

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: September 13, 2022

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: HPB22-0517, **Ocean Terrace between 73rd Street and 75th Street including portions of 73rd, 74th and 75th Streets – Ocean Terrace Park.**

An application has been filed requesting a Certificate of Appropriateness for the introduction of an elevated pavilion structure within the previously approved Ocean Terrace Park project and a variance to exceed the hours of operation for an outdoor bar counter.

### **RECOMMENDATION**

Approval of the Certificate of Appropriateness with conditions.  
Denial of the variance request.

### **BACKGROUND**

On July 31, 2019, the City Commission approved a Development Agreement (Resolution No. 2019-30927) vacating portions of the Ocean Terrace, 74<sup>th</sup> Street and 75<sup>th</sup> Street rights-of-way (totaling approximately 45,920 sq. ft.) in favor of the owner of the abutting private properties. The Development Agreement required that the property owner grant a perpetual easement to the City for the vacated rights-of-way. Additionally, the property owner agreed to, and is required under the Development Agreement, to design and construct, at the developer's sole cost and expense, certain public park and streetscape improvements in the vicinity of Ocean Terrace.

On September 13, 2021, the Historic Preservation Board approved a Certificate of Appropriateness for the design of a new park and streetscape improvements, including variances from the requirements of the Oceanfront and Dune Preservation Overlay districts.

### **EXISTING SITE**

Local Historic District: Harding Townsite/South Altos del Mar

### **ZONING / SITE DATA**

Legal Description:

#### **Parcel 1 (vacated right-of-way)**

PORT OF R/W OF 74 ST & ADJ TO LOT 14 BLK 1 OF PB 34-4 DESC AS BEG SE COR OF LOT 14 TH S 86 DEG 146FT S 02 DEG E 30FT N 86 DEG E 146FT N 02 DEG W 30FT TO POB CLOSED PER R-2019-30927 PORT OF R/W 74ST & 75ST & OCEAN TERR ADJ TO LOTS 1 THRU 8 BLK 1 OF PB 34-4 DESC AS BEG SE COR OF LOT 2 TH N 02 DEG W 100FT S 86 DEG W 150FT N 02 DEG W 40FT

N 85 DEG E 210FT S 02 DEG E 140FT S 86 DEG W 60FT TO POB & BEG SE COR OF LOT 4 TH N 02 DEG W 100FT N 86 DEG E 60FT S 02 DEG E 100FT S 86 DEG W 60FT TO POB & BEG SE COR OF LOT 5 TH N 02 DEG W 50FT N 86 DEG E 60FT S 02 DEG E 50FT S 86 DEG W 60FT TO POB & BEG SW COR OF LOT 7 TH N 86 DEG E 150FT N 02 DEG W 50FT N 86 DEG E 60FT S 02 DEG E 80FT S 86 DEG W 210FT N 02 DEG W 30FT TO POB & BEG NE COR LOT 8 S 86 DEG W 146FT N 02 DEG W 40FT N 86 DEG E 146FT S 02 DEG E 40FT TO POB.

**Parcel 2 (GU property)**

Park lying east of Ocean Terrace between 73 Street and 75 Street, of the Harding Townsite, According to the Plat thereof, as Recorded in Plat Book 34, Page 4, of the Public Records of Miami-Dade County, Florida and the portion lying east & adjacent west of the erosion control line, as Recorded in Plat Book 105, Page 62, of the Public Records of Miami-Dade County, Florida.

Zoning: CD-2, Commercial, medium intensity; MXE mixed use entertainment & GU, government use  
Future Land Use Designation: CD-2, Commercial, medium intensity; MXE mixed use entertainment & ROS, recreation open space

**THE PROJECT**

The applicant has submitted plans entitled “HPB22-0517: Second First Submittal 06-21-22 – Ocean Terrace, Miami Beach, FL 33141”, as prepared by Raymond Jungles, Inc., dated July 11, 2022.

**COMPLIANCE WITH ZONING CODE**

The application for Certificate of Appropriateness, as submitted, appears to be consistent with the requirements of the City Code with the exception of the variance requested herein. Additionally, all plans submitted for building permit must substantiate that the proposed outdoor bar counter is not be visible from any point along the property line adjacent to a public right-of-way

This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Planning Director prior to the issuance of a Building Permit.

**CONSISTENCY WITH 2040 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the **municipal park** use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that do not satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of the variances if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also do not indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

#### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Applicable**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not Applicable**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Not Applicable**
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.  
**Satisfied**
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the

Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

**Not Applicable**

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.

