

**BEFORE THE
BOARD OF ADJUSTMENT
OF THE CITY OF MIAMI BEACH, FLORIDA**

CFN 2010R0577132
DR Bk 27399 Pgs 1979 - 1985; (7pgs)
RECORDED 08/25/2010 14:10:22
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

IN RE: The application of
SHELBORNE ASSOCIATES,
A FLORIDA GENERAL PARTNERSHIP,
COSTELLO INVESTMENTS, INC.,
SHELBORNE OCEAN BEACH HOTEL CORP.,
AND BEACH GROUP III, LLC,
1801 COLLINS AVENUE
(FOR LEGAL DESCRIPTION PLEASE
SEE EXHIBIT "A")

MEETING DATE: AUGUST 6, 2010
FILE NO. 3470

ORDER

The applicants, Shelborne Assoc., Costello Investments, Inc., Shelborne Ocean Beach Hotel Corp., Beach Group III, LLC, filed an application with the Planning Department for variances in order to renovate the existing building, as follows:

1. A variance to waive 6'-10" and 6'-4" of the minimum required side yard facing the street pedestal setback of 8'-1" in order to build two open stairs, the southwest stair at 1'-3" from the south property line and the southeast stair at 1'-9" from the south property line.
2. A variance to waive 14'-11" of the required pedestal sum of the side yards of 16'-2" in order to provide 1'-3" as the sum of the side yards.
3. A variance to exceed by 13'-4" of the maximum permitted encroachment within the front yard of 5'-0" in order to provide an accessibility ramp encroaching 18'-4" into the front yard, (1'-8" from the front property line).
4. A variance to exceed by 3'-2" of the maximum permitted encroachment of 1'-3" in order to provide a roof overhang that projects up to the south property line.
5. ~~A variance to waive 6'-3" of the minimum required side facing the street pedestal setback of 8'-1" in order to locate the backflow prevention equipment at 1'-10" from the south property line.~~ **WITHDRAWN AT HEARING**
6. A variance to waive 3'-5" of the required interior side pedestal setback of 8'-1" in order to build an addition at the northeast corner of the building, following the existing building line, at 4'-8" from the north property line.

7. A variance to waive 38'-11" of the required rear pedestal setback of 129'-0" in order to build access stairs at the northeast side of the property at 90'-1" from the rear property line (erosion control line).
8. A variance to allow a permissible main use sign along Collins Avenue to be utilized as an accessory use sign, with copy to be determined (Retail Signage).
9. A variance to allow a permissible main use sign along 18th Street to be utilized as an accessory use sign, with copy to be determined (Retail Signage).
10. A variance to relocate a permissible main use sign from the Oceanfront to the south side, facing 18th street and to be utilized as an accessory use monument sign with copy "Studio".
11. A variance to waive 6'-10" of the minimum required side yard facing the street of 10'-0" in order to build a monument sign with copy "Studio" at 3'-2" from the south property line.

Notice of the request for variance was given as required by law and mailed to owners of property within a distance of 375 feet of the exterior limits of the property on which application was made.

THE BOARD FINDS that the property in question is located in the RM-3 Zoning District.

THE BOARD FURTHER FINDS, based upon evidence, testimony, information and documentation presented to the Board, and portions of the staff report and recommendations, as applicable, which are incorporated herein by this reference, that with regard to the requested variance when conditioned as provided for in this Order:

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.

IT IS THEREFORE ORDERED, by the Board, that the variances be APPROVED as requested and set forth above; with the following conditions to which the applicant has agreed:

1. The applicant shall comply with all the conditions imposed by the Historic Preservation Board File No. 7074.
2. 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.
3. A landscape plan for the entire site, prepared by a Professional Landscape Architect, inclusive of street trees as per the City of Miami Beach Master Street Tree Plan, shall be submitted to and approved by staff before a building permit is issued for construction.
4. The applicant shall comply with all conditions imposed by the Public Works Department.
5. The applicant shall obtain a full building permit within eighteen months (18) months from the date of this hearing. If the full building permit is not obtained within the specified time limits, the applicant shall, prior to expiration of such period, apply to the Board for an extension of time. At the hearing on such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. Failure to comply with this order shall subject the variance to Section 118-356, City Code, for revocation or modification of the variance.
6. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
7. This 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.
8. 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, except to the extent of the variance granted herein.

