

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: September 17, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: HPB18-0210, **928 Ocean Drive.**

The applicant, Deco Walk Hotel & Golf Club, LLC, is requesting modifications to a previously issued Certificate of Appropriateness for the partial demolition of the Ocean Drive façade and the design of a new glass storefront system and the installation of a retractable canopy system at the rooftop. Specifically the applicant is requesting modifications to the design and location of the outdoor bar counter.

STAFF RECOMMENDATION

Approval of Certificate of Appropriateness with conditions

BACKGROUND

On February 13, 2018, the Board reviewed a Certificate of Appropriateness for the partial demolition of the Ocean Drive façade and the design of a new glass storefront system and the installation of a retractable canopy system at the rooftop including the retention of an existing bar counter and the design for a new replacement bar counter including a variance to exceed the allowable hours of operation for an accessory outdoor bar counter on the roof of the building. At the meeting, the Board approved the Certificate of Appropriateness for the new ground level storefront design and the introduction of the new rooftop bar counter and denied a variance to exceed the allowable hours of operation for an accessory outdoor bar counter.

On April 10, 2018, the Board heard a progress report and approved a motion to suspend future progress reports.

EXISTING STRUCTURE

Local Historic District: Ocean Drive/Collins Avenue

Status: Non-Contributing
Construction Date: 1993

SITE DATA

Legal Description: Lot 5, Block 14 of OCEAN BEACH ADDITION NO. 2, according to the plat thereof recorded in Plat Book 2, Page 56 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 “Voodoo Restaurant & Lounge”, as prepared by Norman Paul, R.A., dated July 6, 2018.

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. Page 15 and Page 27 of the plans submitted identify a dance floor located at the ground level. Since the total proposed occupancy is 256 persons, the dance floor shall be removed or a Conditional Use Permit shall be required.
2. Any entertainment proposed for the interior restaurant shall require a Conditional Use Permit to be reviewed and approved by the Planning Board, if the venue exceeds occupancy of 199 persons.
3. Any entertainment proposed for the outdoor portion of the site shall require a Conditional Use Permit to be reviewed and approved by the Planning Board.
4. A business tax receipt shall be issued for an outdoor café with a minimum of 30 seats for the rooftop portion of the property in order to permit the accessory outdoor bar counter pursuant to Section 142-1109 of the City Code.

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 and outdoor bar counter use** appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
 - a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.
Not Applicable
 - b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.
Satisfied
- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the

Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. Exterior architectural features.
Satisfied
 - b. General design, scale, massing and arrangement.
Satisfied
 - c. Texture and material and color.
Satisfied
 - d. The relationship of a, b, c, above, to other structures and features of the district.
Satisfied
 - e. The purpose for which the district was created.
Satisfied
 - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.
Satisfied
 - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.
Not Applicable
 - h. The original architectural design or any subsequent modifications that have acquired significance.
Satisfied
- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Satisfied
 - b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied
See Compliance with Zoning Code

- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.
Satisfied
- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.
Satisfied
- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.
Satisfied
- f. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.
Satisfied
- g. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties and consistent with a City master plan, where applicable.
Not Applicable
- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.
Not Applicable
- i. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
- j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied

- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
- m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Satisfied
- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.
Satisfied
- o. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Satisfied

CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA

Section 118-564 (f)(4) of the Land Development Regulations of the Miami Beach Code provides criteria by which the Historic Preservation Board evaluates requests for a Certificate of Appropriateness for Demolition. The following is an analysis of the request based upon these criteria:

- a. The Building, Structure, Improvement, or Site is designated on either a national or state level as a part of an Historic Preservation District or as a Historic Architectural Landmark or Site, or is designated pursuant to Division 4, Article X, Chapter 118 of the Miami Beach Code as a Historic Building, Historic Structure or Historic Site, Historic Improvement, Historic Landscape Feature, historic interior or the Structure is of such historic/architectural interest or quality that it would reasonably meet national, state or local criteria for such designation.
Satisfied
The subject structure is designated as part of the Ocean Drive/Collins Avenue Local Historic District; the building is classified as a Non-Contributing structure in the historic district.
- b. The Building, Structure, Improvement, or Site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.
Not Satisfied

The subject structure would be difficult and inordinately expensive to reproduce.

