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Chair and Members of the Design Review Board
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

**Re: Letter of Intent: Request for Variance Approval for
The Carillon Hotel, 6801 Collins Avenue, Miami Beach, Florida 33141**

Dear Chair and Members of the Board:

Akerman LLP represents Carillon Hotel, LLC f/k/a Z Capital Florida Resort, LLC (the "Applicant") with regard to the above-referenced property (the "Property"). Please let the following serve as the required letter of intent in connection with a request for a variance for extended operating hours at the outdoor bar counter to be located in the rear yard of the Property.

Description of Property. The Property is located on the east side of Collins Avenue at 68th Street. Miami-Dade County's Property Appraiser references the Property through Folio No. 02-3211-007-0460.

The original Carillon Hotel opened in 1958 and was declared the Hotel of the Year. Its 620 rooms made it the largest hotel in Miami Beach at its opening. It was designed by Norman M. Giller & Associates. From its opening until the late 1980's, it was one of Miami Beach's major hotels (along with the Fountainebleau, Eden Roc, Deauville, Doral, and Seville).

In the late 1990's, major redevelopment plans were proposed for the property by Architectonica, an international renowned design firm led by Bernardo Fort-Brescia. In addition to renovations to the existing hotel tower, two additional towers were proposed for hotel rooms and condominium apartments. The expansion plans included the controversial demolition of the original grand lobby, night club, pool deck, and lower level shops. In 1998, a development order was approved by the City of Miami Beach for the massive new plan.

WSG Development completed the project in 2008 and brought in the well-known wellness

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and spa group, Canyon Ranch, to brand and manage the property. Thereafter, the property was re-named the Canyon Ranch Miami Beach. The property operated as a mixed use of apartments, hotel, and health spa. The owner/developer, WSG fell into bankruptcy soon after the Great Recession began and lost the property to the lender.

In 2015, Z Capital Florida Resort LLC n/k/a Carillon Hotel, LLC acquired the property, terminated the management agreement with Canyon Ranch, and embarked upon plans to revive the iconic Carillon Miami Beach brand. As part of that effort, in the summer of 2016, the Applicant was granted approvals by the City's Historic Preservation Board for renovations, which included the addition of an outdoor bar counter in the rear yard to activate an otherwise empty space on the Property. This request is in furtherance of that effort.

Since acquiring the property, the Applicant has operated the Hotel which includes a restaurant with outdoor seating areas that encompass the terrace in which the outdoor bar counter is being added, under a certificate of use which allows hours of operation for alcoholic beverage service until midnight. Furthermore, the City's code compliance department has not logged a single noise complaint against the Applicant.

Description of Proposal. At this time, the Applicant is proposing an extension of the hours which an accessory outdoor bar counter can be operated and utilized. The operation of the outdoor bar during extended hours will not have an adverse impact on the surrounding neighborhood or the Historic District. In fact, the ability for the outdoor bar to operate during the evening hours will reestablish the iconic Carillon Hotel as a prime destination in North Beach and will only enhance the City's efforts to revitalize North Beach.

Requests. Pursuant to Code Section 142-244(3), an accessory outdoor bar counter which is adjacent to a property with an apartment unit may not be operated or utilized between 8:00 p.m. and 8:00 a.m. Based on the proposal above, the Applicant is respectfully requesting a **Variance to operate and utilize its accessory outdoor bar counter between the hours of 8:00 p.m. and midnight.**

Satisfaction of Practical Difficulty and Hardship Criteria. The Code Section 118-353(d) establishes seven criteria by which requests for variances are evaluated. These criteria are listed below in bold text, with our response following each criteria in plain text.

Furthermore, the City Charter, Subpart B, Article I, Sec. 2 says, " Except for those variance requests specified as part of applications for development approval within the jurisdiction of the Design Review Board or Historic Preservation Board, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of said Zoning Ordinance, the Board of Adjustment shall have the power in passing upon appeals, to vary or modify any regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done." We also believe our responses below indicate that there are both practical difficulties and unnecessary hardships associated with our request for a variance.

