

MIAMI BEACH

PLANNING DEPARTMENT, 1700 CONVENTION CENTER DRIVE, 2ND FLOOR
MIAMI BEACH, FLORIDA 33139, www.MIAMIBEACHFL.GOV
305-673-7550

LAND USE BOARD HEARING APPLICATION

THE FOLLOWING APPLICATION IS SUBMITTED FOR REVIEW AND CONSIDERATION OF THE PROJECT DESCRIBED HEREIN BY THE LAND USE BOARD SELECTED BELOW. A SEPARATE APPLICATION MUST BE COMPLETED FOR EACH BOARD REVIEWING THE PROPOSED PROJECT.

- ☐ BOARD OF ADJUSTMENT
 - ☐ VARIANCE FROM A PROVISION OF THE LAND DEVELOPMENT REGULATIONS
 - ☐ APPEAL OF AN ADMINISTRATIVE DECISION

- ☐ DESIGN REVIEW BOARD
 - ☐ DESIGN REVIEW APPROVAL
 - ☐ VARIANCE RELATED TO PROJECT BEING CONSIDERED OR APPROVED BY DRB.

- ☒ HISTORIC PRESERVATION BOARD
 - ☒ CERTIFICATE OF APPROPRIATENESS FOR DESIGN
 - ☐ CERTIFICATE OF APPROPRIATENESS TO DEMOLISH A STRUCTURE
 - ☐ HISTORIC DISTRICT / SITE DESIGNATION
 - ☒ VARIANCE RELATED TO PROJECT BEING CONSIDERED OR APPROVED BY HPB.

- ☐ PLANNING BOARD
 - ☐ CONDITIONAL USE PERMIT
 - ☐ LOT SPLIT APPROVAL
 - ☐ MENDMENT TO THE LAND DEVELOPMENT REGULATIONS OR ZONING MAP
 - ☐ AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP

- ☐ FLOOD PLAIN MANAGEMENT BOARD
 - ☐ FLOOD PLAIN WAIVER

- ☒ OTHER Modification of HPB Order No. 3383

SUBJECT PROPERTY ADDRESS: 4385 Collins Avenue

LEGAL DESCRIPTION: PLEASE ATTACH LEGAL DESCRIPTION AS "EXHIBIT A"

FOLIO NUMBER (S) 02-3226-001-2140

FILE NO. _____

1. APPLICANT: ☒ OWNER OF THE SUBJECT PROPERTY ☐ TENANT ☐ ARCHITECT ☐ LANDSCAPE ARCHITECT
☐ ENGINEER ☐ CONTRACTOR ☐ OTHER _____

NAME Beach House Owner, LLC
ADDRESS 29-35 Ninth Avenue, New York, NY 10014
BUSINESS PHONE _____ CELL PHONE _____
E-MAIL ADDRESS _____

OWNER IF DIFFERENT THAN APPLICANT:

NAME _____
ADDRESS _____
BUSINESS PHONE _____ CELL PHONE _____
E-MAIL ADDRESS _____

2. AUTHORIZED REPRESENTATIVE(S):

- ☒ ATTORNEY:

NAME Michael W. Larkin and Matthew Amster
ADDRESS 200 South Biscayne Boulevard, Suite 850, Miami, FL 33131
BUSINESS PHONE 305-377-6231 CELL PHONE _____
E-MAIL ADDRESS MLarkin@BRZoningLaw.com

- ☒ ARCHITECT:

NAME Peter Nedev
ADDRESS Architecture & Urban Design, 111 East Flagler St. #205, Miami, FL 33131
BUSINESS PHONE (305) 377-0082 CELL PHONE _____
E-MAIL ADDRESS pn@anc-office.com

- ☐ CONTACT:

NAME _____
ADDRESS _____
BUSINESS PHONE _____ CELL PHONE _____
E-MAIL ADDRESS _____

3. PARTY RESPONSIBLE FOR PROJECT DESIGN:

- ☒ ARCHITECT ☐ LANDSCAPE ARCHITECT ☐ ENGINEER ☐ CONTRACTOR ☐ OTHER _____

NAME Erica Padgett
ADDRESS In House Design & Build, Soho House & Co., 515 W. 20th Street, Suite 5W, New York, NY 10011
BUSINESS PHONE (858) 344-0693 CELL PHONE _____
E-MAIL ADDRESS Erica.padgett@sohohouse.com

FILE NO. _____

4. SUMMARY OF APPLICATION - PROVIDE BRIEF SCOPE OF PROJECT:

After the fact modification of HPB Approval for Soho Beach House for the expansion of Mandolin food and beverage venue located in rear yard and only open to private club members of Soho House. See Letter of Intent for more details

- 4A IS THERE AN EXISTING BUILDING(S) ON THE SITE ☒ YES ☐ NO
- 4B DOES THE PROJECT INCLUDE INTERIOR OR EXTERIOR DEMOLITION ☐ YES ☒ NO
- 4C PROVIDE THE TOTAL FLOOR AREA OF THE NEW BUILDING (IF APPLICANT) _____ SQ. FT.
- 4D PROVIDE THE TOTAL GROSS FLOOR AREA OF THE NEW BUILDING (INCLUDING REQUIRED PARKING AND ALL USABLE FLOOR SPACE). _____ SQ. FT.

5. APPLICATION FEE (TO BE COMPLETED BY PLANNING STAFF) \$ _____

- A SEPARATE DISCLOSURE OF INTEREST FORM MUST BE SUBMITTED WITH THIS APPLICATION IF THE APPLICANT OR OWNER IS A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR TRUSTEE.
- ALL APPLICABLE AFFIDAVITS MUST BE COMPLETED AND THE PROPERTY OWNER MUST COMPLETE AND SIGN THE "POWER OF ATTORNEY" PORTION OF THE AFFIDAVIT IF THEY WILL NOT BE PRESENT AT THE HEARING, OR IF OTHER PERSONS ARE SPEAKING ON THEIR BEHALF.
- TO REQUEST THIS MATERIAL IN ALTERNATE FORMAT, SIGN LANGUAGE INTERPRETER (FIVE-DAY NOTICE IS REQUIRED), INFORMATION ON ACCESS FOR PERSONS WITH DISABILITIES, AND ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDINGS, CALL 305.604.2489 AND SELECT (1) FOR ENGLISH OR (2) FOR SPANISH, THEN OPTION 6; TTY USERS MAY CALL VIA 711 (FLORIDA RELAY SERVICE).