- c. The Building, Structure, Improvement, or Site is one of the last remaining examples of its kind in the neighborhood, the country, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.

Not Satisfied

The subject structure is not a distinctive example of an architectural style which contributes to the character of the district.

- d. The building, structure, improvement, or site is a contributing building, structure, improvement, site or landscape feature rather than a noncontributing building, structure, improvement, site or landscape feature in a historic district as defined in section 114-1, or is an architecturally significant feature of a public area of the interior of a historic or contributing building.

Not Satisfied

The subject structure is classified as a Non-Contributing building in the Miami Beach Historic Properties Database.

- e. Retention of the Building, Structure, Improvement, Landscape Feature or Site promotes the general welfare of the City by providing an opportunity for study of local history, architecture, and design or by developing an understanding of the importance and value of a particular culture and heritage.

Not Satisfied

The retention of this structure is critical to developing an understanding of an important Miami Beach architectural style.

- f. If the proposed demolition is for the purpose of constructing a parking garage, the Board shall consider it if the parking garage is designed in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior (1983), as amended, and/or the design review guidelines for that particular district.

Not Applicable

The demolition proposed in the subject application is not for the purpose of constructing a parking garage.

- g. In the event an applicant or property owner proposes the total demolition of a contributing structure, historic structure or architecturally significant feature, there shall be definite plans presented to the board for the reuse of the property if the proposed demolition is approved and carried out.

Not Applicable

The applicant is not proposing total demolition of the existing 'Contributing' building.

- h. The Miami-Dade County Unsafe Structures Board has ordered the demolition of a Structure without option.

Not Applicable

The Miami-Dade County Unsafe Structures Board has not ordered the demolition of any part of the subject buildings.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Applicable
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Not Applicable
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Not Applicable
- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.
Not Applicable
- (5) Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.
Not Applicable
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.
Not Applicable
- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.
Not Applicable
- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.
Not Applicable
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.
Not Applicable
- (10) Where feasible and appropriate, water retention systems shall be provided.
Not Applicable

STAFF ANALYSIS

As noted in the Background section of this report, on February 13, 2018, the Board reviewed and approved a Certificate of Appropriateness for the partial demolition of the Ocean Drive façade

and the design of a new glass storefront system. Additionally, at the rooftop, the Board approved the installation of a retractable canopy system, the retention of an existing bar counter and the design for a new replacement bar counter.

The applicant is currently requesting approval to relocate and reconfigure the proposed replacement bar counter to the western portion of the roof deck adjacent to the northern wall of the existing stair. Additionally, the proposed reconfigured bar has been significantly reduced in size.

Staff has no objection to the currently proposed location or design of the bar counter, but would note that since April 19, 2018, there have been seven noise complaints recorded in the City's Code Compliance records with two written warnings and one violation issued. It is not clear if the noise complaints pertain to the roof top or the ground level interior of the property. A list of the complaints and violations issued since April of 2018 has been attached to this report for reference. Regardless of the location, neither area of the venue is currently permitted to have music above ambient levels. If in the future, the operator desires to add an entertainment component to the restaurant, any outdoor music that exceeds ambient levels or any outdoor live music inclusive of DJs, will require a Conditional Use Permit to be reviewed and approved by the Planning Board. Further, any indoor entertainment that occurs within a venue that exceeds an occupancy of 199 persons, will also require a Conditional Use Permit to be reviewed and approved by the Planning Board.

Finally, staff would note that the proposed plans reference a dance floor located within the ground floor portion of the restaurant and a total combined occupancy of 256 persons. Unless, the combined occupancy is reduced to no more than 199 persons or expressly permitted by the Planning Board as part of a Conditional Use permit, any reference to a dance floor, whether permanent or temporary, shall be removed from the permit plans.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application be **approved** as to the Certificate of Appropriateness, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: September 17, 2018

FILE NO: HPB18-0210

PROPERTY: 928 Ocean Drive

APPLICANT: Deco Walk Hotel & Golf Club, LLC

LEGAL: Lot 5, Block 14 of OCEAN BEACH ADDITION NO. 2, according to the plat thereof recorded in Plat Book 2, Page 56 of the public records of Miami Dade County, Florida.

