

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: October 10, 2017

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB17-0104 **626, 640 & 650 Ocean Drive – Heathcote Apartments, Park Central Hotel & Imperial Hotel.**

The applicant, Park Central Partners, LLC, is requesting a Certificate of Appropriateness for the introduction of an outdoor bar counter within the ground level courtyard and the installation of retractable awning structures attached to the east façades of the Park Central and Imperial Hotels, and a variance to exceed the allowable hours of operation for an outdoor bar counter.

### **STAFF RECOMMENDATION**

Denial of the variance

### **BACKGROUND**

On February 11, 2014, the Board reviewed and approved a Certificate of Appropriateness for the partial demolition, renovation and restoration of the existing 3-story Heathcote Apartments, the existing 7-story Park Central Hotel and the existing 3-story Imperial Hotel, including the reconfiguration of the site, as part of a new hotel development (HPB File No. 7408).

On June 19, 2017, the Board reviewed and approved a Certificate of Appropriateness for the introduction of an outdoor bar counter within the ground level courtyard and the installation of retractable awnings attached to the east facades of the Park Central and Imperial hotel buildings. At this meeting the Board continued a request for a variance to exceed the allowable hours of operation for the outdoor bar counter to a date certain of September 12, 2017.

The September 12, 2017 meeting of the Historic Preservation Board was cancelled due to Hurricane Irma, and the application for the variance to exceed the hours of operation for the outdoor bar counter was continued to the October 10, 2017 meeting.

On September 26, 2017, the Planning Board is scheduled to review a Conditional Use Permit for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment, pursuant to Section 118, Article IV and Section 142, Article V. (PB16-0089)

### **EXISTING STRUCTURES**

Local Historic District:  
Status:

Ocean Drive/Collins Avenue  
Contributing

**Heathcote Apartments, 626 Ocean Drive**

Original Construction Date: 1931  
Original Architect: B. Kingston Hall

**Park Central Hotel, 640 Ocean Drive**

Original Construction Date: 1937  
Original Architect: Henry Hohausen

**Imperial Hotel, 650 Ocean Drive**

Original Construction Date: 1939  
Original Architect: L. Murray Dixon

**SITE DATA**

Legal Description: Lots 2, 3, 4 and 5, Block 11 of OCEAN BEACH ADDITION NO. 1, according to the plat thereof recorded in Plat Book 3, Page 11 of the public records of Miami Dade County, Florida.

Zoning: MXE, Mixed-Use Entertainment  
Future Land Use Designation: MXE, Mixed-Use Entertainment

**THE PROJECT**

**The applicant has submitted plans entitled “The Park Central Hotel“, as prepared by Borges Architects + Associates, dated March 16, 2017.**

The applicant is requesting the following variance in order to operate an accessory outdoor bar counter with extended hours of operation:

1. A variance to exceed the allowable hours of operation of an accessory outdoor bar counter until 2:00 am.

- Variance requested from:

**Sec. 142-543. Accessory uses.**

*The accessory uses in the MXE mixed use entertainment district are as follows. See also article IV, division 2, of this article. Note: Uses that serve alcoholic beverages are also subject to the regulations of article V, division 4 of this chapter.*

- (1) Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded do not satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application partially satisfy the following hardship criteria, 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;

**Not Satisfied**

***There are no special or unique circumstances which exist that are peculiar to the subject property. There are currently several properties along Ocean Drive that are adjacent to properties that contain residential uses.***

- That the special conditions and circumstances do not result from the action of the applicant;

**Not Satisfied;**

***The applicant is proposing to introduce an outdoor bar counter on a property in close proximity to residential uses.***

- 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;

**Not Satisfied;**

***All properties within the subject zoning district are subject to the regulations for the hours of operations of an outdoor bar counter.***

- 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;

**Not Satisfied;**

***The 8:00 p.m. closing time pertains only to the outdoor bar counter. All other indoor and outdoor seating areas associated with the venue may operate after 8:00 p.m.***

- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

**Not Satisfied;**

***The property is proposed to contain a total of 123 hotel units and a 260 seat food and beverage venue. The 8:00 p.m. closing time pertains only to the outdoor bar counter. All other indoor and outdoor seating areas associated with the venue may operate after 8:00 p.m.***

- 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

**Not Satisfied;**

***The granting of the variance request has a potential to negatively impact the adjacent residential apartment units.***

- 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.

**Satisfied**

**COMPLIANCE WITH ZONING CODE**

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variance:

1. A Conditional Use Permit for a Neighborhood Impact Establishment and an Outdoor Entertainment Establishment, pursuant to Section 118, Article IV and Section 142, Article V is required to be reviewed and approved by the Planning Board prior to the issuance of a building permit.

All zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**CONSISTENCY WITH 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **hotel with accessory restaurant use** appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

**VARIANCE ANALYSIS**

The Historic Preservation Board reviewed and approved the proposed location and design of the outdoor bar on June 19, 2017. The outdoor bar counter is a permitted accessory use within the MXE zoning district. Section 142-543(1) of the City Code permits an outdoor bar counter that is adjacent to a property containing an apartment unit to operate between 8:00 a.m. and 8:00 p.m. only. The applicant is requesting a variance from this section of the Code in order to operate the bar area until 2:00 a.m.

