

December 9, 2019

VIA HAND DELIVERY

Chair and Members of the Historic Preservation Board ("HPB")
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

RE: 7330 Ocean Terrace, commercial unit #5 – Certificate of Appropriateness for Design and Variances for renovation of existing outdoor seating area for a contemporary Asian themed restaurant (HPB19-0351)

Our firm represents Sushi Bichi, LLC ("Applicant") the lessee of commercial unit #5 (the "Premises") in the St. Tropez commercial condominium (the "Property"). The Premises is located at the far north end of the St. Tropez ground floor, which is the SW corner of 74th Street and Ocean Terrace. The St. Tropez building is a non-contributing building located within the Harding Townsite Historic District. The Property is located within the Ocean Terrace Overlay District and the North Shore Historic District.

The Premises has been utilized as a restaurant with primarily outdoor seating since the St. Tropez building was built in the late 1990s. Applicant is proposing minor modifications to the Premises and a shift in the operating hours for the outdoor bar which requires four variances.

One of the variances is just to be able to re-face the surface of two existing poles at the entrance to the Premises from Ocean Terrace. According to the permit history the two poles have existed in their current location since 1999 when the St. Tropez building was first constructed. Currently the poles are clad with concrete and Applicant proposes to remove the concrete cladding and replace it with wood to match the proposed theme of the contemporary Asian restaurant throughout the rest of the Premises. The two images on the next page show the existing condition on the left and the proposed condition on the right. The proposal does not decrease the existing setback of the two poles, which is 9' where 5' is required under the Ocean Terrace Overlay regulations. The required 5' setback is geared towards the main face of structures, not accessory-type poles. The face of the enclosed interior space of the Premises is setback approximately 30' from the property line along Ocean Terrace.

existing



proposed



Two of the four variances are to be able to build minor structures that are in-line with or setback further than the existing two canopy poles previously discussed. Applicant proposes to build a Torii structure at the same setback (9 inches) as the two canopy poles along Ocean Terrace and to build two vertical green walls which would be setback 2'-7" from the property line. The Torii structure is essential to the contemporary Asian theme of the proposed restaurant and the vertical green wall is required by City Code to hide the view of the proposed outdoor bar counter.

The fourth variance is to allow the proposed outdoor bar to operate from 12:00 PM (noon) until 12:00 AM (midnight) Sunday through Thursday and until 1:00 AM on Friday and Saturday. MXE zoning regulations allow accessory outdoor bar counters that are adjacent to a property with an apartment unit (which the Premises is) to operate from 8:00 AM to 8:00 PM seven days a week. The existing regulations permit accessory outdoor bar counters to operate for a 12-hour period. Applicant is proposing to shift the 12 operating hours so that the accessory outdoor bar counter can be open until 1:00 AM on Friday and Saturday and midnight on the other five days of the week when the bar counter would be most utilized.

The indoor area of the Premises is very small, 968 sqft, compared to the outdoor area, which is 4,181 sqft. The small size and configuration of the indoor area does not allow for the necessary operations of the restaurant and an indoor bar. Therefore, the bar is proposed to be outdoor. Although the bar is outdoors, it is not in an area that is open to the sky. There is either a canvas canopy or solid building above all portions of the proposed outdoor bar counter. Also, as required by City Code, the accessory outdoor bar counter will not be visible from the right of way. Dense planting in the form of Green Island Ficus will be located along the entire perimeter of the outdoor seating area and additional landscaping will be located within other areas of the outdoor seating area. Also, as mentioned above, the vertical green wall along Ocean Terrace will screen the outdoor bar from view from the entrance on Ocean Terrace.

Applicant has been in touch with the one existing residential building that is adjacent to the Premises (the St. Tropez Condominium) and as of the date of this application the St. Tropez Condominium is generally in favor of the Applicant's proposal. Also, the developer of the Ocean Terrace redevelopment project to the north of the Property supports all of the Applicant's requests, see enclosed letter of support.

Variations

Applicant requests four variations in order to operate a viable restaurant on the Premises. The requested variations are:

1. A variation to reduce by 4'-3" the minimum required pedestal front setback of 5'-0" for the re-facing of existing columns which are setback 9" from the front property line facing Ocean Terrace.
2. A variation to reduce by 4'-3" the minimum required pedestal front setback of 5'-0" for the construction of two poles for a Torii structure which are setback 9" from the front property line facing Ocean Terrace.
3. A variation to reduce by 2'-5" the minimum required pedestal front setback of 5'-0" for the construction of two vertical green walls which are setback 2'-7" from the front property line facing Ocean Terrace.
4. A variation to alter the allowed hours of operation for a proposed outdoor bar counter in the MXE district which is adjacent to a property with an apartment unit to allow the outdoor bar counter to operate between the hours of 12:00 PM and 12:00 AM Sunday through Thursday and to operate between the hours of 12:00 PM and 1:00 AM on Friday and Saturday.

The City Code establishes seven (7) individual criteria by which requests for variations are evaluated by the HPB. These criteria are listed below in bold and underline text, with our response following each criterion in plain text.

The City Charter, Subpart B, Article I, Sec. 2 also states, "*Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of said Zoning Ordinance, the Board of Adjustment shall have the power in passing upon appeals, to vary or modify any regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done.*"

We believe our responses below will demonstrate that there are both practical difficulties and unnecessary hardships associated with our request for the Variations.