PLEASE READ THE FOLLOWING AND ACKNOWLEDGE BELOW:

- APPLICATIONS FOR ANY BOARD HEARING(S) WILL NOT BE ACCEPTED WITHOUT PAYMENT OF THE REQUIRED FEE. ALL CHECKS ARE TO BE MADE PAYABLE TO THE "CITY OF MIAMI BEACH".
- PUBLIC RECORDS NOTICE – ALL DOCUMENTATION, SUBMITTED FOR THIS APPLICATION IS CONSIDERED A PUBLIC RECORD SUBJECT TO CHAPTER 119 OF THE FLORIDA STATUTES AND SHALL BE DISCLOSED UPON REQUEST.
- IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 2-482 OF THE CODE OF THE CITY OF MIAMI BEACH, ANY INDIVIDUAL OR GROUP THAT WILL BE COMPENSATED TO SPEAK OR REFRAIN FROM SPEAKING IN FAVOR OR AGAINST A PROJECT BEING PRESENTED BEFORE ANY OF THE CITY'S LAND USE BOARDS, SHALL FULLY DISCLOSE, PRIOR TO THE PUBLIC HEARING, THAT THEY HAVE BEEN, OR WILL BE COMPENSATED. SUCH PARTIES INCLUDE: ARCHITECTS, LANDSCAPE ARCHITECTS, ENGINEERS, CONTRACTORS, OR OTHER PERSONS RESPONSIBLE FOR PROJECT DESIGN, AS WELL AS AUTHORIZED REPRESENTATIVES ATTORNEYS OR AGENTS AND CONTACT PERSONS WHO ARE REPRESENTING OR APPEARING ON BEHALF OF A THIRD PARTY; SUCH INDIVIDUALS MUST REGISTER WITH THE CITY CLERK PRIOR TO THE HEARING.

FILE NO. _____

- IN ACCORDANCE WITH SEC.118'31. - DISCLOSURE REQUIREMENT. EACH PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION FROM THE PLANNING BOARD, DESIGN REVIEW BOARD, HISTORIC PRESERVATION BOARD (INCLUDING THE JOINT DESIGN REVIEW BOARD/HISTORIC PRESERVATION BOARD), OR THE BOARD OF ADJUSTMENT SHALL DISCLOSE, AT THE COMMENCEMENT (OR CONTINUANCE) OF THE PUBLIC HEARING(S), ANY CONSIDERATION PROVIDED OR COMMITTED, DIRECTLY OR ON ITS BEHALF, FOR AN AGREEMENT TO SUPPORT OR WITHHOLD OBJECTION TO THE REQUESTED APPROVAL, RELIEF OR ACTION, EXCLUDING FROM THIS REQUIREMENT CONSIDERATION FOR LEGAL OR DESIGN PROFESSIONAL SERVICES RENDERED OR TO BE RENDERED. THE DISCLOSURE SHALL; (I) BE IN WRITING, (II) INDICATE TO WHOM THE CONSIDERATION HAS BEEN PROVIDED OR COMMITTED, (III) GENERALLY DESCRIBE THE NATURE OF THE CONSIDERATION, AND (IV) BE READ INTO THE RECORD BY THE REQUESTING PERSON OR ENTITY PRIOR TO SUBMISSION TO THE SECRETARY/CLERK OF THE RESPECTIVE BOARD. UPON DETERMINATION BY THE APPLICABLE BOARD THAT THE FOREGOING DISCLOSURE REQUIREMENT WAS NOT TIMELY SATISFIED BY THE PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION AS PROVIDED ABOVE, THEN (I) THE APPLICATION OR ORDER, AS APPLICABLE, SHALL IMMEDIATELY BE DEEMED NULL AND VOID WITHOUT FURTHER FORCE OR EFFECT, AND (II) NO APPLICATION FROM SAID PERSON OR ENTITY FOR THE SUBJECT PROPERTY SHALL BE REVIEWED OR CONSIDERED BY THE APPLICABLE BOARD(S) UNTIL EXPIRATION OF A PERIOD OF ONE YEAR AFTER THE NULLIFICATION OF THE APPLICATION OR ORDER. IT SHALL BE UNLAWFUL TO EMPLOY ANY DEVICE, SCHEME OR ARTIFICE TO CIRCUMVENT THE DISCLOSURE REQUIREMENTS OF THIS SECTION AND SUCH CIRCUMVENTION SHALL BE DEEMED A VIOLATION OF THE DISCLOSURE REQUIREMENTS OF THIS SECTION.
- WHEN THE APPLICABLE BOARD REACHES A DECISION A FINAL ORDER WILL BE ISSUED STATING THE BOARD'S DECISION AND ANY CONDITIONS IMPOSED THEREIN. THE FINAL ORDER WILL BE RECORDED WITH THE MIAMI-DADE CLERK OF COURTS. THE ORIGINAL BOARD ORDER SHALL REMAIN ON FILE WITH THE CITY OF MIAMI BEACH PLANNING DEPARTMENT. UNDER NO CIRCUMSTANCES WILL A BUILDING PERMIT BE ISSUED BY THE CITY OF MIAMI BEACH WITHOUT A COPY OF THE RECORDED FINAL ORDER BEING INCLUDED AND MADE A PART OF THE PLANS SUBMITTED FOR A BUILDING PERMIT.

THE AFOREMENTIONED IS ACKNOWLEDGED BY:

☐ OWNER OF THE SUBJECT PROPERTY

☒ AUTHORIZED REPRESENTATIVE

SIGNATURE: _____



PRINT NAME: _____

Guy Williams, Chief Financial Officer

FILE NO. _____

OWNER AFFIDAVIT FOR INDIVIDUAL OWNER

STATE OF _____

COUNTY OF _____

N/A, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for removing this notice after the date of the hearing.

Sworn to and subscribed before me this _____ day of _____, 20____. The foregoing instrument was acknowledged before me by _____, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

SIGNATURE

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires:

PRINT NAME

**ALTERNATE OWNER AFFIDAVIT FOR
CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY**
(Circle one)

STATE OF Connecticut
COUNTY OF Fairfield

I, Guy Williams, being duly sworn, depose and certify as follows: (1) I am the Chief Financial Officer (print title) of Beach House Owner, LLC (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner or tenant of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (7) I am responsible for removing this notice after the date of the hearing.

Sworn to and subscribed before me this 30th day of June, 2016. The foregoing instrument was acknowledged before me by Guy Williams, of Beach House Owner, LLC, on behalf of such entity, who ~~has~~ produced _____ as identification and/or is personally known to me and who did/did not take an oath.