**Not Applicable**

- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

**Not Applicable**

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

**Not Applicable**

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

**Not Applicable**

- (10) In all new projects, water retention systems shall be provided.

**Not Applicable**

- (11) Cool pavement materials or porous pavement materials shall be utilized.

**Not Applicable**

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

**Satisfied**

#### **COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.

**Not Applicable**

- b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.

**Satisfied**

- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. Exterior architectural features.  
**Satisfied**
  - b. General design, scale, massing and arrangement.  
**Satisfied**
  - c. Texture and material and color.  
**Satisfied**
  - d. The relationship of a, b, c, above, to other structures and features of the district.  
**Satisfied**
  - e. The purpose for which the district was created.  
**Satisfied**
  - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.  
**Not Applicable**
  - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.  
**Not Applicable**
  - h. The original architectural design or any subsequent modifications that have acquired significance.  
**Not Applicable**
- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Satisfied**
  - b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably

necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

**Satisfied**

- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.

**Satisfied**

- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.

**Satisfied**

- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

**Satisfied**

- f. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

**Satisfied**

- g. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties and consistent with a City master plan, where applicable.

**Satisfied**

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

**Satisfied**

- i. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, adjacent properties and pedestrian areas.

**Satisfied**

- j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).  
**Satisfied**
- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.  
**Satisfied**
- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.  
**Not Applicable**
- m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).  
**Satisfied**
- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.  
**Satisfied**
- o. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.  
**Not Applicable**

### **ANALYSIS**

As noted in the Background section of this report, on September 13, 2021, the Board approved a Certificate of Appropriateness for a new park within the existing Ocean Terrace right-of-way and adjacent City property. Part of the application included a proposal for a dining pavilion with an outdoor bar counter. However, at the time the project was approved by the Board, the outdoor bar counter had not been authorized by the city. As such, a condition was included in the Final Order requiring a separate Certificate of Appropriateness for the outdoor bar counter. Since that time, the applicant has redesigned the proposed pavilion and is currently requesting approval for a new pavilion design, as well as an outdoor bar counter and associated furnishings and fixtures.

The redesigned pavilion structure is divided into three sections. The center portion has a poured in place concrete roof that incorporates a cut out at the center allowing for the introduction of a feature tree. While the plans submitted indicate that there will be an integrated planter element along the perimeter of the roof, due to maintenance concerns expressed by the Parks Department, the applicant has agreed to remove this element. Staff has no objection to this modification, as there is an abundance of new native landscape material proposed to be

introduced. The north and south ends of the pavilion are proposed to be constructed of or, clad in wood.

The outdoor bar counter is proposed to be located at the north end of the pavilion and will feature a textured concrete face and wood countertop. In order to screen the bar counter from view, the applicant is proposing to introduce a eucalyptus wood dune fence.

Staff is generally supportive of revised pavilion design and has no objection to the proposed outdoor bar counter, provided all applicable operational and aesthetic safeguards are in place. Staff remains eager for the project to commence and recommends approval of the Certificate of Appropriateness as noted below.

### **VARIANCE ANALYSIS**

The applicant is requesting the following variance:

1. A variance to exceed the permitted hours of operation for an accessory outdoor bar counter until 12:00 a.m. (midnight). Variance requested from:

#### **Sec. 142-543. – Accessory uses.**

*The accessory uses in the MXE mixed use entertainment district are as follows:*

*(3) accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.*

The requested variance is associated with the introduction of an outdoor bar counter as part of a dining pavilion within the park, which is contemplated to be operated by the upland property owner or a future tenant. The regulations of the MXE zoning district permit accessory outdoor bar counters to operate between 8:00 a.m. and 8:00 p.m. daily when adjacent to a property with residential apartment units. The applicant is requesting a variance to extend the hours of operation of the outdoor bar counter until 12:00 a.m. (midnight) daily. In the context of this property, while there are currently no residential units adjacent to the park, the approved adjacent, mixed-use project includes the construction of new residential units.

Staff finds the variance requested lacks any practical difficulties or hardship, as drink service to the dining pavilion could be serviced from the upland hotel after 8:00 p.m. in a similar manner to food service. Additionally, allowing the bar counter to remain open past 8:00 pm could result in a future establishment whose primary operation is beverages, as opposed to food service. Finally, at this point, the future operator has not been determined, and there is no way of knowing what the business model for any expanded hours would be.

In view of the foregoing, and the lack of a hardship or practical difficulties, as more specifically noted herein, staff recommends denial of the variance request.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the request for a Certificate of Appropriateness be **approved** and the variance request be **denied**, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the



aforementioned Certificate of Appropriateness criteria and Hardship and Practical Difficulties criteria, as applicable.