9. This Order shall be recorded, at the expense of the applicant, in the Public Records of Miami-Dade County; the original or a certified copy shall be provided to the Planning Department prior to the issuance of a Building Permit.
10. 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. RESTAURANT CONDITIONS
 - i. The accessory restaurant/bar located at the pool deck level within the easternmost cabanas identified as commercial condominium units CU-33 and CU-34, shall not operate past 11pm.
 - b. NOISE CONDITIONS
 - i. The Board of Adjustment (BOA) or the Planning Director shall retain the right to call the owners and/or operators back before the BOA, at the expense of the owners and/ or operators, to impose and/or modify the hours of operation, and the placement or use on the property of exterior loudspeakers, fixed or portable, or amend or impose other 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 provided for in the Code.
 - iii. Except as may be required for fire or building code/Life Safety Code purposes, no new loudspeakers producing sound above an ambient sound level shall be affixed to or otherwise located on the exterior of the premises, except for those speakers associated with a Special Event permit issued by the City of Miami Beach.
 - iv. In addition to rooftop facilities, use of the pool or spa, as well as all terraces, private decks, and balconies associated with hotel units, shall be for the exclusive use of registered hotel guests, condo-hotel unit owners, townhome owners, and their invitees.

- v. The hotel rules and practices shall prohibit registered guests, visitors, invitees and others using the hotel facilities or otherwise on the premises, from operating audio amplification equipment, inclusive of loudspeakers, radio receivers, television sets, musical instruments, or other machines or devices for the producing or reproducing of sound, that produces noise that is plainly audible at any apartment unit in the adjacent and nearby properties.
- vi. Notwithstanding the occupancy and seat counts shown on the plans submitted, calculations for required concurrency for the project shall be determined by the Planning Department prior to approval of a building permit. Such calculations shall be based upon both the number of hotel rooms, and, additionally, the intensity of the proposed accessory restaurant as measured by the number of seats in dining areas, and by the square footage of the liquor service areas not included in the areas for which seats are calculated as provided for in this subparagraph.

c. OPERATIONAL CONDITIONS

- i. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
- ii. 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.
- iii. Garbage dumpster covers shall be closed at all times except when in active use and garbage pickups and service deliveries shall not take place between 7PM and 8AM.
- iv. All new kitchens and other venting shall be chased to the roof within the existing building envelope, and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors. Pollution Control Scrubbers shall be permitted as an alternative, subject to the review and approval of staff.
- v. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Board of Adjustment, as determined by staff, entitled "The Shelborne", as prepared by ADD Inc., dated July 16, 2010, modified in accordance with the conditions set forth in this Order and staff review and approval.

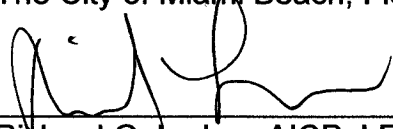
The applicant shall have a full building permit for the work contemplated herein issued by

the Building Department on or before February 6, 2012 (within eighteen months of the date of this hearing) as per the above conditions. If the full building permit is not obtained within the specified time limits, the applicant shall apply to the Board for an extension of time prior to expiration of such period; otherwise, this Order will expire, and become null and void, unless the issuance of such permit is stayed by an appeal of this Order to a court of competent jurisdiction.

This Order does not constitute a building permit, but upon presentation of a recorded copy of this Order to the Planning Department, a permit shall be processed and approved (subject to compliance with the conditions hereof) in accordance with and pursuant to the ordinances of the City of Miami Beach.