(1) 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;

Regarding the variations related to the physical improvements near the property line on Ocean Terrace, the two poles that are proposed to be re-faced are existing and the nonconformity of the setback is not being reduced. The other two proposed improvements (the poles for the Torii and the vertical garden wall) are setback at the same or greater distance than the existing poles. Also, the variations related to the physical improvements face Ocean Terrace, which is proposed to be turned into a pedestrian-oriented right-of-way with limited vehicular access. The portion of Ocean Terrace in front of the Premises will not have any vehicular access according to preliminary plans provided to Applicant by the Ocean Terrace developer. This is a very unique situation compared to other MXE zoned properties in the City. Traditional setback standards, which in part are meant to provide spatial relief from improvements on a property to both the adjacent vehicular

street and from other structures on the opposite side of the street, simply do not apply to the situation of the Premises because there isn't going to be an adjacent street and there isn't any private property on the east side of the Ocean Terrace right of way.

Regarding the variance for shifting the hours of operation for the accessory outdoor bar counter, the Premises has an unusually small ratio of indoor area (968 sqft) to outdoor area (4,181 sqft) which does not allow for a restaurant to have an indoor bar in addition to the required facilities for a restaurant.

(2) The special conditions and circumstances do not result from the action of the applicant:

Although Applicant is proposing the project that requires the variances, Applicant is attempting to build new improvements consistent with and building upon the location of the existing improvements and Applicant did not create the unusually small ratio of indoor to outdoor floor area for the restaurant Premises. Applicant also did not create the situation where the Premises does not have any private property on the opposite side of Ocean Terrace and Applicant did not create the proposed transformation of Ocean Terrace into a pedestrian-oriented right of way.

(3) Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district:

All of the variances for the proposed physical improvements are equal to or less than the existing setback condition along the Ocean Terrace property line. The Premises is also uniquely situated in that it faces a right of way, Ocean Terrace, that does not have any developed private properties on the opposite side and the right of way will be converted into a pedestrian-oriented right of way.

(4) Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant:

The literal interpretation of the setback requirements would work unnecessary and undue hardship on the applicant. Denial of the variances for the proposed physical improvements would deprive Applicant of the use of a portion of the Premises as it has been used ever since the St. Tropez building was first constructed. The Premises is also uniquely situated with no private properties on the opposite side of Ocean Terrace and the one existing condominium is supportive of Applicant's requested variances, as is the developer of the adjacent property to the north, which will include a residential condominium.

(5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

The proposed physical improvements are in-line with the existing setbacks or setback greater than the existing improvements. The proposed hours for the outdoor bar counter are the

minimum necessary to compete with other restaurants which do not have similar restrictions on hours of operation. Also, the proposed hours of operation for the outdoor bar counter are essentially a shift, not an expansion, of the hours of operation.

(6) The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

None of the variances would be injurious to the surrounding area or detrimental to the public welfare as they are minimal variances and/or their effects are insulated from surrounding properties. Two of the immediately adjacent properties are supportive of the variances.

(7) 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.

Granting this request would be consistent with the comprehensive plan and it does not reduce levels of service as set forth in the comprehensive plan.

We submit that the proposed COA for design and associated variances for the proposed restaurant are appropriate for the Premises and for all of the reasons stated herein, we respectfully request the Historic Preservation Board's favorable review of the proposed project.

Sincerely,



Neisen O. Kasdin

Exhibit A



December 2, 2019

Thomas Mooney, Director
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

RE: Support for a Certificate of Appropriateness and Variances for the application by Sushi Bichi, LLC to open a restaurant at Commercial Unit #5 in the St. Tropez building at 7330 Ocean Terrace, HPB19-0351

Dear Mr. Mooney:

As you know, Ocean Terrace Holdings, LLC (OTH) has been working for several years to bring catalytic change to North Beach by redeveloping the majority of the block bounded by 74th and 75th Streets, between Collins Avenue and Ocean Terrace. OTH is currently in the process of amending our previously approved redevelopment project and we are also in the process of securing design approval from the Historic Preservation Board (HPB) for the design of the streetscape project that will transform Ocean Terrace and the surrounding side streets into a world-class pedestrian oriented park open to the public.

The lessees of the commercial unit at the north end of the St. Tropez building, Sushi Bichi, LLC, have been in touch with OTH regarding their proposed restaurant use. OTH is pleased and excited that Sushi Bichi is planning to open a restaurant at this location. Their business will be a much needed draw for consumers to come to Ocean Terrace and it will begin the process of bringing a level of vitality and pedestrian activity to Ocean Terrace. Sushi Bichi has likewise expressed their enthusiasm for the forthcoming streetscape project, which will transform their front door into a world class park destination.

It's our understanding that you have received an application from Sushi Bichi, LLC for a certificate of appropriateness and variances from the Historic Preservation Board (HPB) in order for Sushi Bichi to be able to open their proposed restaurant with an outdoor bar counter.

Based on our meetings with the applicant, we understand that the variances requested fall under two broad categories — variances related to existing or proposed physical improvements close to the property lines and variances related to shifting the allowable hours of operation of the proposed outdoor bar counter so that it can operate later in the evenings.

Regarding the variances related to the physical improvements, OTH supports the variances. The proposed improvements will modernize the commercial unit and will not cause any harm to the surrounding public rights of way or proposed streetscape improvements.

Regarding the variance related to the hours of operation for the outdoor bar counter, OTH also supports this variance. The applicant does not propose to have any outdoor entertainment and the outdoor bar counter is located such that it is entirely under either the St. Tropez building or the canopies extending

off of the building. OTH is supportive of the applicant bringing a certain level of pedestrian activity to the neighborhood and it's our understanding that this particular commercial unit does not have enough room on the inside to accommodate the necessary functions of a restaurant and a bar.

Based on our meetings with the applicant, OTH supports the proposed restaurant, including all of the requested variances, as described in application number HPB19-0351. Accordingly, we urge your favorable recommendation and the Historic Preservation Board's favorable consideration.

Sincerely,



Sandor Scher
Manager, Ocean Terrace Holdings, LLC