

RITZ-SAGAMORE

PRESENTATION

STUDIO
MUNGE



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Procedural Due Process

“A quasi-judicial hearing generally meets basic due process requirements if the parties are provided notice of the hearing and an opportunity to be heard.”

Jennings v. Dade Cnty., 589 So. 2d 1337, 1340
(Fla. 3d DCA 1991)



Essential Requirements of the Law

“[Q]uasi-judicial boards cannot make decisions based on anything but the local criteria enacted to govern their actions.”

Miami-Dade Cnty. v. Omnipoint Holdings, Inc., 863 So. 2d 375, 377 (Fla. 3d DCA 2003)



Substantial Competent Evidence

[E]vidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached

De Groot v. Sheffield, 95 So. 2d 912, 916
(Fla. 1957)



Scope of Review Limited Only to Evidence in Support of Board's Decision

The court must review the record to assess the evidentiary support for the agency's decision. Evidence contrary to the agency's decision is outside the scope of the inquiry at this point, for the reviewing court above all cannot reweigh the "pros and cons" of conflicting evidence. While contrary evidence may be relevant to the wisdom of the decision, it is irrelevant to the lawfulness of the decision. **As long as the record contains competent substantial evidence to support the agency's decision, the decision is presumed lawful and the court's job is ended.**

Dusseau v. Metro. Dade County Bd. of County Com'rs, 794 So. 2d 1270, 1275-76 (Fla. 2001)

Staff Recommendation

Generally, staff's professional recommendation is alone sufficient to constitute substantial competent evidence.

See Vill. of Palmetto Bay v. Palmer Trinity Private Sch., Inc., 128 So. 3d 19, 27 (Fla. 3d DCA 2012)

Staff Recommendation

All Certificate of Appropriateness Criteria
Met or Not Applicable

Opposition Incorrect Claim: Recommendation Fails to Include Facts on Compatibility

“[N]o weight may be accorded an expert opinion which is totally conclusory in nature and is unsupported by any discernible, factually-based chain of underlying reasoning”

Div. of Admin., State Dept. of Transp. v. Samter, 393 So. 2d 1142, 1145 (Fla. 3d DCA 1981)

**No Appellate Court Has Told a Local
Government's Professional Staff How Much
to Write in a Recommendation**

Fact Check: Staff Recommendation

11 Pages of Thorough Facts and Analysis

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

DATE: September 12, 2023

TO: Chairperson and Members
Historic Preservation Board

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB23-0574, 1 Lincoln Road & 1671 Collins Avenue.

An application has been filed requesting a Certificate of Appropriateness for the partial demolition and renovation of two buildings on the site, the total demolition of one building, the construction of a 1-story rooftop addition, the construction of a ground level multi-family residential addition at the northeast corner of the site and modifications to the rear yard site plan.

RECOMMENDATION
Approval of the Certificate of Appropriateness with conditions.

EXISTING STRUCTURES
Local Historic District:

1 Lincoln Road (Ritz-Carlton Hotel)	Ocean Drive/Collins Avenue
Classification:	Contributing
Construction Date:	1953
Architect:	Melvin Grossman & Morris Lapidus
1 Lincoln Road (Retail & Office Building)	
Classification:	Contributing
Construction Date:	1949
Architect:	Igor Polevitsky
1671 Collins Avenue (Sagamore Hotel)	
Classification:	Contributing
Construction Date:	1948
Architect:	Albert Anis

ZONING / SITE DATA
Legal Description:

Parcel 1 (1 Lincoln Road)
Lots 1 thru 4, Lot 17 & South ½ of Lots 5 & 16, Block 29 and a strip of land described in DB 3781-543 and Lots 18-19 & 20, Block 29 and a portion of land being a being a part of the platted Lincoln Road right-of-way, according to the plat thereof recorded in Plat Book 2, Page 77 of the public records of Miami Dade County, Florida.

Fact Check: Staff Recommendation

Staff is supportive of the contemporary design language of the proposed structure, as it has been well developed and when evaluated within the entirety of its surrounding context, it achieves a high level of compatibility with its immediate neighbors in terms of its overall design aesthetic. To this end, the grid design of the exterior of the addition successfully relates to and complements the Post-War Modern architecture of all three Contributing buildings on the site. Further, the addition is proposed to be setback over 300'-0" from Collins Avenue, greatly minimizing its visibility from a pedestrian perspective along Collins Avenue and its impact on the existing Contributing buildings on the site and the surrounding historic district. Further, the proposed tower, located behind the 6-story 1998 eastern addition and perpendicular to the ocean, will not obscure any original architectural features of the Sagamore Hotel.



Opposition Improperly Equates Compatibility with View of the Beach from the National

“Furthermore, [staff report fails] to present any facts that address contiguous and adjacent buildings and lands and sight lines.”



No “Right to a View”

- Under Florida law, there is **no** right to a view over or through a neighbor’s property.
- “A claim of ‘obstructed view’ does not constitute a ‘legally recognizable interest.’”