SIGNATURE

NOTARY SEAL OR STAMP

NOTARY PUBLIC

My Commission Expires:

PRINT NAME

Cheryl Carlin
Notary Public - State of Connecticut
My Commission Expires
June 30, 2019

FILE NO. _____

POWER OF ATTORNEY AFFIDAVITSTATE OF ~~FLORIDA~~ConnecticutCOUNTY OF ~~MIAMI-DADE~~Fairfield

I Guy Williams, being duly sworn, depose and certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application. (2) I hereby authorize Michael W. Larkin and Matthew Amster to be my representative before the Historic Preservation Board. (3) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (4) I am responsible for removing this notice after the date of the hearing.

Guy Williams
 Print name (and Title, if applicable)

[Signature]
 SIGNATURE

Sworn to and subscribed before me this 30th day of June, 2016. The foregoing instrument was acknowledged before me by Guy Williams of Beach House Owner, LLC, who has produced as ~~identification and/or~~ is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

Cheryl Carlin
 Notary Public - State of Connecticut
 My Commission Expires
June 30, 2019

Cheryl Carlin
 NOTARY PUBLIC
Cheryl Carlin
 PRINT NAME

CONTRACT FOR PURCHASE

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries, or partners. If any of the contract purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.*

N/A
 NAME

DATE OF CONTRACT

NAME, ADDRESS AND OFFICE

% OF STOCK

In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is filed, but prior to the date of a final public hearing, the applicant shall file a supplemental disclosure of interest.

FILE NO. _____

CITY OF MIAMI BEACH
DEVELOPMENT REVIEW BOARD APPLICATION

DISCLOSURE OF INTEREST

1. CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY

If the property that is the subject of the application is owned or leased by a corporation, partnership, or limited liability company, list ALL of the owners, shareholders, partners, managers, and/or members, and the percentage of ownership held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

Beach House Owner, LLC

NAME OF CORPORATE ENTITY

NAME AND ADDRESS

% OF OWNERSHIP

See Exhibit B.

NAME OF CORPORATE ENTITY

NAME AND ADDRESS

% OF OWNERSHIP

IF THERE ARE ADDITIONAL CORPORATE OWNERS, LIST ALL SUCH OWNERS, INCLUDING CORPORATE NAMES AND THE NAME, ADDRESS, AND PERCENTAGE OF OWNERSHIP OF EACH ADDITIONAL OWNER, ON A SEPARATE PAGE.

NOTE: Notarized signature required on page 9

FILE NO. _____

**CITY OF MIAMI BEACH
DEVELOPMENT REVIEW BOARD APPLICATION
DISCLOSURE OF INTEREST**

2. TRUSTEE

If the property that is the subject of this application is owned or leased by a trust, list any and all trustees and beneficiaries of the trust, and the percentage of interest held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

N/A

TRUST NAME

NAME AND ADDRESS

% OF INTEREST

NOTE: Notarized signature required on page 9

FILE NO. _____

3. COMPENSATED LOBBYIST:

Pursuant to Section 2-482 of the Miami Beach City Code, all lobbyists shall, before engaging in any lobbying activities, register with the City Clerk. Please list below any and all persons or entities retained by the applicant to lobby City staff or any of the City's land development boards in support of this application.

NAME	ADDRESS	PHONE #
a. <u>Michael W. Larkin, 200 S. Biscayne Blvd., # 850, Miami, FL 33131</u>		<u>305-377-6231</u>
b. <u>Matthew Amster, 200 S. Biscayne Blvd., # 850, Miami, FL 33131</u>		<u>305-377-6231</u>
c. <u>Peter Nedev 111 East Flagler St. #205, Miami, FL 33131</u>		<u>305/377-0082</u>

Additional names can be placed on a separate page attached to this form.

*Disclosure shall not be required of any entity, the equity interests in which are regularly traded on an established securities market in the United States or other country, or of any entity, the ownership interests of which are held in a limited partnership or other entity, consisting of more than 5,000 separate interests, where no one person or entity holds more than a total of 5% of the ownership interests in the entity.

APPLICANT HEREBY ACKNOWLEDGES AND AGREES THAT (1) ANY APPROVAL GRANTED BY A LAND DEVELOPMENT BOARD OF THE CITY SHALL BE SUBJECT TO ANY AND ALL CONDITIONS IMPOSED BY SUCH BOARD AND BY ANY OTHER BOARD HAVING JURISDICTION, AND (2) APPLICANT'S PROJECT SHALL COMPLY WITH THE CODE OF THE CITY OF MIAMI BEACH AND ALL OTHER APPLICABLE CITY, STATE, AND FEDERAL LAWS.

APPLICANT AFFIDAVIT

STATE OF ~~FLORIDA~~ Connecticut

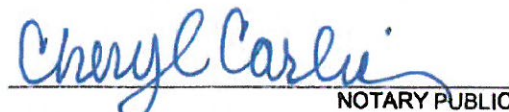
COUNTY OF ~~MIAMI-DADE~~ Fairfield

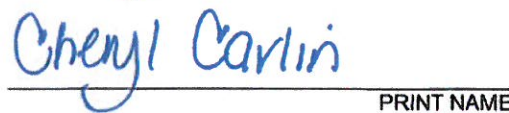
I, Guy Williams, being duly sworn, depose and certify as follows: (1) I am the applicant, or the representative of the applicant. (2) This application and all information submitted in support of this application, including disclosures, sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief.


SIGNATURE

Sworn to and subscribed before me this 7th day of July, 2016. The foregoing instrument was acknowledged before me by Guy Williams, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP


NOTARY PUBLIC


PRINT NAME

My Commission Expires Cheryl Carlin
Notary Public - State of Connecticut
My Commission Expires June 30, 2019

FILE NO. _____

EXHIBIT A

LEGAL DESCRIPTION:

TRACT 1:

PARCEL 1:

LOT ONE (1) EXCEPTING THE SOUTH SEVENTY-FIVE (75) FEET THEREOF, OF BLOCK THIRTY-NINE (39) OF MIAMI BEACH IMPROVEMENT COMPANY'S OCEAN FRONT SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGES 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LYING WESTERLY OF THE EROSION CONTROL LINE AS ESTABLISHED IN PLAT BOOK 105, AT PAGE 62 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

PARCEL 2:

ALL OF THE SOUTHERLY 75 FEET OF THAT CERTAIN TRACT MARKED AND DESIGNATED AS "R.P. VAN CAMP" ON THE AMENDED MAP OF THE OCEAN FRONT PROPERTY OF MIAMI BEACH IMPROVEMENT COMPANY, AS RECORDED IN PLAT BOOK 5, AT PAGES 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: SAID TRACT IS BOUNDED ON THE EAST BY THE EROSION CONTROL LINE AS ESTABLISHED IN PLAT BOOK 105, AT PAGE 62 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, ON THE WEST BY THE EASTERLY LINE OF COLLINS AVENUE, ON THE SOUTH BY THE NORTHERLY LINE OF LOT 1, BLOCK 39, OF THE AMENDED MAP OF THE OCEAN FRONT PROPERTY, AND ON THE NORTH BY A LINE 75 FEET NORTH AND PARALLEL TO THE NORTHERLY LINE OF LOT 1, BLOCK 39 OF THE AMENDED PLAT OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY AS RECORDED IN PLAT BOOK 5, AT PAGE 7 AND 8 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

PARCEL 1 AND PARCEL 2 ARE ALSO DESCRIBED AS:

COMMENCE (P.O.C.) AT THE NORTHWEST CORNER OF LOT ONE, BLOCK THIRTY-NINE, OF MIAMI BEACH IMPROVEMENT COMPANY'S OCEAN FRONT SUBDIVISION, AS RECORDED IN PLAT BOOK 5 AT PAGE 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY FLORIDA, SAID POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF COLLINS AVENUE. THENCE RUN SOUTH ALONG THE EAST RIGHT OF WAY OF COLLINS AVENUE 25.00' TO THE POINT OF BEGINNING (P.O.B.) THENCE EAST FROM THE EAST RIGHT OF WAY OF COLLINS AVENUE 363.94' (363.93' FIELD MEASURED) TO THE EROSION CONTROL LINE RECORDED ON PLAT BOOK 105 AT PAGE 62 OF AFOREMENTIONED COUNTY. THENCE NORTHERLY ALONG SAID EROSION CONTROL LINE 100.00' TO A POINT, BEING 100' NORTH OF AND 364.74' (364.85' FIELD MEASURED) ALONG A LINE BEING THE NORTH LINE OF THE SOUTH 75' OF THAT CERTAIN TRACT MARKED AND DESIGNATED AS "R.P. VAN CAMP" IN PLAT BOOK 5 AT PAGES 7 AND 8 OF AFOREMENTIONED COUNTY EAST OF THE EAST RIGHT OF WAY LINE OF COLLINS AVENUE. THENCE RUN WEST FROM AFOREMENTIONED COUNTY EROSION CONTROL LINE 364.74' (364.85' FIELD MEASURED) TO A POINT ON THE EAST RIGHT OF WAY LINE OF COLLINS AVENUE AND 100' NORTH OF THE (P.O.B.). THENCE RUN SOUTH ALONG THE EAST RIGHT OF WAY OF COLLINS AVENUE 100' TO THE (P.O.B.).

PARCEL 1 AND PARCEL 2 ARE ALSO DESCRIBED AS:

COMMENCE (P.O.C.) AT THE NORTHWEST CORNER OF LOT 1, BLOCK 39, OF MIAMI BEACH IMPROVEMENT COMPANY'S OCEAN FRONT SUBDIVISION, AS RECORDED IN PLAT BOOK 5, AT PAGES 7 AND 8 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF COLLINS AVENUE AS SHOWN ON SAID PLAT; THENCE S07°29'28"W ALONG THE WESTERLY LINE OF SAID LOT 1, BLOCK 39, AND ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 25.00 FEET TO THE POINT OF BEGINNING (P.O.B.) OF THE SUBJECT PARCEL OF LAND; THENCE S82°31'21"E FOR 363.94 FEET (363.93 FEET FIELD MEASURED) TO A POINT ON THE EROSION CONTROL LINE, RECORDED IN PLAT BOOK 105 AT PAGE 62 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE N08°01'02"E ALONG SAID EROSION CONTROL LINE FOR 100.00 FEET; THENCE N82°31'21"W, ALONG A LINE BEING THE NORTH LINE OF THE SOUTH 75 FEET OF THAT CERTAIN TRACT MARKED AND DESIGNATED AS "R.P. VAN CAMP" IN SAID PLAT RECORDED IN PLAT BOOK 5 AT PAGES 7 AND 8, FOR 364.74 FEET (364.85 FEET FIELD MEASURED); THENCE S07°29'28"W, ALONG SAID EASTERLY RIGHT OF WAY LINE OF COLLINS AVENUE AND SAID WESTERLY LINE OF LOT 1, BLOCK 39 AND NORTHERLY EXTENSION THEREOF, FOR 100.00 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH BENEFICIAL EASEMENTS CREATED BY THAT CERTAIN AMENDED AND RESTATED DECLARATION OF RESTRICTIONS, COVENANTS AND RECIPROCAL EASEMENTS RECORDED IN OFFICIAL RECORDS BOOK 26644, PAGE 516, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

LESS AND EXCEPT THE FOLLOWING PORTION OF THE ABOVE DESCRIBED PARCEL 2:

COMMENCE AT THE NORTHWEST CORNER OF LOT 1, BLOCK 39, OF MIAMI BEACH IMPROVEMENT COMPANY'S OCEAN FRONT SUBDIVISION, AS RECORDED IN PLAT BOOK 5, AT PAGES 7 AND 8 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE N07°29'28"E ALONG THE NORTHERLY PROJECTION OF THE WESTERLY LINE OF SAID BLOCK 39, FOR 75.00 FEET; THENCE S82°31'21"E, ALONG A LINE LYING 75.00 FEET NORTHERLY OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE NORTHERLY LINE OF SAID LOT 1, BLOCK 39, FOR 195.84 FEET; THENCE S07°28'39"W FOR 5.51 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE S82°31'21"E FOR 29.40 FEET; THENCE N07°28'39"E FOR 2.00 FEET; THENCE S82°31'21"E FOR 23.46 FEET; THENCE S7°28'39"W FOR 25.29 FEET; THENCE N82°31'21"W FOR 10.00 FEET; THENCE S07°28'39"W FOR 19.25 FEET; THENCE N82°31'21"W FOR 58.27 FEET; THENCE N07°28'39"E FOR 19.38 FEET; THENCE S82°31'21"E FOR 8.08 FEET; THENCE N07°28'39"E FOR 1.92 FEET; THENCE N82°31'21"W FOR 17.66 FEET; THENCE N07°28'39"E FOR 16.58 FEET; THENCE S82°31'21"E FOR 25.00 FEET; THENCE N07°28'39"E FOR 4.67 FEET TO THE POINT OF BEGINNING. SAID PARCEL JUST DESCRIBED HAVING A LOWER LIMIT AT ELEVATION 28.42 FEET, N.G.V.D. 1929.

