

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: December 11, 2025

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **DRB25-1102**  
**1200 -1212 Lincoln Road & 1628-1634 Alton Road**

An application has been filed requesting Design Review Approval for the construction of a new entry canopy and four new signs for a proposed restaurant, with one or more waivers, and variances to exceed the maximum size for projecting signs and for projecting sign special condition requirements, to be placed on an existing building.

### **RECOMMENDATION:**

Approval of the design of the entry canopy.

Approval of variances 1, 4 & 5 requested for the proposed signs.

Denial of the variances 2 & 3 requested for the proposed signs.

### **HISTORY:**

On September 23, 2014, the Planning Board approved PB File No. 2207, granting a Conditional Use Permit (CUP) for the construction of a commercial development exceeding 50,000 square feet. On October 07, 2014, the Design Review Board approved a new five-story commercial building with accessory parking, pursuant to DRB File No. 23078. Both of those Land Use Board approvals were for lots 3 through 9 of the subject block. The remaining lots on the block (lots 1 and lots 2) were subsequently acquired by the applicant. On May 24, 2016, the Planning Board approved a new Conditional Use Permit for the construction of a commercial development, encompassing the entire block, exceeding 50,000 SF pursuant to PB File No. 2325.

On July 5, 2016, the Design Review Board approved a new five-story commercial building with accessory parking and a hotel component to replace all existing structures on site, including variances. (DRB0416-0015). This project was approved to take place in three (3) phases as a phased development project. The applicants also requested Design Review Approval for the installation of an artistic super graphic on the north and east elevation, but this portion of the application was deferred to a later date and was never heard. In interim, the applicant sought a change to the land development regulations relating to the structure type for supergraphics.

On February 6, 2017, the Design Review Board approved modifications in order to adjust the elevation to incorporate a taller first floor and variances to exceed the maximum height of a roof deck and to exceed its maximum area allowed. (DRB16-0090). On October 3, 2017, the Design review Board approved a previously requested, (in 2016) artistic super graphic on the north and east elevations of the building and a variance to reduce the minimum hotel unit size. (DRB0416-0015).

On September 16, 2019 the Design Review Board approved for ratification and approval, pursuant to a settlement agreement between the City and the Applicant, of a portion of “electronic noncommercial graphics and images” elements of the building; exterior design modifications to the exterior of the building including exterior lighting features; and the design of a uniform commercial signage program including variances to exceed the maximum size for projecting signs, to exceed the maximum aggregate sign area allowed per tenant, to exceed the maximum size for directory signs, to install directory signs as projecting signs, to install more than one directory sign, to install multiple signs above the first floor, to install multiple signs without providing direct access from the street, to install signage facing a non-street façade, to install a building identification sign below the roof line and to install a building identification sign as a projecting sign. (DRB18-0337).

On December 14, 2020, the Planning Board approved a new Conditional Use Permit related to an outdoor movie theater with an accessory bar. This included approval for an Open-Air Entertainment Establishment, an Outdoor Entertainment Establishment and a Neighborhood Impact Establishment, pursuant to (PB20-0377).

On January 5, 2021, the Design Review Board Approved the construction of a new rooftop outdoor movie theatre and bar addition and other exterior design modifications to an existing parking garage level of a previously approved five story building. (DRB20-0556). On January 4, 2024, the Design Review Board Approved modifications to the conditions of approval related to the design and materials required for the abutting sidewalks. (DRB23-0979).

On February 6, 2024, the Design Review Board approved modifications to a previously issued Design Review Approval for the construction of a new 5-story commercial building, including accessory parking and a hotel component. Specifically, the requested to modify one of the conditions of approval related to the design and materials required for the abutting sidewalks. (DRB23-0979, a.k.a DRB0416-0015). On September 3, 2024, the Design Review Board approved related variances for a hanging sign to exceed the maximum allowable signage area for a previously approved five-story commercial and hotel building. (CitizenM Hotel - DRB24-1029).

**LEGAL DESCRIPTION:**

Lots 8 and 9 of Block 45 of the "Commercial Subdivision", According to the Plat Thereof, as Recorded in Plat Book 6, Page 5, of the Public Records of Miami-Dade County, Florida. (per survey submitted by the applicant).