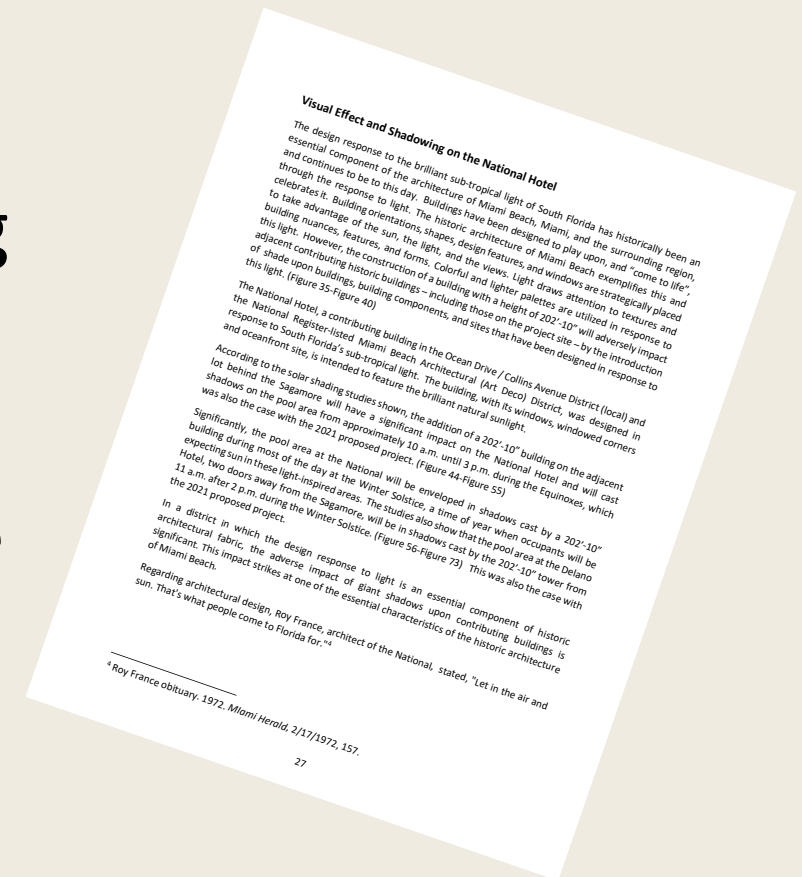
Messett v. Cohen, 741 So. 2d 619, 622 (Fla. 5th DCA 1999)

COA Criteria Do Not Apply to Views from One Private Property Through Another Private Property to a Desired Vista

In Case SM 2021-002, involving an appeal of the HPB's approval of an addition to the Seagull Hotel, the Special Master upheld City staff's long-held policy that the protections provided to view corridors in the COA criteria are only those visible to the public at the pedestrian level.

Opposition Expert Improperly Equates Compatibility with Shading

“[W]ill adversely impact adjacent contributing historic buildings – including those on the project site – by the introduction of shade upon buildings, building components, and sites that have been designed in response to this light.”



No “Right to Free Flow of Light and Air”

“No American decision has been cited, and independent research has revealed none, in which it has been held that—in the absence of some contractual or statutory obligation—a landowner has a legal right to the free flow of light and air across the adjoining land of his neighbor.”

Fontainebleau Hotel Corp. v. Forty-Five Twenty-Five, Inc., 114 So. 2d 357, 359 (Fla. 3d DCA 1959)

**City Has No Regulation Prohibiting Shading of
Neighboring Properties**

**Resiliency Code Instead Sets Specific Height and
Setbacks for Each District**

REBUTTAL TO OBJECTIONS RAISED AT HPB HEARING SEPTEMBER 12th

PETITION PROBLEMS

Unreliable

Not Verifiable

Not targeted

No Standards of Accuracy/Honesty



May 31, 2023, Champlain Towers South Investigation Update: Second Warehouse...

nist.gov

Surfside

<https://www.nist.gov/news-events/news/2023/05/may-31-2023-champlain-towers-south-investigation-update-second-warehouse>



Philip Garofalo
2 months ago

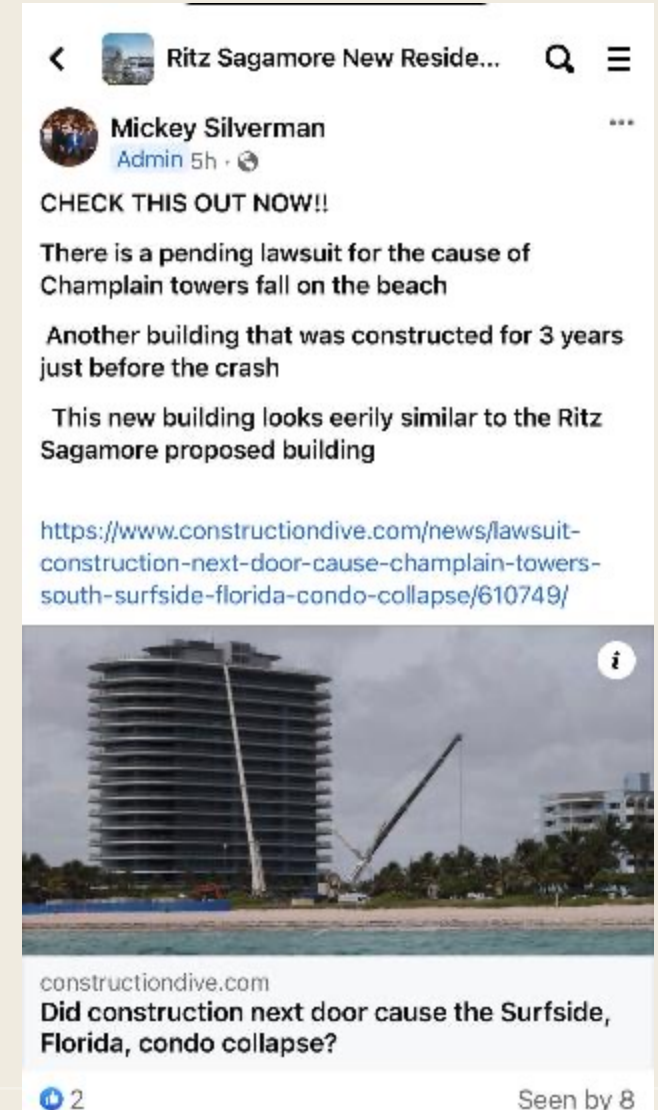


Started June 6, 2023

Why this petition matters



Started by [Philip Garofalo](#)



THE FACTS -- ALWAYS AVAILABLE, IGNORED BY MINORITY OPPOSITION



OVERWHELMING COMMUNITY SUPPORT

TD Bank
DecoPlage
Roney Plaza
Georgian
AF-BP Lincoln
Funding
Loews
Albion
The Betsy
MB COC
Greater MB
Hotel Assoc.
Lobster
Shack
S. FL.
Lincoln Rd.
BID
New World
Symphony
Hilton
Cabana
Symphony
Sapphire
Capital
Gorgon
Capital
Alvins
Eye Max
Eyeware
9 Beach
Latin Rest.