TRACT 2:

A PORTION OF THAT CERTAIN TRACT MARKED AND DESCRIBED AS "R.P. VAN CAMP" ON THE AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, AS RECORDED IN PLAT BOOK 5, AT PAGES 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

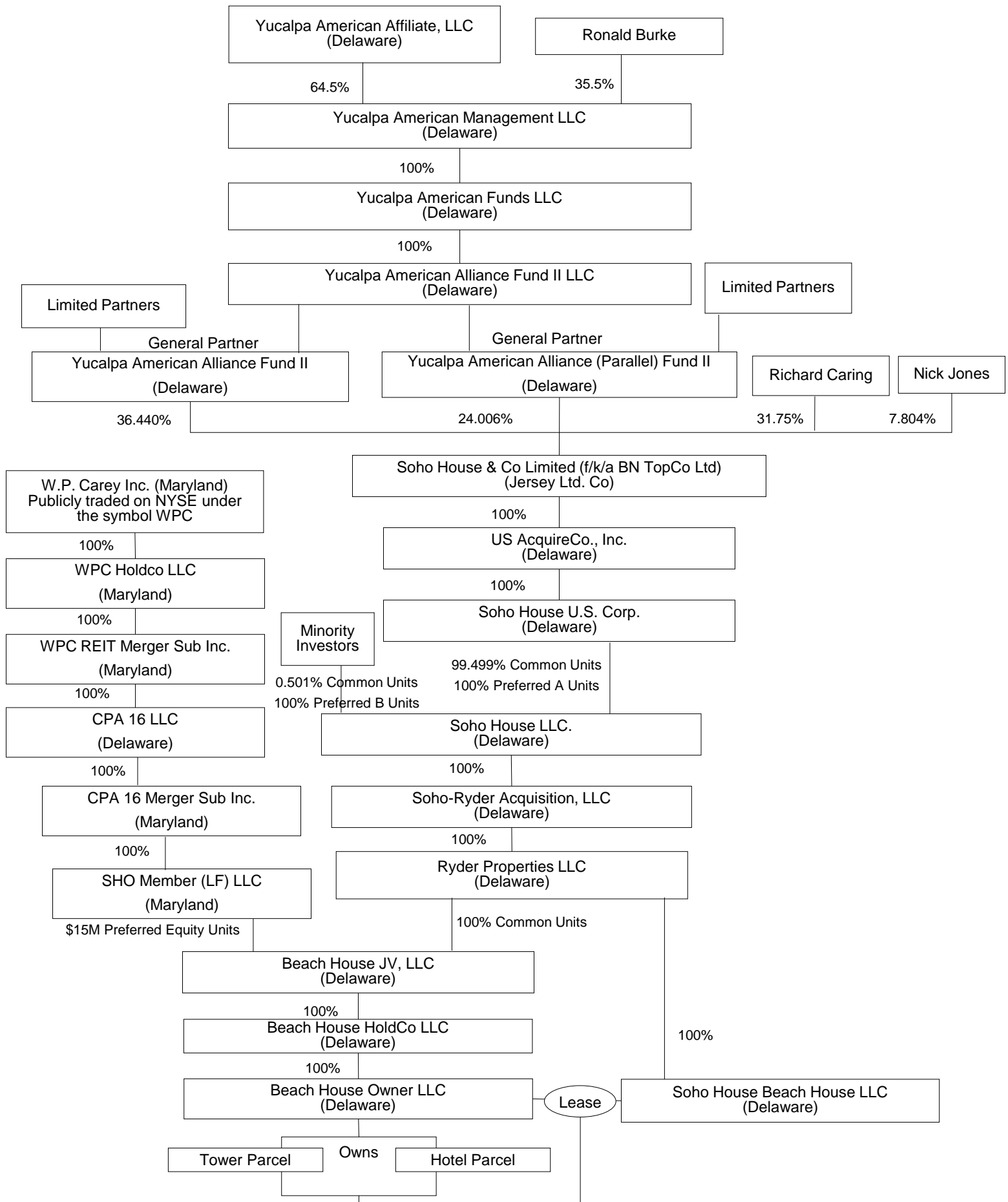
TOWER PARCEL:

COMMENCE AT THE NORTHWEST CORNER OF LOT 1, BLOCK 39, OF MIAMI BEACH IMPROVEMENT COMPANY'S OCEAN FRONT SUBDIVISION, AS RECORDED IN PLAT BOOK 5, AT PAGES 7 AND 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE N07°29'28"E ALONG THE NORTHERLY PROJECTION OF THE WESTERLY LINE OF SAID BLOCK 39, FOR 75.00 FEET; THENCE S82°31'21"E, ALONG A LINE LYING 75.00 FEET NORTHERLY OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE NORTHERLY LINE OF SAID LOT 1, BLOCK 39, FOR 195.84 FEET; THENCE S07°28'39"W FOR 5.51 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE S82°31'21"E FOR 29.40 FEET; THENCE N07°28'39"E FOR 2.00 FEET; THENCE S82°31'21"E FOR 23.46 FEET; THENCE S07°28'39"W FOR 25.29 FEET; THENCE N82°31'21"W FOR 10.00 FEET; THENCE S07°28'39"W FOR 19.25 FEET; THENCE N82°31'21"W FOR 58.27 FEET; THENCE N07°28'39"E FOR 19.38 FEET; THENCE S82°31'21"E FOR 8.08 FEET; THENCE N07°28'39"E FOR 1.92 FEET; THENCE N82°31'21"W FOR 17.66 FEET; THENCE N07°28'39"E FOR 16.58 FEET; THENCE S82°31'21"E FOR 25.00 FEET; THENCE N07°28'39"E FOR 4.67 FEET TO THE POINT OF BEGINNING. SAID PARCEL JUST DESCRIBED HAVING A LOWER UNIT AT ELEVATION 28.42 FEET, N.G.V.D. 1929.

EASEMENT PARCEL:

TOGETHER WITH BENEFICIAL EASEMENT CREATED BY THAT CERTAIN AMENDED AND RESTATED DECLARATION OF RESTRICTIONS, COVENANTS AND RECIPROCAL EASEMENTS MADE BY RYDER PROPERTIES, LLC AND SHO LANDLORD (FL) QRS 16-104, INC., DATED NOVEMBER 7, 2008, AND RECORDED NOVEMBER 7, 2008, IN OFFICIAL RECORDS BOOK 26644, PAGE 516, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

EXHIBIT B
ORGANIZATIONAL CHART¹



¹(a) Except as set forth hereon, no person or entity, individually or with affiliates (other than The California Public Employees' Retirement System, which holds an aggregate limited partnership interest of 24.37476% in Yucaipa American Alliance Fund and Yucaipa American Alliance (Parallel) Fund II), owns more than 10% of Beach House Owner, LLC or Beach House HoldCo.,LLC.