Board of Adjustment of
The City of Miami Beach, Florida

By:

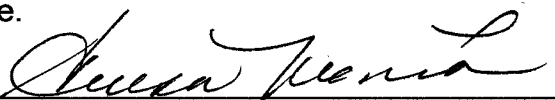

Richard G. Lorber, AICP, LEED AP
Acting Planning Director
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 19th day of August, 2010, by Richard G. Lorber, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



TERESA MARIA
MY COMMISSION # DD 928148
EXPIRES: December 2, 2013
Bonded Thru Budget Notary Services


Notary:
Print Name: TERESA MARIA
Notary Public, State of Florida

[NOTARIAL SEAL]
My Commission Expires:

Approved As To Form:
Legal Department (Met 8-12-10)

Filed with the Clerk of the Board of Adjustment on 08/19/10 (JS)

F:\PLAN\zba\FINALORD\3470 - Order - 1801 Collins Av - 08-10.doc

EXHIBIT "A"
LEGAL DESCRIPTION

THAT CERTAIN PARCEL OF LAND BOUNDED ON THE WEST BY THE WEST LINE OF LOTS 13 AND 14, AND ON THE NORTH BY THE NORTH LINE OF LOTS 13 AND 2 AND ITS EASTERLY EXTENSION, AND ON THE SOUTH BY THE SOUTH LINE OF LOTS 14 AND 1 AND ITS EASTERLY EXTENSION, OF BLOCK 1, "FISHER'S FIRST SUBDIVISION OF ALTON BEACH" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 77 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND ON THE EAST BY THE EROSION CONTROL LINE AS DEPICTED IN PLAT BOOK 134, PAGE 47 OF SAID PUBLIC RECORDS.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

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.

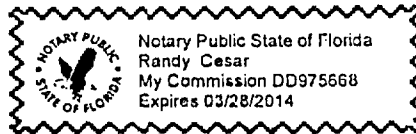
[Signature] 5-20-10
CITY OF MIAMI BEACH
(Signature of Planning Director or Designee) (Date)
Personally known to me or Produced ID: _____

Randy Cesar
Notary Public, State of Florida at Large
Printed Name: Randy Cesar
My Commission Expires: (Seal) _____

This document contains 9 pages.

MEETING DATE: May 11, 2010

FILE NO: 7074



PROPERTY: 1801 Collins Avenue – Shelborne Hotel

LEGAL: Lots 1, 2, 13, and 15, Block 1 of "Fisher's First Subdivision of Alton Beach", according to the Plat thereof, as recorded in Plat Book 2, at page 77 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for a Certificate of Appropriateness for the partial demolition, renovation and restoration of the existing 15-story, 8-story, and 3-story buildings, including design modifications to the ground floor, including lobby, pool deck, and cabanas, and the demolition of the existing main entrance façade and porte-cochere and construction of a new entrance and new porte-cochere.

ORDER

The applicants, Shelborne Associates, Costello Investments, Inc., Shelborne Ocean Beach Hotel Corp., and Beach Group III, LLC, filed an application with the City of Miami Beach Planning Department for a Certificate of Appropriateness.

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:

- A. The subject project was approved by the Historic Preservation Board on April 13, 2010, with the exception of all proposed exterior modifications, which were excluded from the approval. The subject application includes the review and approval for the proposed exterior modifications, in accordance with the requirements and conditions of this Order.
- B. The subject structure is classified as 'Contributing' in the Miami Beach Historic Properties Database and is located within the Ocean Drive/Collins Avenue Local Historic District and the National Register Architectural District.
- C. 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 is not consistent with the Certificate of Appropriateness Criteria 'a', and 'b' in Section 118-564(a)(1) of the Miami Beach Code, is not consistent with the Certificate of Appropriateness Criteria 'a', 'b', 'd', 'e', 'f', and 'h' in

Section 118-564(a)(2) of the Miami Beach Code, is not consistent with the Certificate of Appropriateness Criteria 'a', 'b', 'c', 'd', 'e', 'h', 'j', 'm', and 'o' in Section 118-564(a)(3) of the Miami Beach Code, and is not consistent with the Certificate of Appropriateness Criteria for Demolition '6' and '8' in Section 118-564(f)(4) of the Miami Beach Code.