NOT A GLASS TOWER



- Ratio of Solid to Transparent Elements
- Type of Glazing and Ambient Coloration—Sky or Sand & Earth?
- Lesser Degree of Mullionization

EVOLVED, CONTEXTUAL ARCHITECTURE



BEACH WALK PERSPECTIVE



BEACH WALK PERSPECTIVE



BEACH WALK INTRUSION?



DECOPLAGE



PROPOSED RESIDENCES

RESTORING, NOT DESTROYING

We Preserve the Historic View Corridor . . .
While Restoring Half of the Iconic Skyline Block



SHRINKING CITIES = LONG TERM PROBLEMS



WIKIPEDIA
The Free Encyclopedia

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Shrinking city

Shrinking cities or **urban depopulation** are [dense](#) cities that have experienced a notable [population loss](#). [Emigration](#) is a common reason for city shrinkage. Since the [infrastructure](#) of such cities was built to support a larger population, its maintenance can become a serious concern. A related phenomenon is [counterurbanization](#).



NEW RESIDENTS WON'T MAKE AN IMPACT?

High Net Worth Residents Pump Large \$\$\$\$ into Local Economy

Source: Oracle Blog

<https://blogs.oracle.com/advertising/post/lifestyles-of-the-top-1-how-americanx27s-elite-live-shop-and-play>



Residents Transformed Sofi

Eyes on the Street, Civically Engaged

Our Buyer Profile—Americans Fleeing High Tax, High Regulation States

Rental Restrictions—No Less than One Year

Many Drawn From Our Loyal Ritz Customer Base Looking for Retirement Services

Section 2.13.7(d)(ii)(3)(d):

The proposed structure, or additions to an existing structure are appropriate to and compatible with the environment and adjacent structures, and enhance the appearance of the surrounding properties, or the purposes for which the district was created.

