

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

MEETING DATE: July 12, 2016

FILE NO: HPB0416-0001

PROPERTY: 6801 Collins Avenue

APPLICANT: Z Capital Florida Resort, LLC.

LEGAL: The north 25' of Lot 48, all of Lots 49 through 53, inclusive, Block 1 of Amended Second Ocean Front Subdivision, according to the plat thereof recorded in Plat Book 28, Page 28 of the public records of Miami Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for a Certificate of Appropriateness for renovation of the existing building and site, including design modifications to the hotel lobby, drop off area and rear yard, including variances to reduce the required front setback for a detached monument sign and to reduce the required rear setback for accessory structures within the Oceanfront Overlay District.

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 North Beach Resort 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 consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
3. Is not consistent with Certificate of Appropriateness Criteria 'g' in Section 118-564(a)(3) of the Miami Beach Code.
4. Is consistent with Certificate of Appropriateness Criteria for Demolition in Section 118-564(f)(4) of the Miami Beach Code.



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C. The project would be consistent with the criteria and requirements of section 118-564 if the following conditions are met:

1. Revised elevations, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
 - a. A physical separation, in a manner to be reviewed and approved by staff, shall be provided between the outdoor restaurant venue and the adjacent hotel deck, in order to clearly denote the outdoor areas that are part of the restaurant venue as shown on the plans submitted as part of this application, in a manner to be approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - b. The outdoor bar counter and trellis structure shall be moved westward to the comply with minimum required rear setback for the Oceanfront Overlay, in a manner to be approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - c. Final design and details of the outdoor bar counter, trellis structure, window wall, retractable glass railings and new lobby door shall be provided, in a manner to be approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - d. The proposed monument sign shall be modified to a maximum height of 6'-0", as measured from grade. The 'Carillon' sign shall be individually mounted below the top of the wall in a manner to be approved by staff.
2. 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. 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 contract or assignment.
- ii. Exterior speakers, except those required to address Building and Life Safety Codes, shall not be attached to the exterior of any building or structure on the property. A distributed sound system may be permitted for ambient, background music, which does not interfere with normal conversation, unless a Conditional Use Permit is approved by the Planning Board. An acoustic

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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) or 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 if necessary. 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, as determined by Code Compliance shall be deemed a violation of this Order 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. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 1. A variance to reduce by 3'-0" the minimum required setback of 10'-0" for a detached sign located within the front yard in order to construct a monument sign at 7'-0" from the front property line.
 2. A variance to reduce by 5'-3" the minimum required rear setback of 10'-0" within the Oceanfront Overlay District in order to construct an open trellis structure, bar counter and glass railing at a minimum of 4'-9" from the Bulkhead Line.
- 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:

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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 **grants** the requested variance to reduce by 3'-0" the minimum required setback of 10'-0" for a detached sign located within the front yard in order to construct a monument sign at 7'-0" from the front property line.
- D. The Board hereby **grants in part** the requested variance to reduce by 5'-3" the minimum required rear setback of 10'-0" within the Oceanfront Overlay District in order to construct a glass railing at a minimum of 4'-9" from the Bulkhead Line. The application for a variance to construct an open trellis structure and bar counter at a minimum of 4'-9" from the Bulkhead Line was withdrawn by the Applicant.
- E. The Board hereby 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.

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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. 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.
- 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. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- F. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this

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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 "Carillon Hotel Alterations" as prepared by Giller & Giller, Inc., dated May 5, 2016, 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 2nd day of August, 2016.

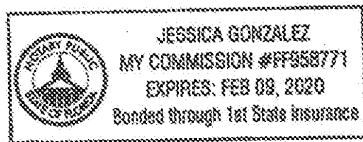
HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY 
DEBORAH TACKETT
PRESERVATION AND DESIGN MANAGER
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 2nd day of August 2016 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.



Jessica Gonzalez
 NOTARY PUBLIC
 Miami-Dade County, Florida
 My commission expires: 2-9-20

Approved As To Form: Nick Exallergis (8/2/2016)
 City Attorney's Office:

Filed with the Clerk of the Historic Preservation Board on Jessica Gonzalez (8-2-16)

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