

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: August 9, 2016

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: HPB0616-0034, **4441 Collins Avenue – Fontainebleau Hotel**

The applicant, Fontainebleau Florida Hotel, LLC, is requesting variances to reduce the minimum required front setback for a monument sign, and to exceed the maximum aggregate area for signage.

#### **STAFF RECOMMENDATION**

Approval of the variances with conditions.

#### **EXISTING STRUCTURE**

Local Historic District: Morris Lapidus / Mid 20<sup>th</sup> Century

Status: Contributing  
Original Architect: Morris Lapidus / Herbert Mathes  
Construction Date: Original Buildings-1954-1959

#### **ZONING / SITE DATA**

Legal Description: Lot A', and Lots 1 & 2, and the South ½ of Lot 3, of the Amended Plat of "The Indian Beach Corporation Subdivision," according to the Plat thereof, recorded in Plat Book 8, Page 61, of the Public Records of Miami-Dade County, Florida.

Zoning: RM-3 (Residential Multifamily, High Intensity)  
Future Land Use Designation: RM-3 (Residential Multifamily, High Intensity)  
Existing Use: Hotel  
Proposed Use: Same

#### **THE PROJECT**

The applicant has submitted plans entitled "Fontainebleau Miami Beach" as prepared by Alfredo M. Carbonell, P.E., signed and dated April 28, 2016.

**The applicant is requesting variances to reduce the minimum required front setback for a monument sign, and to exceed the maximum aggregate area for signage.**

The applicant is requesting the following variances:

1. A variance to reduce 8'-0" from the minimum required front setback of 10'-0" for a monument sign in order to construct a monument sign at 2'-0" from the front property line facing Collins Avenue.

- Variance requested from:

**Sec. 138-9. Yard requirements.**

*(c) Detached signs shall have the following setback requirements:*

*(1) Front yard: 10 feet.*

The applicant is proposing a new monument sign facing Collins Avenue at 2'-0" from the front property line, where 10 feet is required. The variance is requested to construct a new sign reading "MAIN DRIVE" that indicates the main vehicular entrance to the hotel in order to improve the flow of traffic on site and reduce congestion on the street. Visitors are often confused as to the main hotel entrance due to the various access points on this very large hotel site, as expressed by the applicant in the hardship letter. This situation causes inconveniences for the hotel operation as traffic is increased in the internal two-way driveway running along the front and between the buildings and adds more traffic congestion back on to Collins Avenue. The property is unusually large and has a frontage of more than 650 feet with various access and exit points. The existing buildings are set back significantly from the street and the landscape and taxi parking lines at the front of the property limit the visibility of the existing monument signs on the sides of the main access. Staff finds that the size of the property, the landscape and traffic flow along Collins Avenue and on site, are conditions that create practical difficulties in providing a clear identity for the main access to the property, and result in the variance requested.

2. A variance to exceed by 4 s.f. the maximum previously approved area of 34 s.f. for signs in order to allow the construction of a new monument sign and a total sign area of 38 s.f. facing Collins Avenue.

- Variance requested from:

**Section 138-172. Schedule of sign regulations for principal and accessory use signs.**

*RM-3 – Number: Multiple street front facing signs for the same licensed oceanfront hotel or apartment building within the RM-3 district may be permitted through the design review or certificate of appropriateness process as applicable if the aggregate sign area does not exceed the maximum size permitted under this subsection.*

*Flat Signs: 20 square feet for every 50 feet of linear frontage, or fraction thereof, up to maximum of 30 square feet.*

The property has two existing 17-SF monument signs on the north and south sides of the main entrance to the hotel. Variances were approved by the Board of Adjustment on June 2008, under BOA File No. 3358 for the construction of these signs. Under the same file, another sign located at the corner of the site was also approved with variances as a flat sign facing 44<sup>th</sup> Street. Because the sign area is determined per street side, this sign is not included in the calculations for the signs fronting on Collins Avenue. In this case, the total sign area existing facing Collins Avenue is 34 SF and the new monument sign with 2 SF on each side adds a total

of 38 SF. Other existing signs at the front were previously determined to be directional signs that do not count toward the maximum sign area.

The City Code restricts the sign area for main business, and accessory uses, based on the length of the building walls of the space they occupy in a building. The RM-3 district allows multiple signs for the same licensed establishment that may be approved through the design review process; however the maximum aggregate area cannot exceed the maximum size allowed.