HISTORIC DISTRICT

Sunset Island Bridge #2
Historic Structure

Sunset Island Bridge #1
Historic Structure

Venetian Causeway
Historic Structure

Palm View
Historic District

1600 Lenox Avenue
Historic Site

Flagler Memorial and
Monument Island
Historic Site

Miami Beach Women's Club
Historic Site

Dade Boulevard Fire Station
Historic Site

21st Street Recreation Center
Historic Site

Museum
Historic District

Ocean Drive/Collins Avenue
Historic District

Espanola Way
Historic District

Old City Hall
Historic Site

Flamingo Park
Historic District

Atlantic
Ocean

National Register Historic District

PROPOSED
GROUND UP
ADDITION



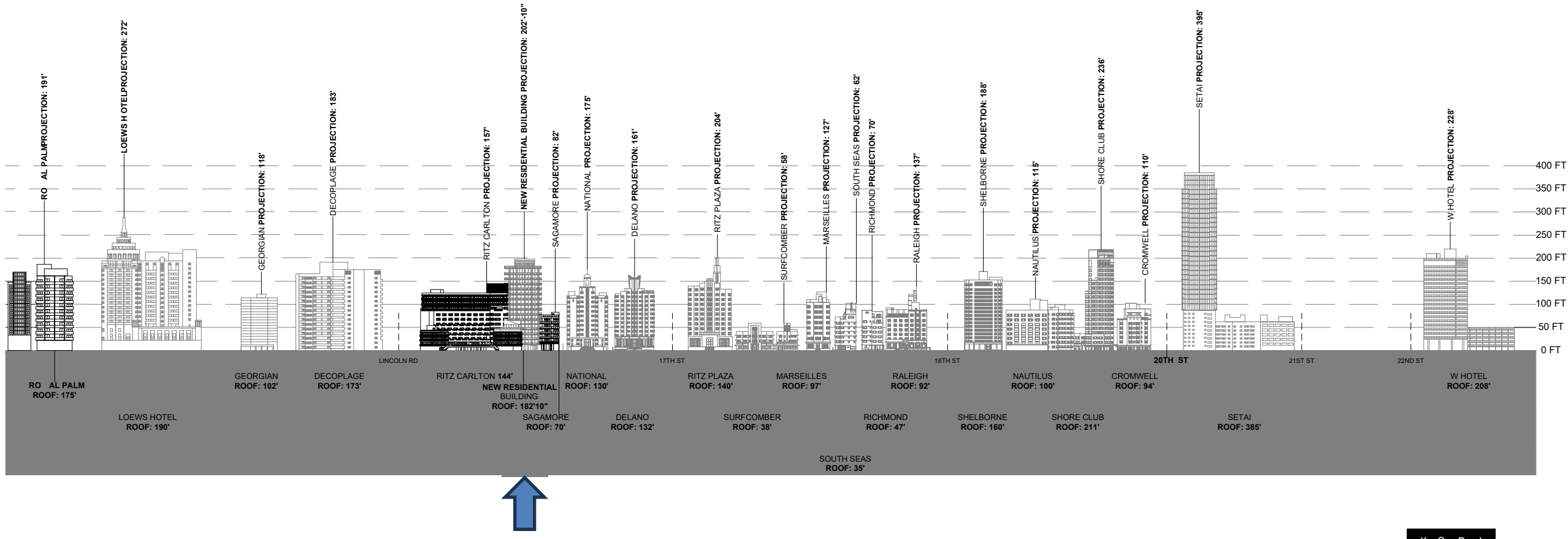
MASSING COMPATIBILITY WITHIN HISTORIC DISTRICT



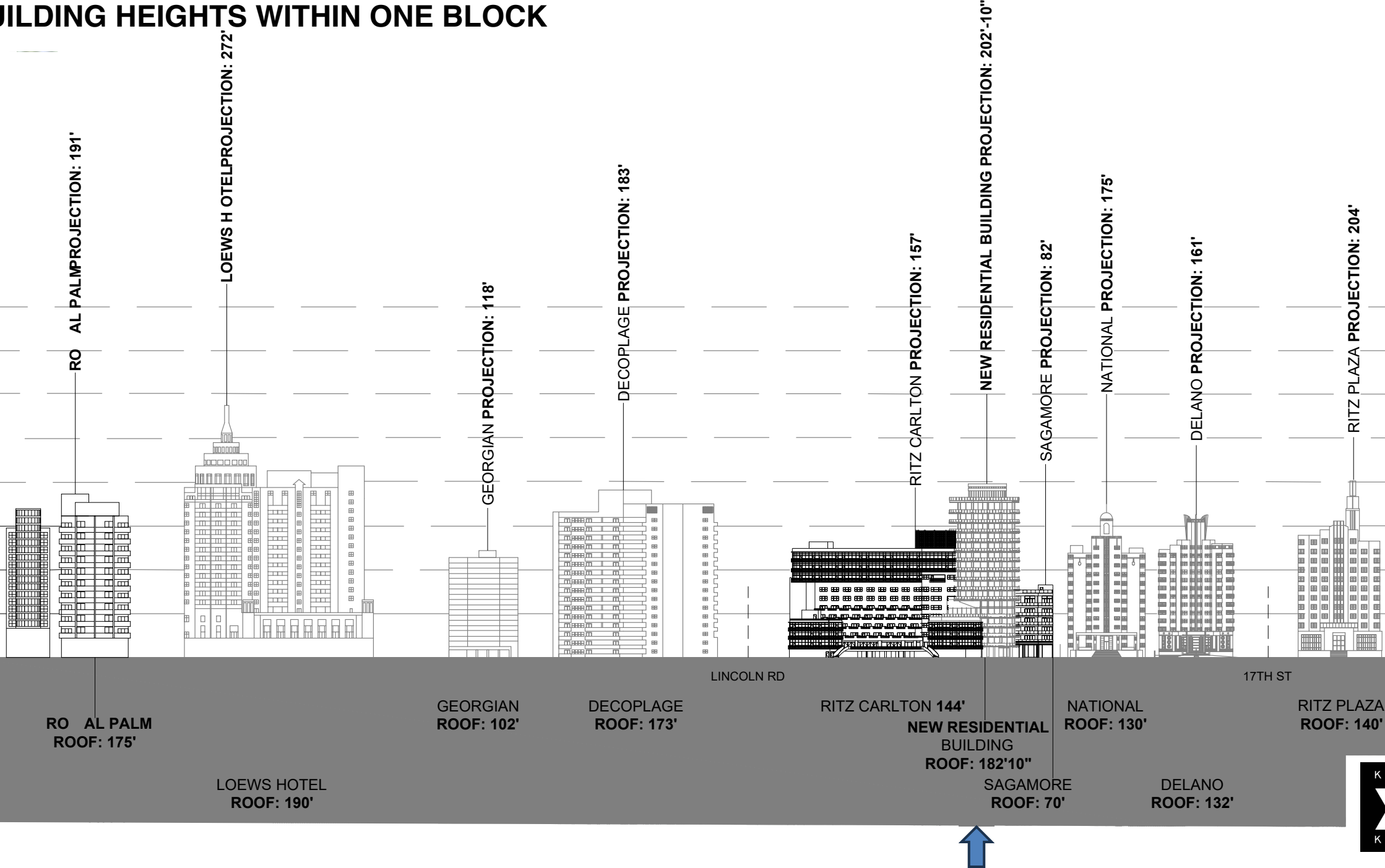
COMPATIBLE WITH ENVIRONMENT



BUILDING HEIGHTS FROM 16TH TO 22ND



BUILDING HEIGHTS WITHIN ONE BLOCK



Section 2.13.7(d)(ii)(3)(e)