**SITE DATA:**

Zoning:	CD-2 MEDIUM INTENSITY COMMERCIAL DISTRICT
Future Land Use:	CD
Lot Size:	70,666 SF / 1.62 acre
FAR:	2.0 – 141,332 SF
Permitted FAR:	2.0 – 141,332 SF
Proposed Height:	60'-0" 5 stories / 77'-0" to greatest architectural projection
Permitted Height:	60'-0" / 5 stories

**LAND USES:**

North: (across Lincoln Road) Commercial

South: (across 16th Street) Commercial  
East: (across Alton Road) Commercial / Former Regal Cinemas :-(  
West: (across Alton Court) Public Parking/Multifamily Residential

**THE PROJECT:**

The applicant has submitted plans entitled “FOGO DE CHAO – NEW ENTRY CANOPY APPROVAL” as prepared by **Harrison USA LLC**; and signage details and variance diagrams as prepared by **FIRST & MAIN SIGNAGE FOR MODERN BRANDS**. The applicant is proposing a new entry canopy facing Lincoln Road, and four new signs for a proposed restaurant (Fogo De Chao) facing Lincoln Road and Alton Road.

The applicant is requesting the following variances:

1. A variance to exceed by 12.49 SF the maximum size area of 15 SF for the installation of a projecting sign (Sign A located on the proposed canopy facing Lincoln Road).
2. A variance to exceed by 11.57 SF the maximum size area of 15 SF for the installation of a projecting sign (Blade sign D2 located on Lincoln Road).
3. A variance to exceed by 11.57 SF the maximum size area of 15 SF for the installation of a projecting sign (Blade sign D1 located on Alton Road).
4. A variance for not complying with section 6.2.6 Special Conditions for the installation of a projecting sign(Blade sign D2 located on Lincoln Road).
5. A variance for not complying with section 6.2.6 Special Conditions for the installation of a projecting sign(Blade sign D1 located on Alton Road).

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 2.8.3 of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;
- iii. 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;
- iv. 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;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
  - vi. 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;
  - vii. 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
  - viii. 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 ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the City Code, aside from the requested variance(s). The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**COMPLIANCE WITH DESIGN REVIEW CRITERIA, SECTION 2.5.3.1:**

Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearance, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The design review board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and applicable design guidelines. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department.

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Not applicable**
- b. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Not applicable**
- c. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.  
**Not applicable**

- d. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the city identified in section 2.5.3.2.  
**Satisfied**
- e. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.  
**Not applicable**
- f. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.  
**Satisfied**
- g. The design and layout of the proposed site plan, as well as all new and existing buildings 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 contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.  
**Not applicable**
- h. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.  
**Not applicable**
- i. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.  
**Satisfied**
- j. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.  
**Not applicable**
- k. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.  
**Not applicable**

- l. The proposed structure has 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).  
**Not applicable**
- m. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.  
**Not applicable**
- n. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.  
**Not applicable**
- o. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvements.  
**Not applicable**
- p. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.  
**Addressed**
- q. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.  
**Not applicable**
- r. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.  
**Not Applicable**
- s. The structure and site complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.  
**Not applicable**

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 7.1.2.4(a)(i) of the Land Development Regulations establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not applicable.**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not applicable**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Not applicable**
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 4 of the Land Development Regulations.  
**Not applicable**
- (5) The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.  
**Not applicable**
- (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 and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.  
**Not applicable**
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.  
**Not applicable**
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.  
**Not applicable**
- (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.  
**Not applicable**
- (10) In all new projects, water retention systems shall be provided.  
**Not applicable**
- (11) Cool pavement materials or porous pavement materials shall be utilized.

**Not applicable**

(12) The project design shall minimize the potential for a project causing a heat island effect on site.

**Not applicable**

**STAFF ANALYSIS:**

**Design Review**

The applicant is proposing a new entry canopy and four new signs for a proposed restaurant (Fogo De Chao) facing Lincoln Road and Alton Road. The proposed entry canopy structure, located at the primary entrance of the restaurant on Lincoln Road, extends 2'-11" from the building façade and measures 14'-11 ½" in height and 16'-5" in width. The canopy is supported by vertically anodized wood-like slats and features an anodized black metal roof, this proposed canopy is located within the property.