(b) Except as set forth hereon, no person or entity, individually or with affiliates, exercises control over Beach House Owner, LLC or Beach House HoldCo.,LLC.



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VIA ELECTRONIC SUBMISSION & HAND-DELIVERY

September 16, 2016

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

Re: Revised Letter of Intent for After the Fact Modification of HPB Order No. 3383 and Variance Approvals for Soho House Located at 4385 Collins Avenue in Miami Beach, Florida

Dear Tom:

This law firm represents Beach House Owner, LLC (the "Applicant"), with regard to the above-referenced property (the "Property"). See Exhibit A, Property Appraiser Summary Report. This letter shall serve as the Applicant's revised letter of intent in connection with an after-the-fact request to modify Historic Preservation Board ("HPB") Order No. 3383 and requests for variance approvals for the Property. See Exhibit B, HPB Order No. 3383. Since September 13, 2016, the Applicant has made significant changes to the proposal to reduce the number of variances and ensure that the rear yard structures are compatible with the Dune Preservation Overlay.

Soho House. Soho Beach House is an upscale, boutique hotel with an accessory restaurant called Cecconi's, Mandolin Miami Beach restaurant and bar, a gym and the Cowshed spa, among other amenities. It functions as a private members' club, where the public may only access Cecconi's and the spa. It is operated by Soho House Beach House, LLC, as it has been since it opened in the fall of 2010. It is part of the Soho House organization, an innovative English hospitality company established in 1995 that caters to professionals, especially in the arts, and provides a refined setting for like-minded people to do business and relax. Soho House has private members' clubs and hotels throughout England, in

the Meatpacking District in New York City, West Hollywood, California, Berlin and other cities.

Description of Property. The Property is a long, narrow lot located on the east side of Collins Avenue directly in line with 44th Street to the west. To the north is the Fontainebleau Hotel, with the Sorrento (a.k.a. Fontainebleau III), located immediately adjacent to the Property, and Fontainebleau II Condominium to the northwest that does not abut the Property. To the south is the Four Points Sheraton Hotel, which is part of the Charles Group Hotels that also owns and operates the Holiday Inn and Days Inn, both located in the area south of the Property. To southwest is a surface parking lot for the Fontainebleau Hotel and south of that is the Charles Garage managed by the Charles Group Hotels for public parking and valet parking for nearby hotels, including Soho House. The City's Boardwalk and the beach lay to the east of the Property.

The Property is located within the RM-3, Residential Multifamily High Intensity Zoning District, and is also located within the Collins Waterfront Local Historic District. Further, the Property is partially located within the Dune Preservation Overlay District. The Property contains a 7-story structure fronting Collins Avenue known as the Sovereign Hotel (the "Sovereign Hotel"), a contributing structure in the Historic Properties Database, and a 15-story tower at the rear of the Sovereign Hotel constructed in 2010. The Soho Beach House contains 50 hotel units on floors 4 - 7 and 9 - 15, and associated amenities on floors 1 - 3 and 8.

Applicant's Proposal. The scope of the modification is limited to the rear yard, which was originally approved and built with a tiki hut and connections to the Boardwalk. The area contained a bar and seating area accommodating a total of 28 seats at which food and beverages are served to private members as the area is not open to the public. Recently the tiki area has been branded as Mandolin Beach. The tiki hut contains a green rooftop that evokes a natural, landscaped atmosphere for Mandolin Beach.

The operations of the tiki area have been rewarding and challenging. While successful, there are a few modifications that the Applicant felt were necessary to make this private member area more accommodating due to the South Florida weather. As you may imagine, all the best intentions and planning may not completely achieve the ideal vision for the project. While key features of the existing design were previously approved and permitted, such as the tiki hut which was permitted pursuant to Building Permit Nos. BCC11061, BCC011101,

BMS1002819, and B1100859¹, the Applicant has made a few modifications that are the subject of this application to improve the atmosphere and safety of this outdoor space, which is a private member only area.

For instance, the Applicant has constructed four (4) individual pergola structures, which seemingly appear as two (2) pergolas structures, with a retractable awning in between in the Mandolin Beach area to provide some protection to its members from the harsh weather conditions. Additionally, some of this area's ground cover has been modified since the original approval was obtained. Accordingly, the Applicant seeks after-the-fact approval of the modifications to the Mandolin Beach venue located in the rear yard. Please refer to the project plans for details on the modifications.

Although certain features have already been installed without Board approval, the Applicant meant no harm or disrespect to the City or this Board. The Applicant was simply trying to create the best environment for its guests. And now that these certain features have been in place, we see that many modified features successfully deliver their intended purposes. However, the Applicant has met with City staff on several occasions and modified its proposal accordingly. For instance, the Applicant previously proposed retaining plastic and bamboo coverings atop the existing pergola structures; however, the Applicant has since modified its proposal to remove these coverings pursuant to feedback from City staff. The Applicant has also substantially modified its landscaping and hardscape to be more consistent with the intent and regulations of the Dune Preservation Overlay District.

Original Variance Requests. The Applicant originally requested the following variances:

1. An after the fact variance from Section 142-774 to exceed by 2'-0" the maximum allowed clear space of 8'-0" between the roof covering and finish floor in order to retain an existing tiki hut bar structure with a clear space of 10'-0" measured from finish floor to the roof and located within the Dune Preservation Overlay District.
2. An after the fact variance from Section 142-774 to retain an existing tiki hut bar structure not open on 3 sides with a wood-framed 6' wall and shelves facing the south side property line and high shelves on the east and west sides, where open structures are required within the Dune Preservation Overlay District.

¹ Including the following associated building permits: B1004444; BE092882; BE111021 and BP110649.