The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

EXISTING SITE AND NEIGHBORING BUILDINGS

DELANO HOTEL
R. SWARTBURG
c.1948

NATIONAL HOTEL
ROY FRANCE
c.1939

SAGAMORE HOTEL,
ALBERT ANIS
c.1948

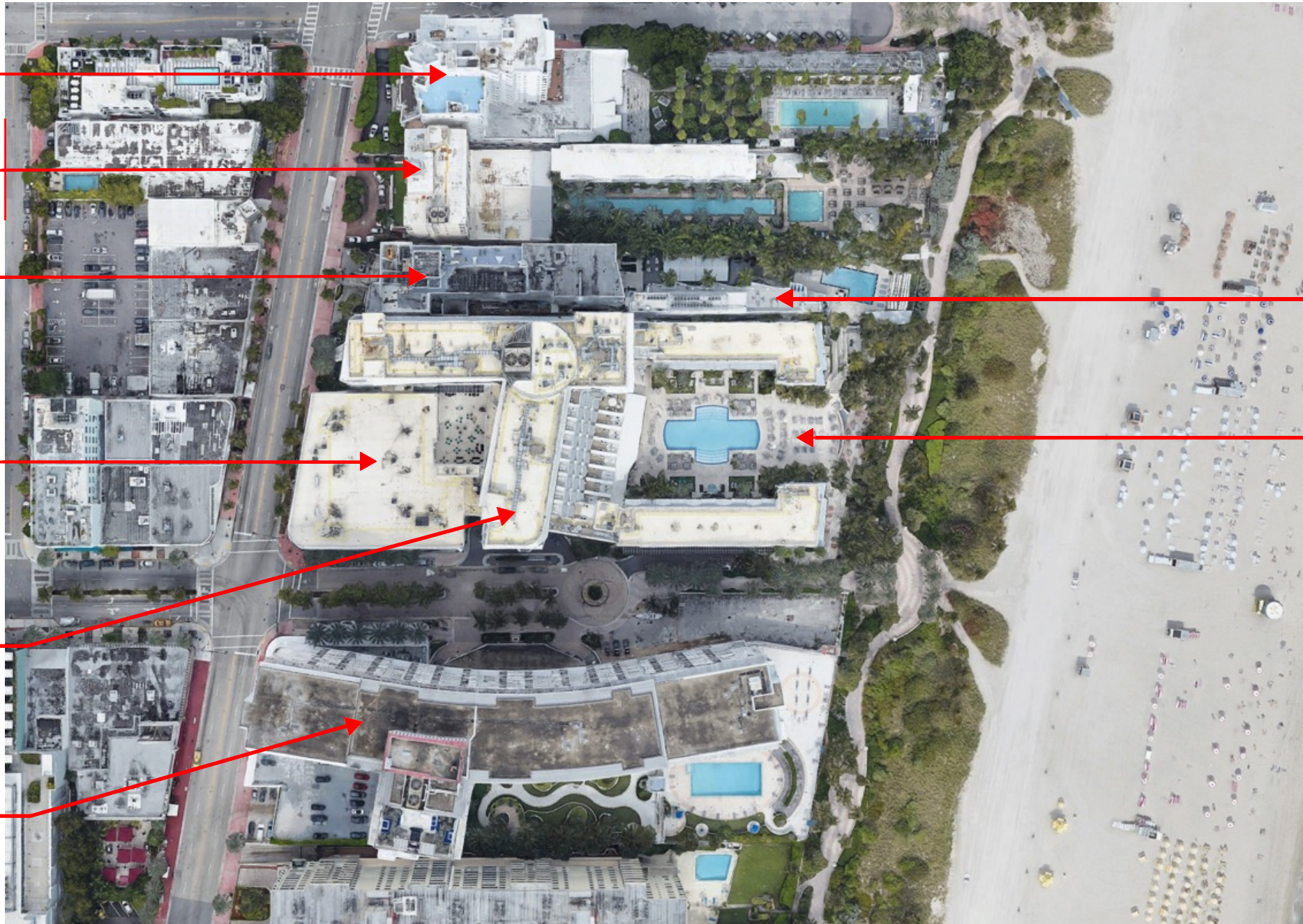
ORIGINAL IGOR
POLEVITSKY ONE
LINCOLN ROAD

DILIDO HOTEL M.
LAPIDUS c. 1951;
NICHOLS ADDITON
c.2000

DECOPLAGE c.1965

SAGAMORE
CABANA ADD.
C.2000

LANAI AND POOL
ADDITION c.2000



PROPOSED SITE PLAN WITH BUILDING FOOTPRINT



NEW BUILDING PLACEMENT IN REAR YARD MAINTAINS PEDESTRIAN SIGHT LINES AND VIEW CORRIDORS



VIEW SOUTH FROM 17th ST



PRESERVING NEIGHBORHOOD CHARACTER



VIEW EAST FROM COLLINS AVE



MAINTAINS PEDESTRIAN SITE LINES



VIEW NORTH FROM LINCOLN ROAD



MAINTAINS IMPORTANT VIEW CORRIDORS



Section 2.13.7(d)(ii)(3)(j)

“Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).”

AERIAL CONTEXT RENDERING



COMPATIBLE WITH SITE AND SURROUNDINGS



VIEW EAST FROM COLLINS AVE



RESTORED FACADE



§ 67.7 Standards for rehabilitation.

