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Chair and Members of the Historic Preservation Board (“HPB”)  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, FL 33139

**RE: OCEAN TERRACE — REQUEST FOR CERTIFICATE OF APPROPRIATENESS  
Construction of New Park and Streetscape Improvements  
on Ocean Terrace and Portions of 73<sup>rd</sup>, 74<sup>th</sup>, and 75<sup>th</sup> Streets  
File No. HPB 19-0361**

Our firm represents Ocean Terrace Holdings, LLC, OTH Streetscape, LLC, and their affiliates (“Owner”), the owner of several parcels of land located on the block along Ocean Terrace, Collins Avenue, 74<sup>th</sup> Street, and 75<sup>th</sup> Street (the “Property”). Owner has made a separate application to amend the previously approved Certificate of Appropriateness (“COA”) for the redevelopment of the Property with a mixed-use project. We are pleased to submit this application for a Certificate of Appropriateness for the construction of an approximately \$14.8 million park and streetscape improvements project in the rights of way of Ocean Terrace and within portions of 73<sup>rd</sup>, 74<sup>th</sup>, and 75<sup>th</sup> Streets between Ocean Terrace and Collins Avenue (the “Streetscape Project”).

### **Long-Term Planning Efforts**

The lead up to this point has been several years in the making. The City has been working for many years with residents and stakeholders to revitalize North Beach. After adoption of Plan NoBe, the City hired the Corradino Group to create a unified design for the public land that connects Altos del Mar Park south through Ocean Terrace to the Bandshell Park. From that process came the creation of the Ocean Terrace Neighborhood Urban Design Plan (the “Urban Design Plan”), which was endorsed by the North Beach Steering Committee on August 29, 2018.

On October 31, 2018, the Land Use and Development Committee recommended that the City Commission refer discussion of the Urban Design Plan to the Finance & Citywide Projects Committee (the “Finance Committee”) to prioritize projects within the Urban Design Plan and potential funding options. That occurred just a few months later when, on December 12, 2018, the City Commission accepted the Urban Design Plan and referred it to the Finance Committee.

On February 22, 2019, the Finance Committee unanimously supported the Urban Design Plan and directed city staff to explore ways to pay for it. On March 13, 2019, the Commission referred the concept of a street vacation to Finance.

Perhaps the most significant step in the implementation of the Urban Design Plan occurred on July 31, 2019, when the City Commission approved a Development Agreement through which the Owner will – at no cost to the City – construct the approximately \$14.8 million Streetscape Project, delivering a substantial public benefit to area residents and the city at large. In exchange for Owner’s commitments, the City vacated portions of Ocean Terrace, 74<sup>th</sup> Street, and 75<sup>th</sup> Street that are adjacent to the Property, while at the same time receiving a perpetual easement for public access across the vacated rights of way.

The terms of the perpetual easement provide “an unrestricted way of passage, right of ingress and egress, access to, and reasonable use of, the Easement Area [i.e. the vacated rights of way], including, without limitation, for public recreational purposes, and pedestrian and vehicular access over and across the Easement Area,” with the City remaining responsible for the maintenance of the elements of the Streetscape Project that are located on City-owned property, within the public right of way, or within any vacated rights of way within the Easement Area. The easement guarantees continued public use and enjoyment of the vacated rights of way.

### **Streetscape Project**

The Streetscape Project will be a key destination in North Beach, and will link with existing greenspaces and parks to the north and south along the Beachwalk. Community input was critical to the design of this significant public amenity, making it a place for the use and enjoyment of North Beach residents and beyond. Open public spaces with retail and dining areas will integrate seamlessly into lush plantings inspired by native dune vegetation. Evoking timeless elegance through material and planting selections, the Streetscape Project seamlessly melds with the surrounding historic architecture of North Beach, harmonizing the native dune ecology with the built environment. The Streetscape Project is a sanctuary where the public can immerse itself in the natural world within an urban setting.

Water will be a key element on the promenade, creating gathering areas protected from the sun by sprawling canopies of Mahogany, Live Oak and Green Buttonwood. Water gardens will amplify the landscape—sounds of trickling water will dissolve noise from vehicular traffic, while water surfaces reflect the surrounding plant masses. Aquatic plants will increase biodiversity on the site and provide a habitat for birds, fish, turtles, and other native fauna. Outdoor gathering spaces of various scales will be designed to create an exciting balance of privacy juxtaposed with a sense of connectedness throughout the development. The change of elevation throughout the site allows for breathtaking views over the park and to the ocean. Hardscape elements are carefully placed to create various vantage points and visual corridors for pedestrians. Sight lines through the park will be choreographed to ensure engagement with the retail, food & beverage, and residential spaces along the west side of the promenade.