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

1. Prior to the issuance of any Building Permit for work approved herein, the applicant shall provide proof of ownership, in a form acceptable to the City Attorney.
2. Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The porte-cochere signage shall be replaced with signage of the same style and proportions as the existing 'sky' signage for the Shelborne, in a manner to be approved by staff.
 - b. The original circular entrance steps shall be retained and preserved, in a manner to be approved by staff, however, an additional bottom step may be constructed of matching material, if required.
 - c. The existing entrance drive may be modified but shall retain a circular form, in a manner to be approved by staff. This may require modifications to the pedestrian walkways and accessibility ramp.
 - d. The storefront glass proposed at the southwest corner of the exterior lobby on the west wall, shall not be permitted as proposed. The existing diamond pattern articulation shall be retained and preserved, in a manner to be approved by staff. Storefront glass may be introduced on the south elevation, in a manner to be approved by staff.
 - e. The green screen proposed for the accessible ramp at the north side of the property shall consist of a fixed topiary, with a maximum height of four (4') feet above the midpoint of the ramp, in a manner to be reviewed and approved by staff. Such ramp shall not include access gates or doors and all required handrails for the accessible ramp shall consist of a single flat bar, which returns to the ground.
 - f. The proposed green hedge with signage feature and the water feature at the south side of the front yard, as well as the water feature along the west side of the property facing Collins Avenue, shall not be permitted. All landscape and open areas of the front yard shall consist of low plant material, in a manner to be approved by staff. Hedge material of any kind shall not be permitted within the front yard.
 - g. Drapes or other forms of vertical fabric, shall not be permitted to cover any exterior columns, as proposed.

- h. A basement plan and mezzanine plan shall be submitted to and approved by staff.
 - i. The final design and details of the proposed site modifications shall be provided, including fence details and dimensions, and a detailed landscape plan.
 - j. Documentation shall be submitted, in a format acceptable to and approved by the City Attorney, verifying that the appropriate procedures and requirements for participation by the condominium association in the application have been satisfied and that all steps required under the association's governing documents and all applicable laws were followed for the necessary consent of the condominium association to approve the improvements to the common and limited common elements of the structure, prior to the issuance of a building permit.
 - k. A museum quality historic analysis and display of the existing structure, inclusive of a photographic and written description of the history and evolution of the original building on site, shall be submitted to and approved by staff, prior to the issuance of a Building Permit; such historic analysis shall be displayed prominently within the public area of the historic structure, in a manner to be reviewed and approved by staff.
 - l. Manufacturer's drawings and Dade County product approval numbers for all new windows, doors and glass shall be required.
 - m. All new roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view, in a manner to be approved by staff.
 - n. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
3. 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. All new and modified exterior walkways shall consist of decorative pavers, decorative concrete or other decorative material, subject to the review and approval of staff.
 - 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.



- c. The utilization of root barriers and/or structural soil, as applicable, shall be clearly delineated on the revised landscape plan.
 - d. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures; any such new or relocated fixtures and devices shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of new or relocated backflow preventors, siamese pipes or other new or relocated related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
 - e. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable new or relocated FPL transformers or vault rooms; such transformers and vault rooms, and all other related devices and fixtures, shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of any exterior transformers, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
 - f. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect for the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.
- 4. All new building signage shall be consistent in type, composed of flush mounted, non-plastic, individual letters and shall require a separate permit.
 - 5. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
 - 6. A traffic mitigation plan, which addresses all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, if required, shall be submitted prior to the issuance of a Building Permit and the final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
 - 7. All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC), where applicable.
 - 8. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy. Specifically, all streetscape, sidewalk and landscape improvements in the public rights-of-way along Collins Avenue, in front of the subject property, shall be consistent with the approved CIP plans for this area and shall be paid for at the sole expense of the applicant, prior to the issuance of a CO.
 - 9. The applicant may be required to submit a separate analysis for water and sewer requirements, at the discretion of the Public Works Director, or designee. Based on a

preliminary review of the proposed project, the following may be required by the Public Works Department:

- a. A traffic and neighborhood impact study shall be conducted as a means to measure a proposed development's impact on transportation and neighborhoods. The study shall address all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, and if required, shall be submitted prior to the issuance of a Building Permit. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code. The developer shall refer to the most recent City of Miami Beach's Traffic and Neighborhood Impact Methodology as issued by the Public Works Department.
 - b. Remove/replace sidewalks, curbs and gutters on all street frontages, if applicable. Unless otherwise specified, the standard color for city sidewalks is red, and the standard curb and gutter color is gray.
 - c. Mill/resurface asphalt in rear alley along property, if applicable.
 - d. Provide underground utility service connections and on-site transformer location, if necessary.
 - e. Provide back-flow prevention devices on all water services.
 - f. Provide on-site, self-contained storm water drainage for the proposed development.
 - g. Meet water/sewer concurrency requirements including a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.
 - h. Payment of City utility impact fees for water meters/services.
 - i. Provide flood barrier ramps to underground parking or minimum slab elevation to be at highest adjacent crown road elevation plus 8".
 - j. Right-of-way permit must be obtained from Public Works.
 - k. All right-of-way encroachments must be removed.
 - l. All planting/landscaping in the public right-of-way must be approved by the Public Works and Parks Departments.
10. A drawn plan and written procedure for the proposed demolition shall be prepared and submitted by a Professional Structural Engineer, registered in the State of Florida, which fully ensures the protection of the public safety, as well as the protection of the existing structure on the subject site and all existing structures adjacent to the subject site during the course of demolition.



11. The Certificate of Appropriateness for Demolition shall only remain in effect for the period of time that there is an active Certificate of Appropriateness for the associated new construction on the subject property.
12. 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. RESTAURANT CONDITIONS

- i. The accessory restaurant/bar located at the pool deck level within the easternmost cabanas identified as commercial condominium units CU-33 and CU-34, shall not operate past 11pm.

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 the hours of operation, and the placement or use on the property of exterior loudspeakers, fixed or portable, or amend or impose other 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.
- iii. Except as may be required for fire or building code/Life Safety Code purposes, no new loudspeakers producing sound above an ambient sound level shall be affixed to or otherwise located on the exterior of the premises, except for those speakers associated with a Special Event permit issued by the City of Miami Beach
- iv. In addition to rooftop facilities, use of the pool or spa, as well as all terraces, private decks, and balconies associated with hotel units, shall be for the exclusive use of registered hotel guests, condo-hotel unit owners, townhome owners, and their invitees.



- v. The hotel rules and practices shall prohibit registered guests, visitors, invitees and others using the hotel facilities or otherwise on the premises, from operating audio amplification equipment, inclusive of loudspeakers, radio receivers, television sets, musical instruments, or other machines or devices for the producing or reproducing of sound, that produces noise that is plainly audible at any apartment unit in the adjacent and nearby properties.
- vi. Notwithstanding the occupancy and seat counts shown on the plans submitted, calculations for required concurrency for the project shall be determined by the Planning Department prior to approval of a building permit. Such calculations shall be based upon both the number of hotel rooms, and, additionally, the intensity of the proposed accessory restaurant as measured by the number of seats in dining areas, and by the square footage of the liquor service areas not included in the areas for which seats are calculated as provided for in this subparagraph.

c. OPERATIONAL CONDITIONS

- i. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
 - ii. 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.
 - iii. Garbage dumpster covers shall be closed at all times except when in active use and garbage pickups and service deliveries shall not take place between 7PM and 8AM.
 - iv. All new kitchens and other venting shall be chased to the roof within the existing building envelope, and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors. Pollution Control Scrubbers shall be permitted as an alternative, subject to the review and approval of staff.
 - v. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
13. At the time of completion of the project, only a **Final** Certificate of Occupancy (CO) or **Final** Certificate of Completion (CC) may be applied for; the staging and scheduling of the construction on site shall take this into account. All work on site must be completed in accordance with the plans approved herein, as well as by the Building, Fire, Planning, CIP and Public Works Departments, inclusive of all conditions imposed herein, and by other Development Review Boards, and any modifications required pursuant to field inspections, prior to the issuance of a CO or CC. This shall not prohibit the issuance of a Partial or Temporary CO, or a Partial or Temporary CC.



14. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
15. 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.
16. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
17. 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 by the Board, that the Certificate of Appropriateness is GRANTED for the above-referenced project subject to those certain conditions specified in paragraph D of the Findings of Fact (Condition Nos. 1-17, inclusive) hereof, 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 Shelborne Hotel Renovation", as prepared by ADD, Inc., dated 3-10-2010, and "The Shelborne Hotel Renovation", as prepared by ADD, Inc., dated 5-04-2010.

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 and the Order for the April 13, 2010 meeting. 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 and the Order for the April 13, 2010 meeting, have been met. In the event of a conflict between such Orders, the provisions herein shall control.

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 April 13, 2010 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

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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.

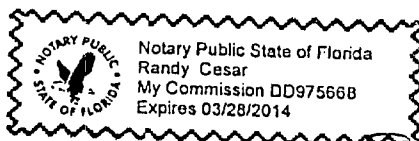
Dated this 17th day of MAY, 2010.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
THOMAS R. MOONEY, AICP
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 17 day of May, 2010 by Thomas R. Mooney, Design and Preservation Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



[Signature]
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 3/28/2014

Approved As To Form: _____
Legal Department: [Signature] (5-14-2010)

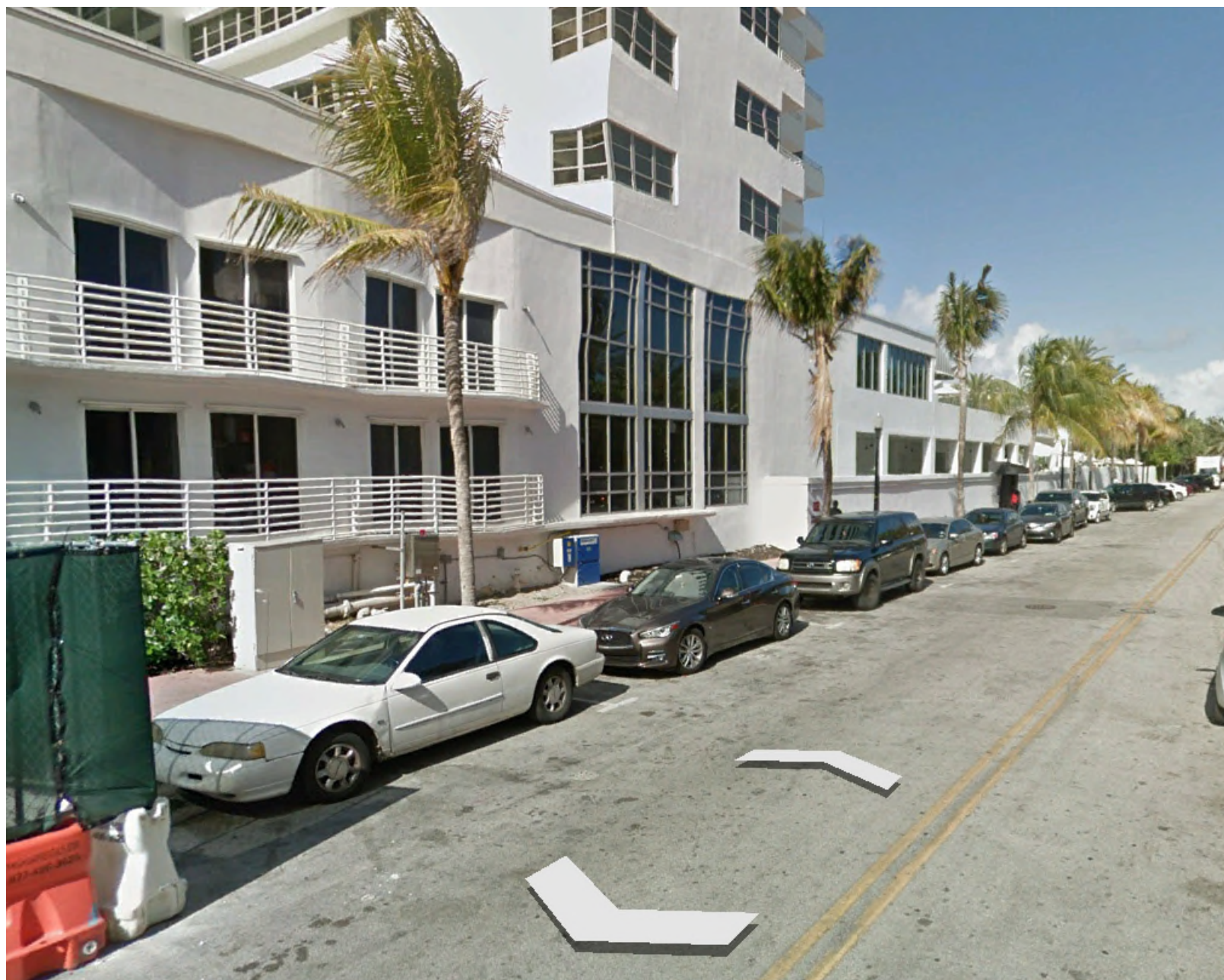
Filed with the Clerk of the Historic Preservation Board on 5/17/2010 (RC)