3. An after the fact variance from Section 142-774 to retain a patio constructed of concrete pavers adjacent to the tiki hut bar, where only wood materials are allowed within the Dune Preservation Overlay District.
4. An after the fact variance from Section 142-775 to reduce by 10'-0" the minimum required side setback of 15'-0" within the Dune Preservation Overlay District in order to retain a deck at 5'-0" from the south side property line.
5. An after the fact variance from Section 142-775 to exceed by 205 SF the maximum 400 SF of area allowed for structures in order to retain a tiki hut bar and deck with an area of 605 SF located within the Dune Preservation Overlay District.
6. An after the fact variance from Section 142-774 to exceed by 1'-8" the maximum allowed clear space of 8'-0" between the roof covering and finish floor in order to retain a retractable roof structure with a clear space of 9'-8" measured from finish floor to the average height of the roof located within the Dune Preservation Overlay District.
7. An after the fact variance from Section 142-774 to retain two pergola structures constructed of metal clad in wood where only wood materials are allowed for structures located within the Dune Preservation Overlay District.
8. An after the fact variance from Section 142-775 to exceed by 916 square feet the maximum 400 SF of area allowed for structures in order to retain two pergola structures connected with a retractable roof with an area of 1,316 SF located within the Dune Preservation Overlay District.
9. An after the fact variance from Section 142-775 to reduce by 29.5% (1,495 SF) the minimum required open space of 80% (4,056 SF) in order to retain a tiki hut bar, walkways, pergolas and roof structures and provide an open space of 50.5% (2,561 SF) within the Dune Preservation Overlay District.²
10. An after the fact variance from Section 142-775 to reduce by 4'-11" the minimum distance separation of 10'-0" between structures located within the Dune Preservation Overlay District in order to retain a tiki hut bar structure, pergolas and retractable roof structures with a distance separation of 5'-1".
11. An after the fact variance from Section 142-774 to exceed by 1'-0" and 2'-0" the maximum width of 6'-0" for walkways located within the Dune Preservation Overlay District in order to retain portions of walkways with a width of 7'-0" and 8'-0".

² The prior staff report and draft order contained a slightly different amount – reduce by 30.5% (1,547 sf) to provide 49.5% (2,509 sf). That amount represents the non-open space as opposed to the open space.

Revised Variance Requests. In order to achieve a design that is more compatible with the intent of the Dune Preservation Overlay District, the Applicant has significantly modified and refined its design. Specifically, since September 13, 2016 the Applicant has removed the concrete pavers adjacent to the kitchen area, as well as the bicycle rack at the north end. The Applicant has also reduced the height of the wall inside the tiki hut and removed all the shelving. Further, the Applicant has reduced the decking for the tiki hut and portions of the walkways at the north and at the gate to the Boardwalk. The Applicant also proposes to remove the long kitchen awning on the south side of the tiki hut. As a reminder, the Applicant continues to propose the removal of the existing bamboo vertical screens and top coverings from the pergolas. These revisions eliminate Variances 2, 3, 5, and 11, and reduce the magnitude of the requests for Variances 4 and 9. Accordingly, Variances 1, 6, 7, 8, and 10 remain as originally requested.

1. An after the fact variance from Section 142-774 to exceed by 2'-0" the maximum allowed clear space of 8'-0" between the roof covering and finish floor in order to retain and existing tiki hut bar structure with a clear space of 10'-0" measured from finish floor to the roof and located within the Dune Preservation Overlay District.
4. An after the fact variance from Section 142-775 to reduce by 4'-2" the minimum required side setback of 15'-0" within the Dune Preservation Overlay District in order to retain a deck at 10'-10" from the south side property line.
6. An after the fact variance from Section 142-774 to exceed by 1'-8" the maximum allowed clear space of 8'-0" between the roof covering and finish floor in order to retain a retractable roof structure with a clear space of 9'-8" measured from finish floor to the average height of the roof located within the Dune Preservation Overlay District.
7. An after the fact variance from Section 142-774 to retain two pergola structures constructed of metal clad in wood where only wood materials are allowed for structures located within the Dune Preservation Overlay District.
8. An after the fact variance from Section 142-775 to exceed by 916 square feet the maximum 400 SF of area allowed for structures in order to retain two pergola structures connected with a retractable roof with an area of 1,316 SF located within the Dune Preservation Overlay District.
9. An after the fact variance from Section 142-775 to reduce by 23.3% (1,179 SF) the minimum required open space of 80% (4,056 SF) in order to retain a tiki hut bar, walkways, pergolas and roof structures and provide

an open space of 56.75% (2,877 SF) within the Dune Preservation Overlay District.

10. An after the fact variance from Section 142-775 to reduce by 4'-11" the minimum distance separation of 10'-0" between structures located within the Dune Preservation Overlay District in order to retain a tiki hut bar structure, pergolas and retractable roof structures with a distance separation of 5'-1".

Satisfaction of Hardship Criteria. The Applicant's requests satisfy the hardship criteria as follows:

- (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;**

As the Property is a waterfront lot, it essentially has two (2) frontages. This is a condition that is peculiar to the Property and creates challenges for development, which is heightened by the Dune Preservation Overlay District regulations that seek an extensive level of openness for this protected area of the beachfront. Further, the narrow property and preservation and restoration of the contributing building limit the area on the Property available for appropriate amenities, especially those that take advantage of the outdoors.

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

The historic structure and the Property's narrow condition, waterfront location, as well as its location within the Dune Preservation Overlay District, do not result from any action taken by the Applicant. Nevertheless, the Applicant has acted to minimize the effects of the requested variances.

- (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;**

Other properties, including waterfront lots and especially those within the Dune Preservation Overlay District and/or Oceanfront Overlay District, often face similar development difficulties. In order to seek relief from the strict requirements of the Code, these other property owners seek variances.

- (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;**

A literal interpretation of the land development regulations would deprive the Applicant of the ability to develop Mandolin, which is a private member-only area, in a way that simultaneously allows for privacy and enjoyment of the land while being respectful of the Dune Preservation Overlay District. The Applicant proposes minor modifications to the previous HPB approval that strike a balance between the Applicant's desired privacy and safety and the City's desired preservation.

In regards to Variance 1, a literal interpretation of the Code would result in an unnecessary or undue hardship to the Applicant as the tiki hut serves as a kitchen and bar area for the Mandolin that must be safeguarded from the natural elements for safety purposes. Specifically, this area must be protected for the safety of patrons, neighbors and the neighborhood. While the four (4) foot wooden wall towards the interior of the tiki provides some additional protection for this area and the patrons and staff, the tiki hut remains generally open on all sides and unobstructed, especially without the shelving above. In regards to Variance 6, a literal interpretation of the Code would result in an unnecessary or undue hardship to the Applicant as the existing, retractable awning is not open all the time, and when it is open it provides much-needed protection and shade for the Applicant's guests from the natural elements of South Florida's often unrelenting weather conditions.

In regards to Variance 7, a literal interpretation of the Code would result in an unnecessary or undue hardship to the Applicant as the metal, which is clad in wood, is necessary to properly support the pergola structure for safety purposes. The wood covering completely conceals the metal from view. However, this hidden metal provides substantial support for the structures, which are needed for the safety of patrons and the neighborhood alike.