The proposed Sign A, located at the canopy facing Lincoln Road, is considered a projecting sign with a proposed area of 27.29 square feet (variance 1). Sign B, located on Alton Road, is considered a wall sign with a proposed area of 27.29 square feet (no variance required). Both signs feature internally illuminated face-lit (white color) channel letters; sign A is mounted over the anodized black metal canopy, while sign B is mounted on a backer panel located over the existing horizontal louvers on the building façade, with panel color matching the existing louvers.

Blade signs D1, facing Alton Road, and D2, facing Lincoln Road, are categorized as projecting signs. Variances have been requested for both signs to exceed the maximum area and adhere to special conditions per City code (see variance review below). The signs are proposed to be internally illuminated with LED lights in white on a dark surface and the proposed area is 26.57 square feet. As there are no specified materials for the blade signs, staff is recommending conditions to address this. Additionally, staff is recommending that the blade signs be rectangular, removing the proposed rounded top and bottom, to ensure compatibility with the contemporary architectural style of the building and other blade signs in the vicinity.

**Variance Review**

As noted under the 'Project' description, the variances being requested for signs pertain to projecting signs at the ground floor restaurant location.

Variance 1: A variance to exceed by 12.49 square feet the maximum size area of 15 square feet for the installation of a projecting sign (sign A located on the proposed canopy facing Lincoln Road). The proposed area is 27.49 square feet.

- Variance requested from:

**6.2.6 Projecting signs**

**Maximum area:** 15 square feet

Although it exceeds the maximum size for a projecting sign, this sign (sign A) will serve as the

primary sign for the establishment and the proposed area will match the sign on Alton Road (sign B – wall sign). Per city Code, a corner ground floor establishment is allowed to have two wall signs, and the proposed area of 27.49 square feet complies this regulation. By placing the sign on the proposed canopy instead of the building façade, the sign is considered a projecting sign, which has greater size restrictions. The proposed size and location of the sign are proportional to the scale of the building and will not negatively impact the surrounding area. The applicant maintains that the current regulations present a practical difficulty as they prevent pedestrian wayfinding on Lincoln Road for a main sign. Staff has no objection to the approval of this variance.

Variances 2 & 3: Variances to exceed by 11.57 square feet the maximum size area of 15 square feet for the installation of projecting signs (blade sign D2 located on Lincoln Road and blade sign D1 located on Alton Road). The proposed area for each blade/projecting sign is 26.57 square feet.

- Variance requested from:

#### **6.2.6 Projecting signs**

**Maximum area:** 15 square feet

The applicant has indicated that the proposed blade/projecting signs are designed to enhance visibility and wayfinding to the new restaurant. However, the number of signs proposed is excessive and they are not compatible with other blade/projecting signs in the building and the area, as presently configured. Given that the restaurant is located on a primary corner, staff does not foresee visibility or wayfinding issues and it is unnecessary to have projecting blade signs that exceed what the code allows. Additionally, each projecting blade has signage on both sides, resulting in a total of six signs for the venue. As such staff does not recommend approval of variances 2 and 3.

Variances 4 & 5: Variances for not complying with section 6.2.6 Special Conditions for the installation of projecting signs (blade signs D1 located on Alton Road and D2 located on Lincoln Road).

- Variance requested from:

#### **6.2.6 Projecting signs**

##### **Special conditions**

- e. The sign shall not be located directly in front of windows.
- f. Sign letters shall be open face with exposed neon or similar lighting, or reverse channel letters.
- g. Compatible signage design is utilized for all signs on a single building.

The applicant contends that the proposed blade signs do not comply with special conditions e, f, and g above due to practical difficulties. Regarding condition e, given that the façade of

the building consists almost entirely of glass windows, it would be a practical difficulty to locate the signs on an area that is not in front of a window. Regarding condition f, the applicant is proposing channel letters, as opposed to reverse channel letters, which is consistent with the signage on the site and more appropriate given the glass façade. Regarding condition g, the site contains multiple uses and buildings, so while the signs do not conflict with each other, they do utilize different fonts and colors, making full compliance with this requirement a practical difficulty to the applicant. In view of the foregoing, staff has no objection to the approval of variances 4 & 5.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be approved, including **approval** of variances 1, 4 and 5 and **denial** of variances 2 and 3, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review, Sea Level Rise criteria and Hardship and Practical Difficulties criteria, as applicable.