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AC Chillers Ca. 1970s

- AC Chillers no longer in side yard



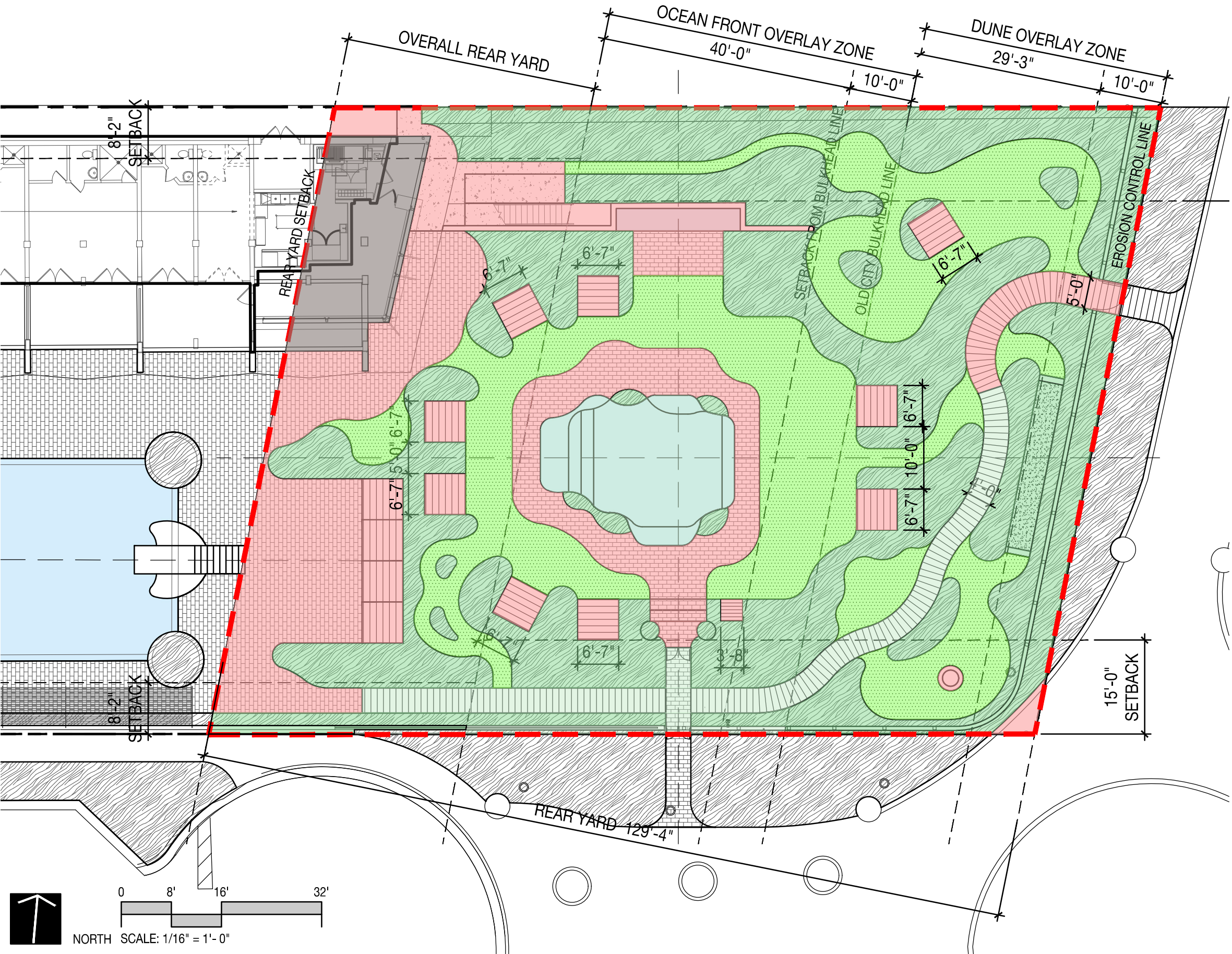


LEGEND

OVERALL REAR YARD TOTAL AREA = 9,108 SQ.FT.		
	SQ.FT.	%
PLANTING	3,891	42%
LAWN	2,776	32%
TOTAL LANDSCAPE	6,667	74%
TOTAL HARDSCAPE	2,441	26%

OCEAN FRONT OVERLAY AREA 5,104 SQ.FT. 50% LANDSCAPE AREA REQUIRED		
	SQ.FT.	%
PLANTING	1,855	37%
LAWN	1,398	27%
TOTAL LANDSCAPE	3,237	64%
TOTAL HARDSCAPE	1,851	36%

DUNE OVERLAY AREA 4,004 SQ.FT., 80% LANDSCAPE AREA REQUIRED		
	SQ.FT.	%
PLANTING	2,036	51%
LAWN	1,378	34%
TOTAL LANDSCAPE	3,414	85%
TOTAL HARDSCAPE	591	15%