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

EGG CRATE



SHADOW BOXES



**ANGLED CURVED
EYEBROWS**

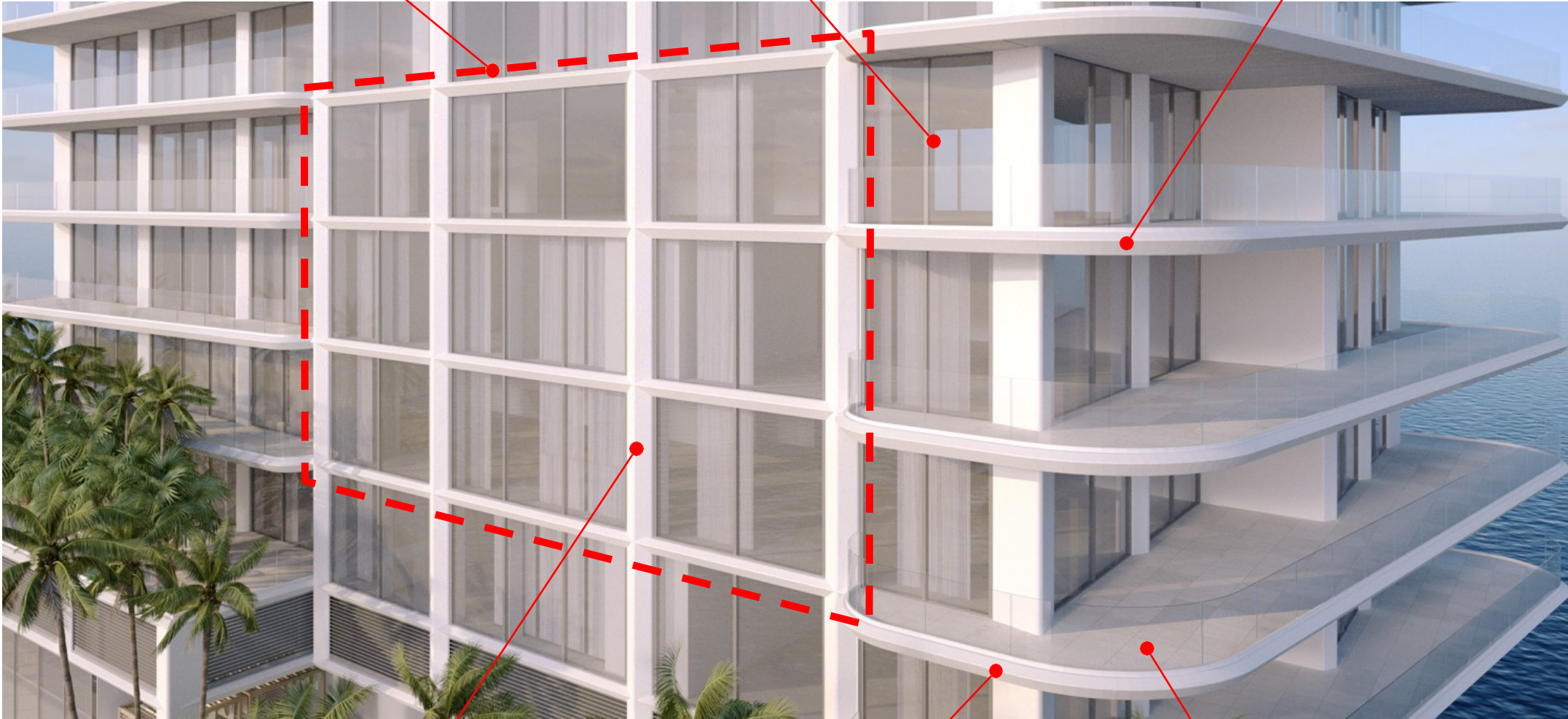


ARCHITECTURAL FEATURES

**LAPIDUS EGG
CRATE INSPIRED**

**TURTLE
COMPLIANT GLASS**

**ANGLED CURVED
BALCONIES**



**VERTICAL WHITE
ARCHITECTURAL
CLADDING**

**HORIZONTAL WHITE
ARCHITECTURAL
CLADDING**

GLASS RAILING

COMPLIMENTARY ARCHITECTURAL ELEMENTS



VIEW EAST FROM COLLINS AVE



PROTECTS HISTORIC INTEGRITY



VIEW EAST FROM COLLINS AVE



PRESERVING NEIGHBORHOOD CHARACTER

OVERALL

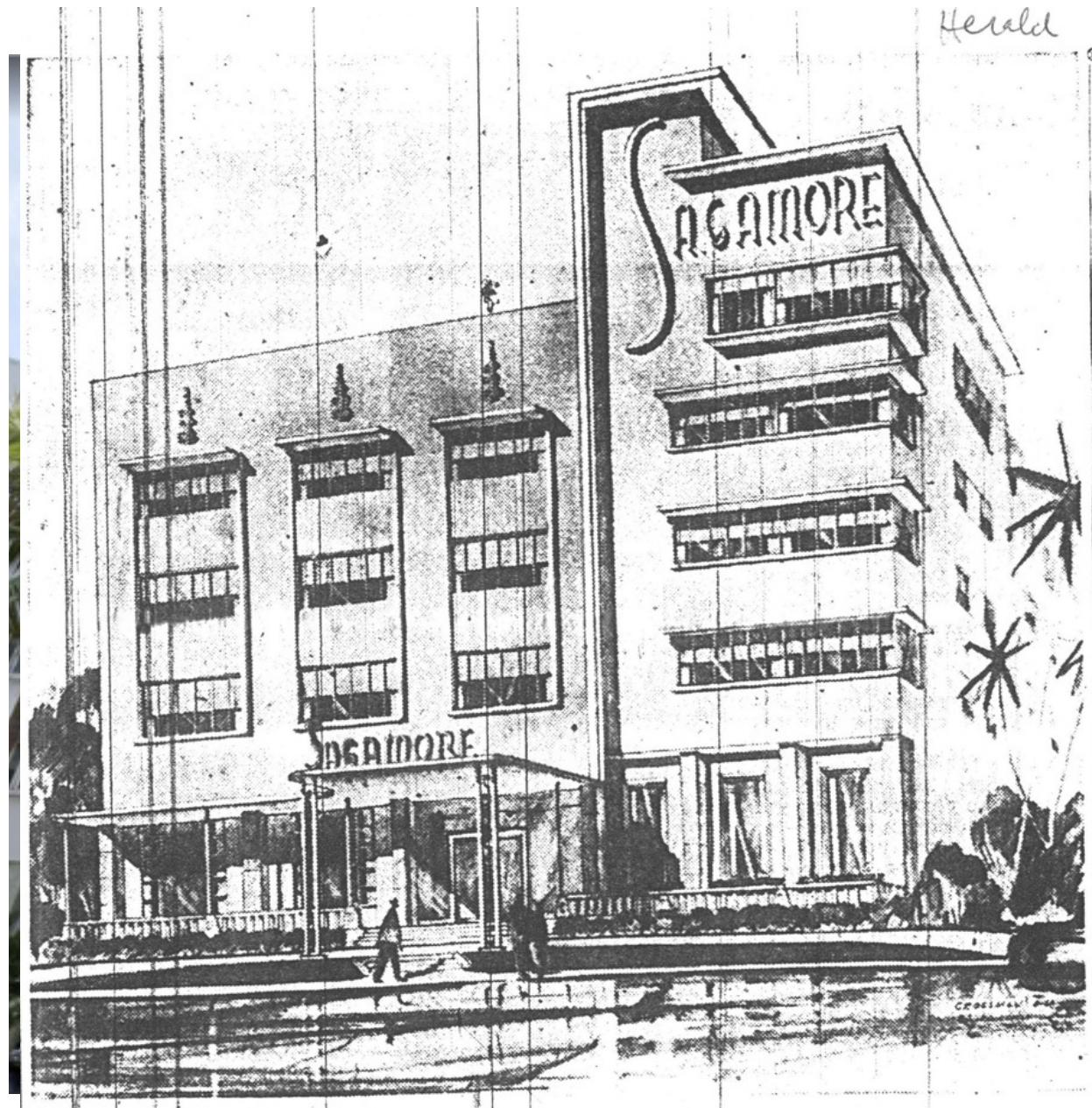


VIEW NORTH FROM THE BEACH



COMPATIBLE MASSING, SIZE AND SCALE
NEW RESIDENTIAL BUILDING





June 20, 1948 RENDERING COURTESY MIAMI HERALD

EXISTING FACADE

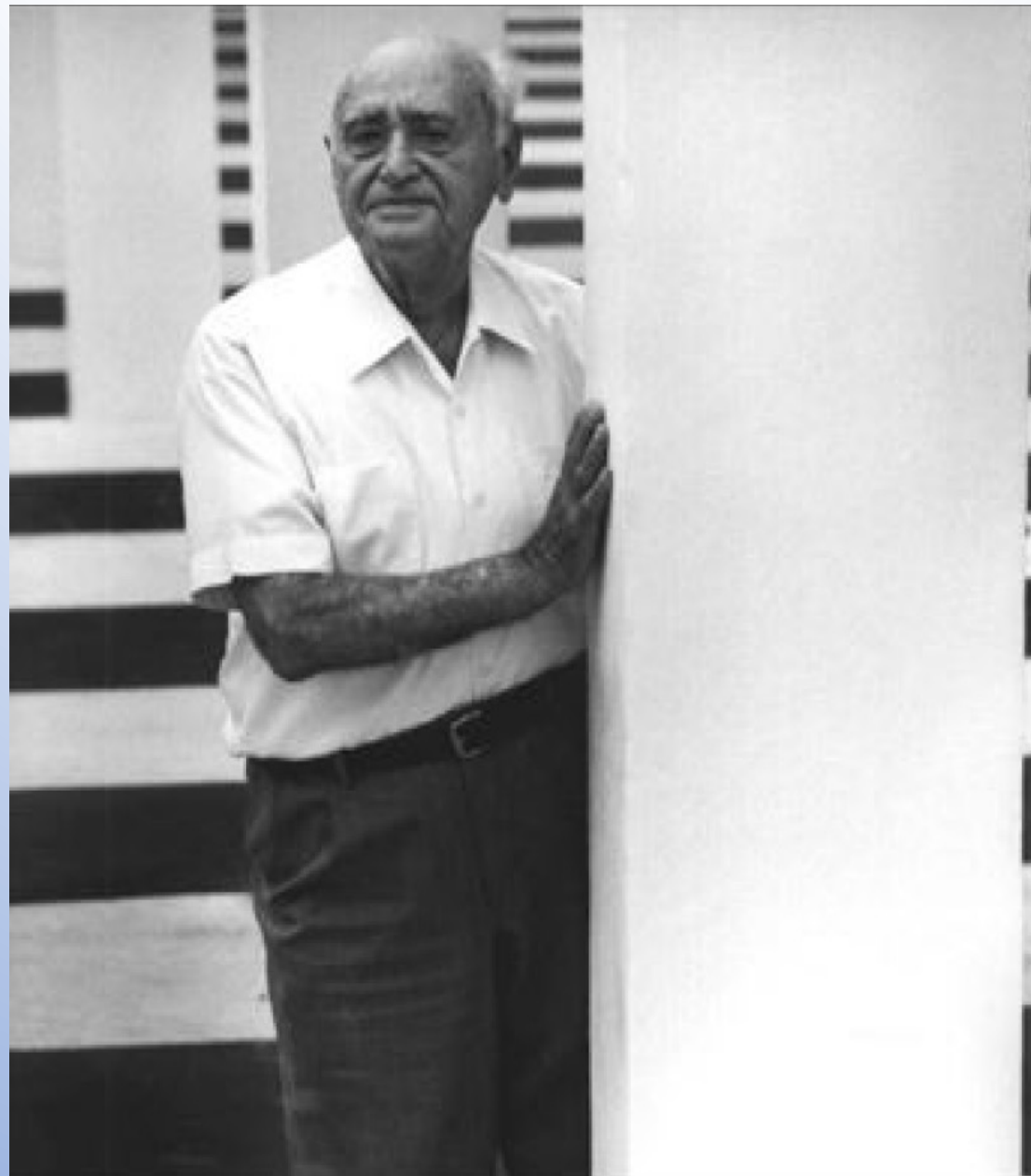


RESTORED FACADE





DEBORAH DESILETS
ARCHITECT
AR0014439



Serving The Needs of People



From Low To High



Age Of Disparity



Evolving To Meet Changing Needs



A Community in Flux: Restoring Mixed-Use



Lapidus's Architectural Evolution



Preserving Historical Buildings While Evolving Our Community

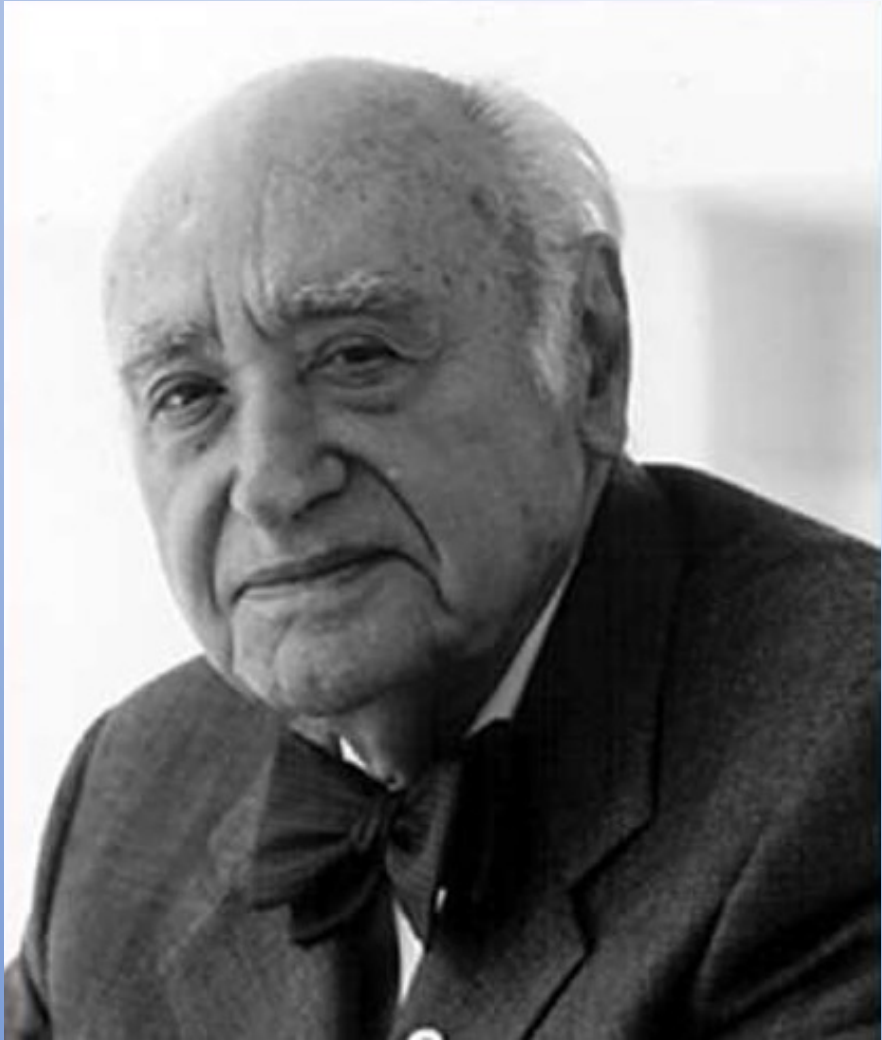


The Evolution: New Architecture Respecting Past Legacies



A Modern Example of Architectural Compatibility