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

MEETING DATE: December 11, 2025

PROPERTY: **1200 - 1212 Lincoln Road & 1628-1634 Alton Road, a.k.a. "1212 Lincoln"**  
1628 Alton Road 02-3234-018-0170  
1634 Alton Road 02-3234-018-0180

FILE NO: DRB25-1102

IN RE: An application has been filed requesting Design Review Approval for the construction of a new entry canopy and four new signs for a proposed restaurant, with one or more waivers, and variances to exceed the maximum size for projecting signs and for projecting sign special condition requirements, to be placed on an existing building.

LEGAL: Lots 8 and 9 of Block 45 of the "Commercial Subdivision", According to the Plat Thereof, as Recorded in Plat Book 6, Page 5, of the Public Records of Miami-Dade County, Florida.

APPLICANT: Fogo De Chao Churrascaria (Miami Beach Lincoln Road), LLC

**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 2.1.3.1 of the Land Development Regulations. 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 consistent with Design Review Criteria in Section 2.5.3.1 of the Land Development Regulations.
- 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 consistent with Sea Level Rise Criteria in Section 7.1.2.4(a)(i) of the Land Development Regulations

- D. The project would be consistent with the criteria and requirements 2.5.3.1 and/ or Section 7.1.2.4(a)(i) if the following conditions are met:
1. Revised drawings shall be submitted, at a minimum, such drawings shall incorporate the following:
    - a. The design of the projecting sign A (“FOGO DE CHAO”) located on the canopy facing Lincoln Road shall be approved as proposed. in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
    - b. The design of the wall sign B (“FOGO DE CHAO”) located on the building façade facing Alton Road shall be approved as proposed, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
    - c. The proposed projecting/blade signs D1 and D2 (“FOGO DE CHAO”) cannot exceed 15 square feet in size; The design can be approved as propose, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
    - d. Sign A: No exterior raceway or exterior disconnect switches shall be allowed. Intermittent lights, moving or revolving lights shall not be permitted. All electrical wiring and power shall be routed through the proposed canopy and not be visible from the right-of-way.
    - e. Sign B: Shall be located over the existing building louvers on Alton Road. No exterior disconnect switches shall be allowed. Intermittent lights, moving or revolving lights shall not be permitted. All electrical wiring and power shall be routed through the louvers area and not be visible from the right-of-way.
    - f. Signs D1 and D2 shall be rectangular with no rounded top or bottom and consist of a powder-coated aluminum face, the color shall match the existing louvers and storefront mullions with the tenant signage for a high quality aesthetic, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
    - g. All proposed signs A, B, D1 and D2 shall be processed in one signage permit.
    - h. 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.

**In accordance with section 2.2.4.8 of the Land Development Regulations, the applicant, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal a decision of the design review board for design review approval only to the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission.**

## II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
1. A variance from Sec. 6.2.6. to exceed by 12.49 SF the maximum size area of 15 SF for the installation of a projecting sign (Sign A located on the proposed canopy facing Lincoln Road). The proposed area is 27.49 SF.
  2. A variance from Sec. 6.2.6. to exceed by 11.57 SF the maximum size area of 15 SF for the installation of a projecting sign (Blade sign D2 located on Lincoln Road).
  3. A variance from Sec. 6.2.6. to exceed by 11.57 SF the maximum size area of 15 SF for the installation of a projecting sign (Blade sign D1 located on Alton Road).
  4. A variance for not complying with section 6.2.6 Special Conditions for the installation of a projecting sign(Blade sign D2 located on Lincoln Road).
  5. A variance for not complying with section 6.2.6 Special Conditions for the installation of a projecting sign(Blade sign D1 located on Alton Road).
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, 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.

Additionally, the Board has concluded that the plans and documents submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 2.8.3 of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;
- iii. 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;
- iv. 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;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- vi. 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;

- vii. 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
- viii. 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.

C. The Board hereby **Approves** variance 1, 4 and 5 requests and **Denies** Variance 2 and 3 requests.

**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 and Waivers' noted above.**

- A. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- B. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- C. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- 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 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.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. 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 Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled “FOGO DE CHAO – NEW ENTRY CANOPY APPROVAL” as prepared by **Harrison USA LLC**; and signage details and variance diagrams as prepared by **FIRST & MAIN SIGNAGE FOR MODERN BRANDS**. and as approved by the Design Review 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 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 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 Section 2.2.4.6 of the Land Development Regulations; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall 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 2 of the Land Development Regulations, 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 2 of the Land Development Regulations, for revocation or modification of the application.