In regards to Variance 4, a literal interpretation of the Code would result in an unnecessary or undue hardship to the Applicant as the side property line setback is requested due to the deck at 10'-10" from the south property line and not a raised, vertical structure. This is not an invasive encroachment for the adjacent neighbors, merely a ground floor setback for allowed wood material. The actual structure of the previously permitted tiki hut in this area has a much larger setback

and due to its low height and openness, does not negatively impact the neighboring property.

In regards to Variance 9 relating to open space for the Dune Preservation Overlay District, a literal interpretation of the Code would result in an unnecessary or undue hardship to the Applicant as the intent of these regulations is maintained as the Property provides ample open space with appropriate landscaping. For instance, simply due to the fact that the pergolas, which are completely open air structures, including extensive openings to the sky above, they are counted as non-open space. These substantially open air wood structures are fully compatible with the intent of the Dune Preservation Overlay District to provide appropriate transition from the beach to the upland areas. Recognizing that the pergolas allow sun and rain through to the ground level, they add another 14.67% of open space, which brings the total provided to 72.40%. Further, the open space calculation is based upon when the awning is open, which will not be a constant condition; notably, the open space for the awning area, if counted, will increase the amount of open space when the awnings are closed by 10.29%, which raises the total to 82.70%. See plan sheets A-3.1 and A-3.1a for further details. Also, while the tiki hut area cannot be counted toward open space, the tiki hut's green rooftop (320 square feet, which is 6.3% evokes a landscaped atmosphere for the area.

In regards to Variances 8 and 10 relating to the floor area and spacing for trellis structures with the retractable awning, a literal interpretation of the Code would result in an unnecessary or undue hardship to the Applicant as the area generally elicits a beach-like atmosphere that is open. For instance, while pergolas do not meet the minimum spacing requirements, the pergolas are extensive open air structures that are not covered on the top or the sides; therefore, this area is not overwhelmed by the spacing between the structures and as they are open to the sky, rain will fall directly to the ground underneath the pergolas. Only the awning in between the pergolas, when open, provides full shade and prevents rain to naturally fall to ground directly beneath. Additionally, while the trellis structures with awning have been calculated to be approximately 1,316 square feet in floor area collectively, these are truly four (4) individual trellis structures with a retractable awning, each smaller than 400 square feet. As such, this area is not overwhelmed by the provided floor area or spacing between the structures. Further, the subject area is an open air area with varying flooring, including natural beach elements.

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

In regards to Variance 1, the tiki hut related request is the minimum necessary in order to accommodate the necessary screening and protection for the existing tiki kitchen and bar area. However, the remainder of the tiki hut will remain as previously approved and compliant with the Dune Preservation Overlay District regulations. In regards to Variance 6, the retractable awning related request is the minimum needed to provide sufficient shade and protection from the natural elements for the Applicant's guests as the South Florida weather is oftentimes unrelenting. However, as the awning is retractable, it will not be open unless necessary for reasonable use of the area.

Variance 7 is the minimum request necessary to provide sufficient support for the pergola structures. More importantly, the interior metal columns are necessary for patron safety, as well as the safety of the neighborhood, because they provide stability for the structure, especially considering the south Florida weather conditions of strong wind and rain. As such, persons and property will not be negatively impacted by the structures during storm events. Without the pergolas, the Applicant would not be permitted year-round use of this area and protection from the often unrelenting weather conditions.

In regards to Variance 3, the side property line setback is merely requested for the portion of the southern side yard for the deck located 10'-10" from the property line. This encroachment will not be noticed by the adjacent neighbors, because they are merely a ground floor material and not a vertical structure.

In regards to Variance 9 relating to open space for the Dune Preservation Overlay District, the Applicant's request is the minimum necessary in order for reasonable use of the Property. The intent of these regulations is to provide ample open space. The rear yard contains significant open spaces. Counting the open air pergolas raises the amount of open space to 72.40% and counting the retractable awning area, especially considering it will not be in the open position all the time, further increases the amount of open space to 82.70%, which is higher than the 80% minimum requirement. Also, while the tiki hut area cannot be counted toward open space, the tiki hut's green rooftop, with 320 square feet, which is 6.3% of the rear yard area, evokes a landscaped atmosphere for the area and there are substantial sand and landscape areas throughout the rear yard.

In regards to Variances 8 and 10 relating to floor area and spacing for the trellis structures with retractable awning, the Applicant seeks the variances in order to provide minimal shading by the awning as the Applicant has experienced that its guests are oftentimes unprotected from South Florida's unrelenting weather. However, the Applicant has worked diligently to create an atmosphere that elicits

an open, beach-like atmosphere. For instance, while the tiki hut and pergolas do not meet the minimum spacing requirements, the pergolas are substantially open air structures; therefore, this area is not overwhelmed by the structures. Further, the areas open to the sky contain natural beach elements of sand and shells, and landscaping, including numerous trees in very close proximity to the pergolas.

- (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; and**

The proposed design strives to accommodate the Applicant's needs without offending the intent of the Dune Preservation Overlay District. Generally, the proposal complies with the regulations of the Dune Preservation Overlay Districts by providing substantially open air structures with beach-like elements. However, due to the active use in this area, certain minimal requirements are necessary for safety and security, which result in the requested variances. As such, the variances requested meet the intent of the Code and will not be injurious to the beachfront area.

- (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.**

These variance requests are consistent with the City's comprehensive plan and do not reduce the levels of service as set forth in the plan.

Practical Difficulty. The preservation of the historic structure on this narrow Property, the location of the Property on the waterfront, which creates a second frontage for the Property, and the Property's location within the Dune Preservation Overlay District create significant challenges for outdoor uses with adequate safety to persons and property and protection from the elements. These conditions represent practical difficulties inhibiting the Applicant from meeting all Code requirements.

Conclusion. The Applicant's proposed modifications are consistent with the character of the neighborhood, as well as the intent of the Code and its design considerations. The modified variance requests since September 13, 2016 are the minimal necessary to address the challenges of development on a narrow, waterfront lot within the Dune Preservation Overlay District. The revised proposal's design is more compatible with the intent of the Dune Overlay Preservation District and substantially reduces the variance requests. On behalf of the Applicant, we look forward to your favorable review. If you have any

Thomas Mooney, Planning Director
September 16, 2016
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questions or comments with regard to the application, please do not hesitate to phone me at 305-377-6236.

Sincerely,



Matthew Amster

Attachments

cc: Erica Padgett
Michael W. Larkin, Esq.
Gianeli Mestre, Esq.