IN RE: The Application for modifications to a previously issued Certificate of Appropriateness for the partial demolition of the Ocean Drive façade and the design of a new glass storefront system and the installation of a retractable canopy system at the rooftop. Specifically the applicant is requesting modifications to the design and location of the 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 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 'a', 'b', 'd' & 'f' in Section 118-564(a)(2) of the Miami Beach Code.
 3. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(3) of the Miami Beach Code.
 4. Is consistent with Sea Level Rise and Resiliency Review Criteria (1) in Section 133-50(a) of the Miami Beach Code.
 5. Is not consistent with Certificate of Appropriateness Criteria 'b-e' 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. Any reference to a dance floor shall be removed from the plans submitted for Building Permit, unless the total combined occupancy is reduced to no more than 199 persons, or a Conditional Use Permit is granted by the Planning Board to allow the dance floor to remain.
2. Any entertainment proposed for the interior restaurant shall require a Conditional Use Permit to be reviewed and approved by the Planning Board, if the venue exceeds total occupancy of 199 persons.
3. Any entertainment proposed for the outdoor areas shall require a Conditional Use Permit to be reviewed and approved by the Planning Board.
4. A business tax receipt shall be issued for an outdoor café with a minimum of 30 seats for the rooftop portion of the property prior to the approval of any accessory outdoor bar counter pursuant to Section 142-1109 of the City Code.
5. The Historic Preservation Board shall maintain jurisdiction of this Certificate of Appropriateness. The applicant shall appear before the Historic Preservation Board for a progress report 60 days from the issuance of the Certificate of Appropriateness. The Board reserves the right to modify the Certificate of Appropriateness approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports.
6. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
 - a. Any outdoor bar counter shall only be permitted to be installed within the location specified by the plans approved by the Board.
 - b. The existing bar counter may remain in its current location until the new replacement bar counter has been fabricated and is ready to be installed. The existing bar counter shall not be utilized until all unpermitted rooftop canopy structures and lighting have been removed and all required permits for the existing bar counter have been issued.
 - c. The cabinet located along the back of the bar shall not exceed the height of the roof of the adjacent stair tower, 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. The existing string lights located at the rooftop deck shall be removed prior to the approval of a Building Permit, 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. The height of the canopy structures shall not exceed 10'-0" as measured from the roof deck to the top of the structures, 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. Final details of all exterior surface finishes and materials for the canopy structure(s), including samples, 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. Fixtures, including but not limited to lighting, speakers, fans, heaters, misters shall not be permitted to be attached to any canopy structure(s).
- h. Any lighting, fans, televisions, heaters or similar fixtures proposed to be located on the roof level shall be located so that they are not be visible from the public right of way, including the City's Beachwalk, 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. Exterior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding historic district. Intensive 'white', color changing, flashing, blinking or similar lighting shall not be permitted on the roof level or ground level, 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. Any sprinkler lines, sprinkler heads or emergency lighting that may be required by the Building or Fire Code shall be integrated within the canopy structure(s) and shall not be surface mounted, in a manner to be approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- k. Vertical side panels, including those for weather protection, shall not be permitted within the rooftop venue and shall not be permitted to be attached to any rooftop canopy structure.
- l. Any kitchens and other venting shall be chased to the nearest roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.
- m. Final details of the storefront systems and materials, 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.
- n. Televisions or similar digitals screens shall not be permitted to be located within the ground level outdoor terrace or within the first 10'-0" of the storefronts at the ground level.

2. The Applicant agrees to the following operational conditions for any and all permitted primary 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. OUTDOOR CONDITIONS

- 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 lease, contract or assignment.
- ii. Exterior speakers, except those required to address Building and Life Safety Codes, shall not be permitted at the ground level of the property.
- iii. Exterior speakers, except those required to address Building and Life Safety Codes and those associated with a distributed sound system for ambient, background music only, which does not interfere with normal conversation, shall not be permitted at the roof deck, unless a Conditional Use Permit is approved by the Planning Board for outdoor entertainment. An acoustic plan certified by an acoustic engineer for the proposed distributed sound system 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.

b. NOISE CONDITIONS

- i. The Historic Preservation Board (HPB) and the Planning Director shall retain the right to call the owners and/or operators back before the HPB, at the expense of the owners and/or operators, to impose and/or modify any operating conditions, should there be a valid violation (as determined by Code Compliance) about loud, excessive, unnecessary or unusual noise or other conditions of this approval. An adverse adjudication of a violation against the owner or operator is not necessary for the board to have jurisdiction over the matter under this condition. This condition vests jurisdiction independent of any other condition hereof.
- ii. 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.

c. OPERATIONAL CONDITIONS

- i. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works

Departments. Doors shall remain closed and secured when not in active use.

