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HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: February 10, 2015

CERTIFICATION

THIS IS TO CERTIFY THAT THE ATTACHED DOCUMENT IS A TRUE AND ACCURATE COPY OF THE ORIGINAL ON FILE IN THE OFFICE OF THE PLANNING DEPARTMENT.
CITY OF MIAMI BEACH

(Signature of Planning Director or Designee) 2/25/15 (Date)
Personally known to me or Produced ID:
Notary Public, State of Florida at Large
Printed Name: TERESA MARIA
My Commission Expires: (Seal) 12-2-17
This document contains 8 pages.

NOTARY PUBLIC STATE OF FLORIDA
TERESA MARIA
MY COMMISSION # FF 042188
EXPIRES: December 2, 2017
Bonded Thru Budget Notary Services

FILE NO: 7509

PROPERTY: 1775 James Avenue

APPLICANT: Miami Beach 1775 James Avenue LLC.

LEGAL: Lots 11 and 12, Block 27, Fisher's First Subdivision of Alton Beach, According to the Plat Thereof, as Recorded in Plat Book 2, Page 77, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for a Certificate of Appropriateness for the partial demolition and renovation of the existing 'Non-Contributing' structure, and the construction of 2-story and 5-story ground level additions as part of a new hotel development including variances to waive the required pedestal interior side and rear setbacks, to waive the required sum of the side yards, to exceed the maximum permitted projection into the front setback and to waive the required parking for off-street loading spaces.

ORDER

The applicant filed an application with the City of Miami Beach Planning Department for a Certificate of Appropriateness and for one or more variances.

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 structure is classified as a 'Non-Contributing' structure in the Miami Beach Historic Properties Database, and is located within the Museum 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:

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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 'c' in Section 118-564(a)(2) of the Miami Beach Code.

3. Is not consistent with Certificate of Appropriateness Criteria "b', 'c' & 'g' in Section 118-564(a)(3) of the Miami Beach Code.

4. Is not consistent with Certificate of Appropriateness Criteria 'd' for Demolition in Section 118-564(f)(4) 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 north, south, east and west elevations shall be further refined, including the design for the stair located on the south side of the property, 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. The roof deck shall not exceed more than three feet above the main roofline.

c. Planters shall not exceed more than three feet in height above the main roofline.

d. The new roof extending over the elevator and stair bulkhead on the south side is not an allowable height exception and shall be eliminated or modified.

e. The building height shall be measured from flood elevation up to a maximum of 50 feet.

f. The eastern portion of the north wall of the existing structure, where the entire structure is proposed to be removed, shall be demolished and reconstructed according to the proposed elevation, 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. A line-of-sight study shall be submitted in order to fully evaluate the potential visibility of the elevator tower, south stair tower and mechanical room enclosure located at the roof level, as viewed from Collins Avenue. This structure shall be minimized to the greatest extent possible. Further, if the structure is visible from Collins Avenue, staff would recommend further design development of this portion of the building, which may include a change in material or other architectural treatment, 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. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

i. 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.

j. The final details of all exterior ramp and railings systems, including materials, dimensions and finishes, 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.

k. All new windows proposed to be located on the 2-story portion of the building shall substantially match the original window configurations with regard to window type and lite configuration, according to available historical documentation, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

l. An historic analysis of the site, inclusive of a photographic and written description of the history and evolution of the site and original architect, Norman Giller, shall be submitted, prior to the issuance of a Certificate of Occupancy in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board; said historic analysis shall be displayed prominently in a location as close as possible to the James Avenue entrance, to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

m. The final design and details of all exterior lighting 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. Lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding historic district. No florescent or intensive 'white' lighting (or similar intensive lighting) visible from the adjacent public rights or way or adjacent properties shall be permitted.

n. All building signage shall require a separate permit. Signage shall consist of reverse channel, back-lit letters, in a manner to be approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

o. A fully enclosed air conditioned trash room that is sufficiently sized to handle the entire trash load of the building at all times may be located along James Avenue provided that all trash pickup shall occur along James Avenue and between the hours of 8:00 a.m. and 7:00 p.m., in a manner to be approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

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. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the final revised landscape plan.