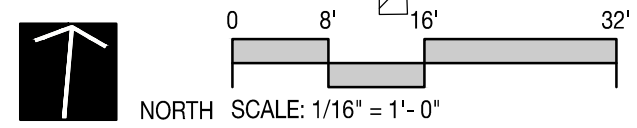
LEGEND

OVERALL REAR YARD TOTAL AREA 13,200 SQ.FT.

	SQ.FT.	%
PLANTING	5,518	41%
LAWN	3,279	24%
OPEN SPACE (*1)	1,124	10%
TOTAL LANDSCAPE & OPEN SPACE	9,921	75%
HARDSCAPE (*2)	3,194	24%
BUILDINGS (*3)	535	4%
TOTAL HARDSCAPE & BUILDINGS	3,729	25%

NOTES:

- (*1) PER SECTION 142-1132(A) AND STAFF INTERPRETATION OPEN SPACE INCLUDES UNCOVERED SWIMMING POOL AND WALKWAYS LESS THAN 4' IN WIDTH.
- (*2) PER SECTION 142-1132(J), MAX. 30% COVERAGE OF HOT TUBS, SHOWERS, SAUNAS, WHIRLPOOLS, BATHROOMS, AND DECKS.
- (*3) PER SECTION 142-1132(A), MAX. 30% COVERAGE FOR ACCESSORY BUILDINGS IN REAR YARD.



L004-A