

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

MEETING DATE: September 13, 2022

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

FILE NO: HPB22-0517

APPLICANT: OTH Streetscape, LLC c/o Ocean Terrace Holdings, LLC

IN RE: An application has been filed requesting a Certificate of Appropriateness for the introduction of an elevated pavilion structure within the previously approved Ocean Terrace Park project and a variance to exceed the hours of operation for an outdoor bar counter.

LEGAL: Parcel 1 (Vacated rights-of-way)  
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 property)  
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:

Page 2 of 6

HPB22-0517

Meeting Date: September 13, 2022

## **I. Certificate of Appropriateness**

- A. The subject site is located within the Harding Townsite/South Altos del Mar Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
  - 1. Is consistent with 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 consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(3) of the Miami Beach Code.
- C. The project would remain 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 final design details, materials and dimensions of the proposed outdoor bar counter shall substantiate that such counter shall not be visible from any point along the property line adjacent to the public right-of-way, and shall be subject to the review and approval of staff consistent with all applicable Certificate of Appropriateness Criteria and/or the directions from the Board.
    - b. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
    - c. The integrated planter within the center pavilion roof structure shall be eliminated.
    - d. The design of the elevated pavilion and bar counter structures shall be consistent with the Development Agreement between OTH Streetscape, LLC, Ocean Terrace Holdings, LLC and their affiliates, and the City for the park project.
  - 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

Page 3 of 6

HPB22-0517

Meeting Date: September 13, 2022

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. 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.
- b. The project design shall minimize the potential for a project causing a heat island effect on site.
- c. Cool pavement materials or porous pavement materials shall be utilized, if applicable.

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:

The following variance was **withdrawn** by the applicant without prejudice:

1. A variance to exceed the permitted hours of operation for an accessory outdoor bar counter until 12:00 a.m (midnight).

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. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- B. The issuance of a building permit is contingent upon meeting Public School Concurrency requirements, if applicable. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.

Page 4 of 6

HPB22-0517

Meeting Date: September 13, 2022

- C. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- D. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. 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.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. 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.
- I. 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.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. 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.
- L. 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.

Page 5 of 6

HPB22-0517

Meeting Date: September 13, 2022

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "**HPB22-0517: Second First Submittal 06-21-22 – Ocean Terrace, Miami Beach, FL 33141**", as prepared by Raymond Jungles, Inc., dated July 11, 2022, as approved by the Historic Preservation Board, as determined by staff.

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

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

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

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

9/19/2022 | 10:16 AM EDT

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_

*Deborah Tackett*

DEBORAH TACKETT

HISTORIC PRESERVATION & ARCHITECTURE OFFICER  
FOR THE CHAIR

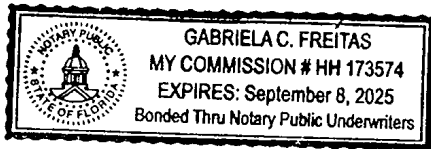
STATE OF FLORIDA            )  
                                          )SS  
COUNTY OF MIAMI-DADE    )

Page 6 of 6

HPB22-0517

Meeting Date: September 13, 2022

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of September 2022 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.



NOTARY PUBLIC

Miami-Dade County, Florida

My commission expires: sept. 8, 2025

Approved As To Form:

City Attorney's Office:

DocuSigned by:

A handwritten signature in blue ink, appearing to be "K. L. L. L.", written over a horizontal line.

( 9/19/2022 | 10:13 AM EDT

DocuSigned by:

8D8CB88CCAB8460...

Filed with the Clerk of the Historic Preservation Board on

Jessica Gonzalez

(9/19/2022 | 11:24 AM EDT

10FC3F3E9D654A5