

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: September 13, 2021

PROPERTY/FOLIO: Park property / 02-3202-003-1250
Vacated rights-of-way / 02-3202-003-0135

FILE NO: HPB19-0361

IN RE: An application has been filed by OTH Streetscape, LLC c/o Ocean Terrace Holdings, LLC, requesting a Certificate of Appropriateness for the design of a new park and streetscape improvements, including variances from the requirements of the Oceanfront and Dune Preservation Overlay districts.

LEGAL: Parcel 1
PORT OF R/W OF 74 ST & ADJ TO LOT 14 BLK 1 OF PB 34-4 DESC AS
BEG SE COR OF LOT 14 TH S 86 DEG 146FT S 02 DEG E 30FT N 86
DEG E 146FT N 02 DEG W 30FT TO POB CLOSED PER R-2019-30927
PORT OF R/W 74ST & 75ST & OCEAN TERR ADJ TO LOTS 1 THRU 8
BLK 1 OF PB 34-4 DESC AS BEG SE COR OF LOT 2 TH N 02 DEG W
100FT S 86 DEG W 150FT N 02 DEG W 40FT N 85 DEG E 210FT S 02
DEG E 140FT S 86 DEG W 60FT TO POB & BEG SE COR OF LOT 4 TH
N 02 DEG W 100FT N 86 DEG E 60FT S 02 DEG E 100FT S 86 DEG W
60FT TO POB & BEG SE COR OF LOT 5 TH N 02 DEG W 50FT N 86
DEG E 60FT S 02 DEG E 50FT S 86 DEG W 60FT TO POB & BEG SW
COR OF LOT 7 TH N 86 DEG E 150FT N 02 DEG W 50FT N 86 DEG E
60FT S 02 DEG E 80FT S 86 DEG W 210FT N 02 DEG W 30FT TO POB
& BEG NE COR LOT 8 S 86 DEG W 146FT N 02 DEG W 40FT N 86 DEG
E 146FT S 02 DEG E 40FT TO POB.

Parcel 2
Park lying east of Ocean Terrace between 73 Street and 75 Street, of the
Harding Townsite, According to the Plat thereof, as Recorded in Plat Book
34, Page 4, of the Public Records of Miami-Dade County, Florida and the
portion lying east & adjacent west of the erosion control line, as Recorded
in Plat Book 105, Page 62, of the Public Records of Miami-Dade County,
Florida.

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 Harding Townsite/South Altos del Mar Local Historic District.



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- 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 Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
 3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
 4. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(3) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) 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 Applicant agrees that the design of the driveway roundabout drop-off adjacent to the Bandshell shall be enhanced and finished in materials similar to the proposed streetscape promenade and drop off driveway for the St. Tropez to create a consistent appearance, subject to the review and approval of all applicable City Departments.
 - b. The final quantity, location and design of beach showers and bike racks shall be subject to the review and approval of all applicable City Departments.
 - c. The City shall verify that adequate public bathroom facilities with sufficient capacity are available for the new park. Any additional bathroom facilities that are determined by the City to be required, at the City's sole discretion, may require a separate Certificate of Appropriateness to be reviewed by the Historic Preservation Board.
 - d. Final design and details of the proposed paving 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.
 - e. Final design and details of the proposed raised dining deck and shade structure 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.
 - f. The proposed bar and all related apparatus, including, but not limited to, ancillary counters, shelves and back bar, as well as any plumbing, electrical or mechanical



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connections, shall not be permitted as part of this approval. The future introduction and location of any bars, counters, cabinets or other similar furniture and/or fixtures associated with an outdoor bar shall require the approval of the City Commission prior to the issuance of a Certificate of Appropriateness by the Historic Preservation Board. A separate application for a Certificate of Appropriateness may be submitted in the future for a bar and/or associated furnishings and fixtures, provided the applicant has received the prior approval of the City Commission to submit such application.

2. 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. Proposed work will require a tree removal permit subject to the approval of the Urban Forestry Division. No tree work permit shall be issued for removal of a specimen tree (Trees with a DBH of 12" or greater) without a written evaluation by an ISA certified arborist and or ASCA registered consulting arborist, in good standing, stating reason(s) that the removal is necessary.
 - 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.
 - c. The project design shall minimize the potential for a project causing a heat island effect on site.
 - d. Cool pavement materials or porous pavement materials shall be utilized.
 - e. The use of Silva Cells or approved equal should be specified for canopy shade trees planted in areas where rooting space may be limited, inclusive of street trees, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
3. A Fire Department Access Plan for the project shall be reviewed and approved by the Fire Marshal prior to the issuance of a building permit.

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)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 1. A variance from the maximum width of 6'-0" for walkways located within the Dune



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Preservation Overlay District in order to construct a walkway with up to 23'-9" in width.

2. A variance to construct a walkway with concrete where only wood materials are allowed within the Dune Preservation Overlay District.
 3. A variance to eliminate the required setback of 10'-0" from the Erosion Control Line in order to construct a walkway with up to 23'-9" in width and outdoor shower up to zero setback from the Erosion Control Line on the Dune Preservation Overlay District.
 4. A variance to eliminate the required setback of 15'-0" from the north side project boundary line in order to construct a walkway at zero setback within the Dune Preservation Overlay District.
 5. A variance to eliminate the required setback of 15'-0" from the south side project boundary line in order to construct a walkway at zero setback within the Dune Preservation Overlay District.
 6. A variance to reduce by up to 22.39% (13,164.2 sf) the minimum 80% (47,039.2 sf) open space required in order to construct improvements and provide up to 57.61% (33,875 sf) of open space within the project boundaries in the Dune Preservation Overlay District.
 7. A variance to eliminate the required setback of 15'-0" from the north side project boundary line in order to construct improvements at zero setback within the Oceanfront Overlay District.
 8. A variance to eliminate the required setback of 15'-0" from the south side project boundary line in order to construct improvements at zero setback within the Oceanfront Overlay District.
 9. A variance to eliminate the required setback of 10'-0" from the Bulkhead Line in order to construct a driveway and deck at zero from the Bulkhead Line within the Oceanfront Overlay District.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, 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 indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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;

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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.

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 133, article II, as applicable.

- C. The Board hereby **approves** the requested variances, as noted and imposes the following conditions 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 final design including materials for the Beachwalk shall be subject to the review and approval of the Environment and Sustainability Department and other applicable government agencies.

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. 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.

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- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. 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.
- D. 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. 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.
- G. 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.

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 entitled "**Ocean Terrace Streetscape Park**", as prepared by **Raymond Jungles, Inc., dated July 6, 2021**, 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.

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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.

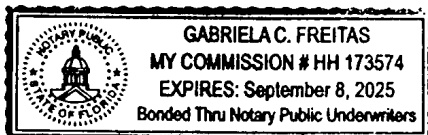
Dated this 27 day of September, 2021.

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 27 day of September, 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: [Signature]
 City Attorney's Office: [Signature] (9/24/2021)

Filed with the Clerk of the Historic Preservation Board on [Signature] (9/29/21)

[Signature]