One of the key ideologies of the Streetscape Project, and all landscapes by the office of Raymond Jungles, is to demonstrate a region’s unique natural characteristics and a desire to create a closer human relationship with indigenous plants. Humans, plants, architecture,

community, and the beach will converge at Ocean Terrace to make this a world-class destination for everyone.

With a limit of work of approximately 228,349 square feet (5.24 acres), the Streetscape Project comprises two phases. The first phase includes all of the proposed improvements along 73<sup>rd</sup> Street, the north side of the Bandshell property, all of Ocean Terrace between 73<sup>rd</sup> and 74<sup>th</sup> Streets, the south side of 74<sup>th</sup> Street, and roughly the east half of Ocean Terrace between 74<sup>th</sup> and 75<sup>th</sup> Streets. The second phase includes the areas around the Ocean Terrace redevelopment project, which are the north side of 74<sup>th</sup> Street, roughly the west half of Ocean Terrace between 74<sup>th</sup> and 75<sup>th</sup> Streets, and all of 75<sup>th</sup> Street. Having two phases allows the first phase of the Streetscape Project to begin sooner while the second phase is sequenced with the completion of the Ocean Terrace redevelopment project.

The Streetscape Project includes a raised pavilion/café with an accessory outdoor bar counter, proposed to be located east of the Broadmoor Hotel property. The pavilion/café was specifically negotiated in the Development Agreement and is expressly allowed pursuant to Section 26.4 of the Development Agreement, subject to approval by the HPB, as excerpted below:

26.4 Raised Pavilion/Café. Developer shall have the right to construct and operate a raised pavilion/café within the Park/Streetscape Site, generally consistent with the sidewalk café permit requirements as set forth in Chapter 82 of the City Code, and in accordance with the minimum standards, criteria, and conditions set forth in Sections 82-385 to 82-388 of the City Code, provided such pavilion/café is approved by the HPB. This Section shall survive the termination or expiration of this Agreement.

### VariANCES

Owner requests the following variances to allow the construction of the Streetscape Project:

1. A variance from Sec. 142-774(2) to construct the beachwalk and related improvements out of materials other than wood in the Dune Preservation Overlay Zone.
2. A variance from Sec. 142-774(2) to encroach 10' into the 10' required setback from the ECL to allow the beachwalk, with decks, patios, chairs, benches, and related improvements, to be built up to the ECL in certain areas in the Dune Preservation Overlay Zone.
3. A variance from Sec. 142-774(6) to exceed the maximum width for walkways of 6' to allow walkways up to 23'-9" wide which are not made of wood in the Dune Preservation Overlay Zone.
4. A variance from Sec. 142-775(a) to allow an open space (either landscaped or sand) percentage of 57.61% where 80% is required in the Dune Preservation Overlay Zone.
5. A variance from Sec. 142-775(d) to allow setbacks of 0' along all boundaries of the Streetscape Project in the Dune Preservation Overlay Zone.
6. A variance from Sec. 142-802(3) to allow setbacks of 0' along all boundaries of the Streetscape Project in the Oceanfront Overlay Zone.
7. A variance from Sec. 142-543(3) to allow the accessory outdoor bar counter within the raised pavilion/café to operate between 8:00 p.m. and midnight, consistent with the intent of the pavilion/café specifically negotiated and approved in the Development Agreement.

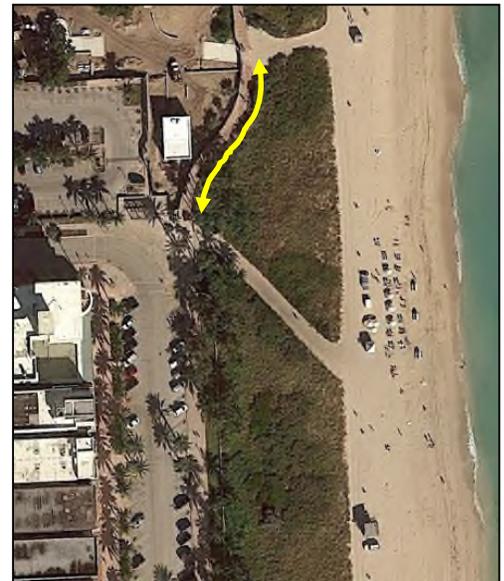
The City Code establishes seven (7) criteria by which requests for variances are evaluated by the HPB. These criteria are listed below in bold and underline text, with our response following each criterion in plain text.

