

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: October 10, 2017

FILE NO: HPB17-0109

PROPERTY: 3201 Collins Avenue

APPLICANT: 3201 Hotel, LLC

LEGAL: All of Block 17 of Ocean Front Property on the Miami Beach Improvement Company's Subdivision according to the plat recorded in plat book 5, pages 7 & 8 of the Official Records of Miami-Dade County, and also all of that part of a strip of land formerly a public alley, which lies between lots 1, 2, 3, & 4 of Block 17 on the east side thereof and lots 5, 6, 7, & 8 on the west side thereof, together with all of lots 1, 2, 5, and 6 in block 19 of Ocean Front Property on the Miami Beach Improvement Company's Subdivision according to the plat recorded in plat book 5, pages 7 & 8 of the Official Records of Miami-Dade County.

IN RE: The application for modifications to a previously issued after-the-fact Certificate of Appropriateness for the installation of a temporary art exhibit within the eastern portion of the property. Specifically, the applicant is requesting approval for permanent installation of the art exhibit and after-the-fact variances to reduce the required pedestal street side and sum of the side setbacks for the retention of air conditioning equipment and the construction of a new wall enclosure facing 32nd Street.

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 Collins Waterfront 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 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 'b' & 'd' in Section 118-564(a)(2) of the Miami Beach Code.
 3. Is not consistent with Certificate of Appropriateness Criteria 'b', 'd', 'e', 'i', 'j', 'm' & 'o' in Section 118-564(a)(3) of the Miami Beach Code.

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4. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) 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. Regular maintenance of the subject art installation shall be the sole responsibility of the property owner. A maintenance covenant subject to the review and approval of the City Attorney and the Planning Director shall be recorded in the Miami Dade public records. The art exhibit shall be approved for a period not to exceed twelve (12) months from February 9, 2016; any extension of this timeframe shall be subject to the review and approval of the Board.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s): No Variances were requested as a part of this application.
1. An after the fact variance to reduce by 25'-10" the minimum required pedestal street side setback of 27'-11" in order to retain air conditioning equipment at 4'-8" and construct a new wall enclosure at 2'-1" from the property line facing 32nd Street.
 2. An after the fact variance to reduce by 48'-1" the minimum required pedestal sum of the side yards of 55'-2" in order to retain air conditioning equipment at 4'-8" and construct a new wall enclosure at 2'-1" from the property line facing 32nd Street and provide a sum of the side setbacks of 7'-1.
- 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 also 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;

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

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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 grants the requested variance(s) and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:
1. The design for the screening for the mechanical equipment shall be further developed, in a manner to be reviewed and approved by the Board.

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 February 9, 2016. 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 February 9, 2016 Order, the provisions hereof shall control.
- B. Applicant agrees that in the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, 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. 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.

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- 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. 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.
- G. 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.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- I. 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 "Saxony Hotel – temporary art installation, "Gone but not Forgotten", dated December 21, 2015 and July 24, 2017, 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.

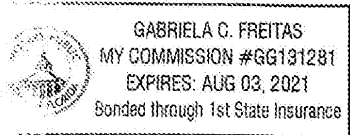
Dated this 16 day of October, 2017.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
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 16 day of October, 2017 by Deborah Tackett, Chief of Historic Preservation, 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: 8-3-21

Approved As To Form: [Signature] (10/16/17)
City Attorney's Office:

Filed with the Clerk of the Historic Preservation Board on September (10/16/17)

Strike-Thru denotes deleted language
Underscore denotes new language

[Handwritten mark]