The Applicant's requests satisfy all 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;

Special conditions and circumstances exist for this property which are not applicable to other oceanfront hotels in the RM-3 district, which (i) have at least 100 hotel units; (ii) are adjacent to a residential property; and (iii) have an accessory outdoor bar counter located in the rear yard that is set back at least twenty (20%) percent of the lot width (50 foot minimum) from the adjacent residential property.

The existing structure which contains the Applicant's hotel is classified as an Apartment-Hotel, as the Hotel only takes up the first ten (10) stories, and stories eleven (11) through sixteen (16) are comprised of residential condominium units. As such, the Code prohibits the use of the accessory outdoor bar counter between the hours of 8:00 p.m. and midnight.

The variance for the extended operating hours is requested due to the mixed-use configuration of the existing structure. Due to the residential condominium units above and adjacent to the hotel which would not be adversely affected by the extended hours of operation of the outdoor bar counter on the ground floor, the requested variance is necessary in order for the Applicant to operate its business in a manner consistent with all other similarly situated oceanfront hotels, and to improve the existing condition at the Property.

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

The existing condition limiting the operating hours of an accessory outdoor bar counter on the Property is not a special condition which results from any action taken by the Applicant. Rather, the conditions on the Property are existing and the Applicant is making every effort to minimize the impact of the outdoor bar counter to ensure the residential units above and adjacent to the hotel are not adversely affected.

- (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;

Granting this variance would allow the Applicant to equate the operating hours of its accessory outdoor bar counter with the operating hours of several other oceanfront hotels situated in RM-3 districts, many of which are being operated and utilized in a similar fashion. The Code allows other similarly situated property owners to seek similar variances to accommodate the operation of their facilities. Therefore, granting these variances will not confer any special privilege on the Applicant.

- (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 provisions of these land development regulations would work an unnecessary and undue hardship on the Applicant. The Applicant is seeking to operate and

utilize a freshly renovated exterior public space while preserving the existing conditions on the Property. The variances enable the Applicant to accommodate full hotel operations within the rear yard that cannot otherwise be accommodated. Without these variances, the Applicant would be unable to utilize the space during prime hours and lose significant business to other similarly situated establishments. As such, these land development regulations present an unnecessary and undue hardship on the Applicant.

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

The request is the minimum variance necessary to allow the Applicant to make full use of its Property. As equated to other similarly situated properties, the variance to extend the operating hours of the accessory outdoor bar counter is required for the Applicant to fully operate and utilize the exterior public space for the benefit of all hotel guests and residents alike. The Applicant seeks the variance essentially only in order to obtain the same operating hours as all other similar properties in compliance with City code requirements.

- (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

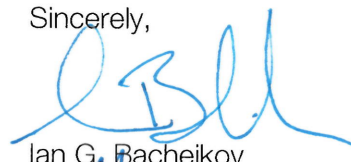
The variance will not be injurious to the area or otherwise detrimental to the public welfare. In fact, the variance will facilitate restoration and utilization of exterior public hotel space while responsibly operating the Property in harmony with the general intent of the land development regulations. Accordingly, the granting of the variance would be a benefit to the public welfare.

- (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.

The variance request is consistent with the City's comprehensive plan and does not affect or reduce the levels of service as set forth in the plan.

Conclusion. The Applicant seeks to enrich its Property and the surrounding neighborhood with an accessory outdoor bar counter than can be utilized during the evening hours. The proposed project will not have any adverse impact on the surrounding area or the public welfare. Instead, literal interpretation of the Code would cause the Applicant practical difficulties and unnecessary hardships. For all of the above reasons, we respectfully request your recommendation of approval of the variance.

Sincerely,



Ian G. Bacheikov



Neisen O. Kasdin

Enclosures