The Section 118-102(5) of the City Code grants the HPB the power “[t]o authorize, upon application, such variance from the terms of these land development regulations, where authorized by section 118-351(a), pursuant to the requirements in chapter 118, article VIII, of the land development regulations, as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of a provision of these land development regulations would result in an unnecessary and undue hardship.”

Our responses below demonstrate both the practical difficulties and unnecessary hardships associated with Owner’s requested Variances.

**(1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district:**

The Dune Preservation Overlay Zone is the area in-between the Erosion Control Line (ECL) to the east and the bulkhead line to the west. When private property abuts the ocean — as is the case almost everywhere in the City except for South Beach (between 5<sup>th</sup> Street and 14<sup>th</sup> Place and in this instance along Ocean Terrace — the ECL is the line where private ownership of land ends (to the west) and public ownership of land begins (to the east towards the ocean). This means that in all areas of the City except as mentioned above and in the case of the Streetscape Project, the Dune Preservation Overlay Zone regulations apply to the rear yard of private properties and the regulations of the Dune Preservation Overlay Zone are written to govern private property owners from overdeveloping the rear portion of their properties that abut the public, oceanfront property, which typically contains the beachwalk that is located east of the ECL. In the instance of the Streetscape Project, the beachwalk is located west of the ECL and within the Dune Preservation Overlay Zone. This is consistent with the location of the beachwalk to the north and south of the Streetscape Project — see photo to the right, which shows how the beachwalk currently bends westward at the north end of the Streetscape Project to link with the sidewalk on the east side of Ocean Terrace, because there currently is no beachwalk, only a sidewalk on the east side of Ocean Terrace.



There is also the special circumstance of the Streetscape Project being the culmination of many years of planning efforts by the City to re-envision the purpose of this two-block stretch of oceanfront right of way. Owner has partnered with the City to bring the new vision of Ocean Terrace to life, formalized through the execution of the Development Agreement.

The City has embarked on changing the beachwalk from wood to pavers throughout the City, and so building the beachwalk in the Streetscape Project out of wood simply because it is located within the Dune Preservation Overlay Zone would be counterintuitive — just as it would be counterintuitive to limit the width of the beachwalk to 6'. The maximum width of the beachwalk is approximately 23'-9" and the average width is approximately 19'-3".

As discussed above, in the vast majority of places in the City the beachwalk is located on the east side of the ECL and, therefore, is not located within the Dune Preservation Overlay Zone and is not subject to its regulations. The beachwalk in the Streetscape Project is located west of the ECL similar to the beachwalk location north of the Streetscape Project. The variance to encroach into the 10' setback from the ECL, which is typically applicable to decks and patios on private property, is a special circumstance that is peculiar to the Streetscape Project.

The open space in the Dune Preservation Overlay Zone is below 80% because the beachwalk is located in the Dune Preservation Overlay Zone. The variance is needed to allow the beachwalk to connect continuously through the Streetscape Project.

Because Ocean Terrace has been closed off to through traffic, St. Tropez must have a looped driveway on Ocean Terrace. The looped driveway must be wide enough to accommodate the turning radius of vehicles, and the width of the looped driveway must encroach into the 10' setback from the bulkhead line. This circumstance is a unique condition specific to the Streetscape Project, as there are not many, if any, instances in the City where an existing street that parallels the bulkhead line has been closed and a new, looped driveway must be built to accommodate access to an existing building.

**(2) The special conditions and circumstances do not result from the action of the applicant:**

Although the Streetscape Project requires variances, as demonstrated above, the Dune Preservation Overlay Zone regulations typically apply to private property, not public property as is the case with the Streetscape Project. Owner did not create the situation where the Ocean Terrace right of way and City-owned property is in-between the private properties and the ECL.