There are three main areas that constitute the food and beverage venue on the subject property: the pool deck area which is behind 626 Ocean Drive; the courtyard area which is between 626 and 640 Ocean Drive; and the bar café at 650 Ocean Drive. Seating for a total of 260 patrons is proposed for both the indoor and outdoor areas, with only 12 of these seats located at the outdoor bar counter.

The requested hours of operation are as follows:

1. Interior, 7:00 AM to 5:00 AM, 7 days a week
2. Outdoor Seating Areas, 9:00 AM to 5:00 AM, 7 days a week
3. Outdoor Bar Counter, 10:00 AM to 2:00 AM, 7 days a week (variance requested)

There are approximately three residential buildings within 320 feet of the pool deck, including a building which provides senior housing, located to the southwest of this property at 533 Collins Avenue. Staff has concerns with the extension of outdoor bar counter hours proposed in this particular context, due to the noise that can be generated from the bar area, particularly as the number of people gathering in groups around the bar increases, people tend to become louder, which is more likely to occur later in the evening. Staff finds that the variance request has a

potential to negatively impact the adjacent residential apartment units. Additionally, the applicant has not established hardship or practical difficulties in closing the outdoor bar at 8 p.m., as required by the City code.

Finally, it is important to note that the Planning Board is scheduled to review an application for a Conditional Use Permit for the proposed Neighborhood Impact Establishment and Outdoor entertainment Establishment on September 26, 2017. At that time, important issues related to the operations of the project, including parking, traffic, noise, deliveries, sanitation and security will be addressed by Planning Board.

#### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application be **denied** subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria, as applicable.

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

MEETING DATE: October 10, 2017

FILE NO: HPB17-0104

PROPERTY: 626, 640 & 650 Ocean Drive

APPLICANT: Park Central Partners, LLC

LEGAL: Lots 2, 3, 4 and 5, Block 11 of OCEAN BEACH ADDITION NO. 1, according to the plat thereof recorded in Plat Book 3, Page 11 of the public records of Miami Dade County, Florida.

IN RE: The Application for a Certificate of Appropriateness for the introduction of an outdoor bar counter within the ground level courtyard and the installation of retractable awning structures attached to the east façades of the Park Central and Imperial Hotels, and a variance to exceed the allowable hours of operation for an outdoor bar counter.

**CONSOLIDATED 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 Ocean Drive/Collins Avenue.
- 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 the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  2. Is not consistent with Certificate of Appropriateness Criteria 'a', 'f' & 'h' in Section 118-564(a)(2) of the Miami Beach Code.
  3. Is consistent with Certificate of Appropriateness Criteria 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 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 design for the canopy located above the bar counter located on the south façade of the Park Central Hotel shall be consistent with 'Option D', in a manner

to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

- b. Additional landscape material shall be introduced along the eastern property line between the Heathcote and Park Central Hotel buildings, 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 retractable awnings shall project a maximum of 8'-6" into the right-of-way when fully extended, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- d. There shall be no awning or canopy installed at the ground level within the center bay of the Park Central Hotel located at 640 Ocean Drive.
- e. The fabric color for the awnings located on the east facades of the Park Central Hotel building and the Imperial Hotel building shall be differentiated, in a manner consistent with the plans approved by the Board.
- f. The historic signage located on the east facades of the Heathcote, Park Central and Imperial buildings shall be retained and restored, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- g. Final details of all exterior surface finishes and materials for the frames of the structures, including samples, shall be provided, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- h. Fixtures, including but not limited to lighting, speakers, fans, heaters, misters shall not be permitted to be attached to the awning structures.
- i. Any lighting, fans or heaters or similar fixtures proposed to be located within the porch shall be free standing and shall not be permanently attached, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- j. Vertical side panels and/or gutters, including those for weather protection, shall not be permitted to be attached to the awning structures.
- k. Televisions or similar digital screens shall not be permitted to be located within the porch.

## II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to exceed the allowable hours of operation of an accessory outdoor bar counter in order to operate a bar adjacent to a property with a residential use until 2:00 am. (**Variance DENIED**)
- B. The applicant has submitted plans and documents with the application that the Board has concluded **DO NOT** 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.  
  
Additionally, the Board has concluded that the plans and documents submitted with the application **DO NOT** comply with the following hardship criteria 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;  
  
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.- C. The Board hereby **DENIES** the requested variance(s) based on its authority in Section 118-354 of the Miami Beach City Code.

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. This Final Order consolidates all conditions and requirements for Certificate of Appropriateness and Variance approval as same as are contained herein, in the original Order dated June 19, 2017. Accordingly, this Order shall serve as the Final Order for the proposed project and, in the event of conflict between the provisions hereof and those of the June 19, 2017 Order, the provisions hereof shall control.
- B. Where one or more parcels are unified for a single development, the property owner shall execute and record an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- C. 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.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.
- 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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "The Park Central Hotel", as prepared by Borges Architects + Associates, dated March 16, 2017, and 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.

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

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT  
CHIEF OF HISTORIC PRESERVATION  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

Page 6 of 6  
HPB17-0104  
Meeting Date: October 10, 2017

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ ( )

Filed with the Clerk of the Historic Preservation Board on \_\_\_\_\_ ( )

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