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

MEETING DATE: September 13, 2022

PROPERTY/FOLIO: Park property / 02-3202-003-1250  
Vacated rights-of-way / 02-3202-003-0135

FILE NO: HPB22-0517

APPLICANT: OTH Streetscape, LLC c/o Ocean Terrace Holdings, LLC

IN RE: An application has been filed requesting a Certificate of Appropriateness for the introduction of an elevated pavilion structure within the previously approved Ocean Terrace Park project and a variance to exceed the hours of operation for an outdoor bar counter.

LEGAL: Parcel 1 (Vacated rights-of-way)  
PORT OF R/W OF 74 ST & ADJ TO LOT 14 BLK 1 OF PB 34-4 DESC AS BEG SE COR OF LOT 14 TH S 86 DEG 146FT S 02 DEG E 30FT N 86 DEG E 146FT N 02 DEG W 30FT TO POB CLOSED PER R-2019-30927 PORT OF R/W 74ST & 75ST & OCEAN TERR ADJ TO LOTS 1 THRU 8 BLK 1 OF PB 34-4 DESC AS BEG SE COR OF LOT 2 TH N 02 DEG W 100FT S 86 DEG W 150FT N 02 DEG W 40FT N 85 DEG E 210FT S 02 DEG E 140FT S 86 DEG W 60FT TO POB & BEG SE COR OF LOT 4 TH N 02 DEG W 100FT N 86 DEG E 60FT S 02 DEG E 100FT S 86 DEG W 60FT TO POB & BEG SE COR OF LOT 5 TH N 02 DEG W 50FT N 86 DEG E 60FT S 02 DEG E 50FT S 86 DEG W 60FT TO POB & BEG SW COR OF LOT 7 TH N 86 DEG E 150FT N 02 DEG W 50FT N 86 DEG E 60FT S 02 DEG E 80FT S 86 DEG W 210FT N 02 DEG W 30FT TO POB & BEG NE COR LOT 8 S 86 DEG W 146FT N 02 DEG W 40FT N 86 DEG E 146FT S 02 DEG E 40FT TO POB.

Parcel 2 (Park property)

Park lying east of Ocean Terrace between 73 Street and 75 Street, of the Harding Townsite, According to the Plat thereof, as Recorded in Plat Book 34, Page 4, of the Public Records of Miami-Dade County, Florida and the portion lying east & adjacent west of the erosion control line, as Recorded in Plat Book 105, Page 62, of the Public Records of Miami-Dade County, Florida.

**ORDER**

The City of Miami Beach Historic Preservation Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

**I. Certificate of Appropriateness**

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- A. The subject site is located within the Harding Townsite/South Altos del Mar Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
  1. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
  2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
  4. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(3) of the Miami Beach Code.
- C. The project would remain consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:
  1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
    - a. The final design details, materials and dimensions of the proposed outdoor bar counter shall substantiate that such counters shall not be visible from any point along the property line adjacent to a public right-of-way comply, and shall be subject to the review and approval of staff consistent with all applicable Certificate of Appropriateness Criteria and/or the directions from the Board.
    - b. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
    - c. The integrated planter within the center pavilion roof structure shall be eliminated.
  2. 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. 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.
    - b. The project design shall minimize the potential for a project causing a heat island effect on site.

- c. Cool pavement materials or porous pavement materials shall be utilized, if applicable.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance, which was either approved by the Board with modifications, or denied:

The following variance was **denied** by the Board:

1. A variance to exceed the permitted hours of operation for an accessory outdoor bar counter until 12:00 a.m (midnight).

- B. The applicant has submitted plans and documents with the application that do not satisfy Article 1, Section 2 of the Related Special Acts allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that do not indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

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That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

- C. The Board hereby **denies** the requested variance imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

**The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.**

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

- A. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- B. The issuance of a building permit is contingent upon meeting Public School Concurrency requirements, if applicable. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.
- C. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- D. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.

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- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit and shall be located immediately after the front cover page of the permit plans.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- I. 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.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. 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.
- L. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "**HPB22-0517: Second First Submittal 06-21-22 – Ocean Terrace, Miami Beach, FL 33141**", as prepared by Raymond Jungles, Inc., dated July 11, 2022, as approved by the Historic Preservation Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions

set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order. If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT  
HISTORIC PRESERVATION & ARCHITECTURE OFFICER  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC

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Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

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

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

DRAFT