IF ARCHITECTURE SERVES COMMUNITIES, COMMUNITIES PRESERVE ARCHITECTURE



“What’s the most important thing about architecture? It’s people. People! Don’t forget that.”

"Architecture has less to do with brick, stone, and mortar. More to do with the human spirit. Give people [communities] a lift."

**PRESERVATION ORDINANCE ARTICLE X Sec. 118-502.
- Purpose.**

The general purpose of these regulations is to protect and encourage the revitalization of sites and districts within the city having special historic, architectural or archeological value to the public.

Architecture Enhances Communities



Ocean Terrace: Public Park



Ocean Terrace Decision Tree

HPB Approves Private Project With Conditions
"Unacceptable to Developer in its Sole and
Absolute Discretion"

Developer Revises Project

OR

Developer Terminates Agreement (All Public
Benefits No Longer Provided)

Ritz/Sagamore Term Sheet Terms Relevant to HPB Review – Material Adverse Effect

Ritz/Sagamore Reserves Right to Not Proceed with Public Project if Private Project is Denied or Subject to Conditions that Would Have a Material Adverse Effect on Private Project.

What is a Material Adverse Effect?

A Reduction in Height, Density, or Floor Area, the Relocation of the Proposed Residential Building, or Significant Modifications that Reduce the Project's Marketability.

What is Not a Material Adverse Effect?

All architectural changes that do not require a reduction in height, density, or floor area or the relocation of the building.

Ritz/Sagamore Improvement Agreement Term Sheet – Material Adverse Effect

**HPB Approves Private Project With Conditions
that Have a Material Adverse Effect on Private
Project**



**Developer Revises Project and Public Project
Scope May be Modified**

OR



**Developer Abandons Both Public and Private
Projects**

Ritz/Sagamore Improvement Agreement Term Sheet – No Material Adverse Effect

**HPB Approves Private Project With Conditions
that Will Not Have a Material Adverse Effect on
Private Project**



**If Private Project Goes Forward, Public Benefit
Must be Provided**

Ocean Terrace v. Ritz Sagamore

Ocean Terrace Development Agreement Allowed Developer to Abandon Public Benefits if HPB Conditioned Approval in Any Way Not Acceptable to the Developer

Ritz/Sagamore Term Sheet Requires Developer to Provide Public Benefits Unless HPB Denies the Private Project or Imposes Conditions with Material Adverse Impacts