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

The portion of the Streetscape Project that is within the Dune Preservation Zone has an underlying zoning of GU. Nearly everywhere else in the City, the beachwalk is not located within the Dune Preservation Overlay Zone because the beachwalk is located east of the ECL. All of the variances related to the Dune Preservation Overlay Zone are necessary only because the beachwalk happens to fall within the Dune Preservation Overlay Zone in this part of the City. If the beachwalk in other parts of the City were located within the Dune Preservation Overlay Zone, then variances would have also been required to construct the beachwalk because non-wood materials are not allowed, the maximum width is only 6', it would encroach within 10' of the ECL, and the beachwalk would push the open space percentage down below 80%.

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

The literal interpretation of the overlay zone requirements would work unnecessary and undue hardships on Owner and the public. The City and citizens of North Beach have worked towards and long awaited the opportunity to transform Ocean Terrace as proposed in the Streetscape Project. As addressed previously, the beachwalk normally is not located within the Dune Preservation Overlay Zone, and so to deny the requested variances would deprive the applicant of rights commonly enjoyed elsewhere in the City.

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

The proposed beachwalk improvements within the Dune Preservation Overlay Zone are in-line with the existing beachwalk improvements elsewhere in the City, and they implement the vision of a reimagined Ocean Terrace that the City and public have spent years working towards.

Also, with regard to the variance for reduced open space in the Dune Preservation Overlay Zone, the variance is only necessary in order to build the beachwalk where currently there is no beachwalk, only a sidewalk on the east side of Ocean Terrace. The Streetscape Project actually delivers a net gain of several thousand square feet of planted area in the total project area.

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

Granting the variances would be in harmony with the general intent and purpose of the land development regulations. As explained previously, normally the beachwalk is not located within the Dune Preservation Overlay Zone. Granting the variances will also not be injurious to the surrounding area or detrimental to the public welfare. In fact, the opposite is true. The Streetscape Project will be a extremely positive improvement for the surrounding area and will greatly enhance the public welfare.

**(7) The granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.**

Granting this request would be consistent with the comprehensive plan and it does not reduce levels of service as set forth in the comprehensive plan.

#### **Sea Level Rise Criteria**

In order to ensure that the Streetscape Project is resilient in light of the effects of sea level rise, the sea level rise and resiliency review criteria from Section 133-50 of the LDRs are addressed below:

**(a) Criteria for development orders:**

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

Existing trees will be saved and incorporated into the Streetscape Project.

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

The proposed landscape is designed to capture water on-site with planted retention areas. This will reduce flooding and urban run-off and will also naturally provide water for plants to minimize irrigation. There will be an overall reduction in hardscape area to further promote water percolation. The landscape will consist of primarily native South Florida plant species that are resilient to the particulars of this climate, including salt air, drought, flooding, and severe storms. The concept of bringing beach dune planting into the site will also help to mitigate flooding and sea-level rise. Additionally, there will be an increase in elevation to act as a secondary barrier, behind the primary dune, during major storm events.

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

The Southeast Florida Regional Climate Action Plan projects that sea level will rise 6 to 10 inches by 2030, 14 to 26 inches by 2060, and 31 to 61 inches by 2100 above the 1992 mean sea level. This represents NGVD elevations of 1.10' to 1.43' by 2030, 1.77' to 2.77' by 2060, and 3.18' to 5.68' by 2100 at Mean Sea Level. At Mean High Water this represents NGVD elevations of 2.31' to 2.64' by 2030, 2.98' to 3.98' by 2060, and 4.39' to 6.89' by 2100.

None of the improvements proposed contain enclosed habitable floor area and all of the proposed improvements have been designed to withstand coastal surges from storm events. Also, the Streetscape Project includes an increase in elevation to act as a secondary barrier, behind the primary dune, during major storm events.

**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.**

Not applicable.

**7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.**

Not applicable.

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

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

The proposed landscape is designed to capture water on-site with planted retention areas. This will reduce flooding and urban run-off and will also naturally provide water for plants to minimize irrigation. There will be an overall reduction in hardscape area to further promote water percolation. The landscape will consist of primarily native South Florida plant species that are resilient to the particulars of this climate, including salt air, drought, flooding, and severe storms. The concept of bringing beach dune planting into the site will also help to mitigate flooding and sea-level rise. Additionally, there will be an increase in elevation to act as a secondary barrier, behind the primary dune, during major storm events.

We look forward to reviewing the Streetscape Project with you, and we remain grateful for your continued attention and consideration.

Sincerely,



Neisen O. Kasdin