In this case 30 SF is the maximum area for signs along Collins Avenue on the property, which has a frontage of more than 650 feet. Based on the length of the property at the front, multiple signs up to 30 SF could be located along Collins Avenue. The applicant's request for up to 38 SF of sign area is much less compared to what would potentially be allowed on the property. The new illuminated sign will follow the same design and proportions of the other existing signs. It is compatible with the scale of the surrounding context and the historic structures on site.

The signage code does not currently address exceptionally large properties such as the Fontainebleau, which are more than a city block in width. Due to the width of the property, which contains multiple buildings, entrances, driveways, and access points, wayfinding signage is critical in maintaining an organized and well-run facility. Based upon these factors, the property does have a practical difficulty in properly signing the property and complying with the signage regulations. Smaller signs would be hard to read from those arriving by car along Collins Avenue. Staff believes that the minimal increase in size area as requested by the applicant is warranted and in compliance with the general intent and purpose of the signage ordinance as outlined below:

*"The purpose of this chapter is to permit signs that will not by their size, location, construction, number or manner of display, endanger the health, safety and general welfare of the public or the appearance of the city. It is also the purpose of this chapter to encourage signs that are architecturally aesthetic and compatible with the buildings they are placed on, to reduce traffic hazards and to preserve the right of free speech exercised through the use of signs."*

#### **PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

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;

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.

#### **COMPLIANCE WITH ZONING CODE**

A preliminary review of the project indicates that the application, as proposed, is consistent with the City Code, with the exception of the variances requested herein.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

#### **VARIANCE ANALYSIS**

This unusually large property is located at the corner of 44<sup>th</sup> Street and Collins Avenue. The applicant is requesting variances for the installation of a monument sign adjacent to the front property line and located within the landscape area at the main entrance of the hotel. Variances for the installation of monument signs and a flat sign were granted by the Board of Adjustment in 2008. These variances were approved based on the fact that the length of the frontage creates practical difficulties for the applicant to install signs that provide effective visibility and way-finding to visitors and hotel guests. Currently, the existing signs still do not provide adequate visibility, as they are largely setback from the street and due to the intense flow of traffic on the two way driveways between the signs, which often obstruct visibility of the existing signs, in addition to the existing landscape and permanent taxi vehicles also parked adjacent to the sidewalk.

Since the sign regulations limit the number of signs one establishment may have, that limit is adequate for smaller properties, but does not acknowledge the legitimate needs of a property which is much larger or longer than average. These practical difficulties have been recognized previously by the Board of Adjustment when granting variances for signs in other large developments, such as the "1" Hotel and Residences located at 2301-2377 Collins Avenue. As such, staff finds that the variances requested are not the result of the applicant's actions, but based on the existing site conditions and context. In summary, staff recommends that the Board approve the variances as proposed.

**RECOMMENDATION**

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

TRM:DJT:MAB:IV

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

MEETING DATE: August 9, 2016

FILE NO: HPB0616-0034

PROPERTY: 4441 Collins Avenue

APPLICANT: Fontainebleau Florida Hotel, LLC

LEGAL: Lot A', and Lots 1 & 2, and the South ½ of Lot 3, of the Amended Plat of "The Indian Beach Corporation Subdivision," according to the Plat thereof, recorded in Plat Book 8, Page 61, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for variances to reduce the minimum required front setback for a monument sign, and to exceed the maximum aggregate area for signage.

**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. Certificate of Appropriateness has not been requested as part of this application.

**II. Variance(s)**

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

1. A variance to reduce 8'-0" from the minimum required front setback of 10'-0" for a monument sign in order to construct a monument sign at 2'-0" from the front property line facing Collins Avenue.
2. A variance to exceed by 4 s.f. the maximum previously approved area of 34 s.f. for signs in order to allow the construction of a new monument sign and a total sign area of 38 s.f. facing Collins Avenue

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;

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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. 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. 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.

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**City of Miami Beach, Florida**

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**III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.**

- A. 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.

- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, within 30 days of the Board approval.
- C. Applicant shall submit revised plans pursuant to Board conditions no later than 60 days after Board approval, as required.
- D. 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.
- E. 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.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. 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 "Fontainebleau Miami Beach" as prepared by Alfredo M. Carbonell, P.E., signed and dated April 28, 2016, 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. 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  
PRESERVATION AND DESIGN MANAGER  
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, 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  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

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

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

DRAFT