   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. Right-of-way areas shall also be incorporated as part of the irrigation system.

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 to waive 4' – 0" of the minimum required pedestal interior side setback of 8' – 0" in order to construct a stair for a new building addition at 4' – 0" from the south property line.

   2. A variance to waive 10' – 0" of the minimum required pedestal rear setback of 15' – 0" in order to construct a new building addition at 5' – 0" from the east property line.

   3. A variance to waive 7' – 0" of the minimum required pedestal sum of the side yards of 16' – 0" in order to construct a new building addition with a sum of the side yards of 9' – 0".

   4. A variance to exceed by 12' – 4" the maximum permitted projection of 5' – 0" into the required front yard of 20' – 0" in order to construct an elevated terrace and entry steps with 17' – 4" of encroachment into the front yard at 7' – 0" NGVD.

   5. A variance to waive all two (2) required off street loading spaces for a hotel with 50 to 100 hotel units in order to construct a new hotel development with 69 hotel units with no loading spaces provided on the premises.

B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the Planning Department Staff Report, the project as submitted satisfies the requirements of Section 118-353(d) of the Miami Beach Code. Accordingly, the Historic Preservation Board has determined the following:

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 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.

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 to the following operational conditions for any and all permitted hotel and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations.

a. <u>ROOFTOP CONDITIONS</u>

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i. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced. Owner agrees to include the rules and regulations set forth in these conditions in any contract or assignment.

ii. Rooftop facilities, inclusive of any pool or spa and pool or spa deck, shall be for the exclusive use of registered hotel guests and their invitees.

iii. Outdoor speakers shall not be permitted at the roof deck.

a. RESTAURANT CONDITIONS

i. No ground floor accessory restaurant use shall operate between Midnight and 7:00 A.M, seven (7) days a week. Ground floor outdoor restaurant seating shall close operation at 10:00 P.M., seven (7) days a week. This shall not apply to room service.

b. NOISE CONDITIONS

i. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended, shall be deemed a violation of this approval and subject the approval to modification in accordance with the procedures for modification of prior approvals as provided for in the Code, and subject the applicant to the review provided for in the first sentence of this subparagraph.

ii. No outdoor bar counters shall be permitted on the premises.

iii. No exterior speakers shall be permitted except those necessary for fire and life safety purposes.

iv. 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.

B. 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.

C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

D. Applicant agrees that in the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines

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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.

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 Certificate of Appropriateness and Variances 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 approved by the Historic Preservation Board, as determined by staff, entitled ""The Jade Hotel Miami Beach" as prepared by Kobi Karp, Architecture, Interior Design, Planning, dated December 18, 2014.

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 a Certificate of Appropriateness 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 Certificate of Appropriateness was granted, the Certificate of Appropriateness will expire and become null and void. 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 Certificate of Appropriateness will expire and become null and void.

In accordance with Section 118-561 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 Certificate of Appropriateness to Section 118-564, City Code, for revocation or modification of the Certificate of Appropriateness.

Dated this February day of 23rd, 2015.

STATE OF FLORIDA, COUNT OF DADE
I HEREBY CERTIFY that this is a true copy of the original filed in this office on _____ day of MAR 0 4 2015, A.D. 20_____
WITNESS my hand and Official Seal.
HARVEY RUVIN, CLERK, of Circuit and County Courts
By _____ D.C.
TANASHIA ARNOLD 1144

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
PRESERVATION AND DESIGN MANAGER
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 23rd day of February 2015 by Deborah Tackett, Preservation and Design Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

NOTARY PUBLIC
STATE OF FLORIDA
TERESA MARIA
MY COMMISSION # FF 042188
EXPIRES: December 2, 2017
Bonded Thru Budget Notary Services

_____
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 12-1-17

Approved As To Form:
City Attorney's Office: _____ (2/23/2015)

Filed with the Clerk of the Historic Preservation Board on 2-23-15 (WJR)

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