification of the application.

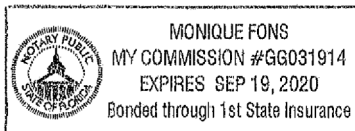
Dated this 21 day of June, 2017.

HISTORIC PRESERVATION BOARD  
 THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]  
 DEBORAH TACKETT  
 CHIEF OF HISTORIC PRESERVATION  
 FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of June, 2017 by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



[Signature]  
 NOTARY PUBLIC  
 Miami-Dade County, Florida  
 My commission expires: 9/19/20

Approved As To Form: [Signature]  
 City Attorney's Office: [Signature] (5/20/17)

Filed with the Clerk of the Historic Preservation Board on [Signature] (6/23/17)