- ii. All furnishings, equipment and supplies, with the exception of tables and chairs, associated with the rooftop café and bar shall be stored within the envelope of the existing building in areas which are not visible from streets, alleys or nearby buildings. Storage shall not be permitted at the roof level.

II. Variance(s)

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

The following variance was **denied** by the Board:

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.

- 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, as noted and imposes the following condition 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. 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 13, 2018. 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 September 17, 2018 Order, the provisions hereof shall control.
- B. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- C. 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.
- 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 "Voodoo Restaurant & Lounge", as prepared by Norman Paul, R.A., dated July 6, 2018, 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: _____

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

Strike-Thru denotes deleted language
Underscore denotes new language

Filed with the Clerk of the Historic Preservation Board on _____ ()

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Case Number	Main Address	Case Type	Assigned To	Case Status	Open Date	Closed Date
CC2018-05460	928 OCEAN DR	City Code Violation	Contreras, Griselda	Notice of Violation	05/05/2018	
CC2018-05461	928 OCEAN DR	City Code Violation	Contreras, Griselda	Notice of Violation	05/05/2018	
CC2018-05464	928 OCEAN DR	City Code Violation	Contreras, Griselda	Notice of Violation	05/05/2018	
CC2018-05496	928 OCEAN DR	City Code Violation	Jefferson, Mounia	Notice of Violation	05/11/2018	
CC2018-05507	928 OCEAN DR	City Code Violation	Castillo, Henry	Appeal	05/13/2018	
CC2018-05573	928 OCEAN DR	City Code Violation	Dunlap, John	Closed	05/20/2018	06/29/2018
CC2018-05676	928 OCEAN DR	City Code Violation	Perez, Anthony	Closed	05/26/2018	07/18/2018
CC2018-05677	928 OCEAN DR	City Code Violation	Blanco, Mindy	Appeal	05/26/2018	
NC2018-07141	928 OCEAN DR	Noise Complaint		Closed	04/19/2018	04/27/2018
NC2018-07320	928 OCEAN DR	Noise Complaint	Contreras, Griselda	Written Warning Notice	05/05/2018	
NC2018-07344	928 OCEAN DR	Noise Complaint	Hernandez, Jorge	No Violation Issued	05/06/2018	05/07/2018
NC2018-07390	928 OCEAN DR	Noise Complaint	Contreras, Griselda	Written Warning Notice	05/11/2018	
NC2018-07797	928 OCEAN DR	Noise Complaint	Romero, Miguel	Closed	06/21/2018	06/23/2018
NC2018-07999	928 OCEAN DR	Noise Complaint	Romero, Miguel	Closed	07/17/2018	07/19/2018
NC2018-08194	928 OCEAN DR	Noise Complaint	Parodi, Javier	Notice of Violation	08/10/2018	
SMA2018-01276	928 OCEAN DR	Special Master Appeals	Neves, Cynthia	Appeal	05/30/2018	
SMA2018-01277	928 OCEAN DR	Special Master Appeals	Neves, Cynthia	Appeal	05/30/2018	
SMA2018-01278	928 OCEAN DR	Special Master Appeals	Neves, Cynthia	Appeal	05/30/2018	
SMA2018-01280	928 OCEAN DR	Special Master Appeals	Neves, Cynthia	Appeal	05/30/2018	
SMA2018-01305	928 OCEAN DR	Special Master Appeals	Neves, Cynthia	Appeal	06/01/2018	
SMA2018-01306	928 OCEAN DR	Special Master Appeals	Neves, Cynthia	Appeal	06/01/2018	
SMC2018-00807	928 OCEAN DR	Special Master Code	Silva, Fernanda	Special Master	05/30/2018	
SMN2018-00055	928 OCEAN DR	Special Master Noise Appeals	Neves, Cynthia	Appeal	08/20/2018	
SV2018-06175	928 OCEAN DR	Sanitation Violation	Rios, Jorge	Closed	05/26/2018	07/05/2018