

LETTER OF INTENT

COA-23-002 and ZON-23-019: We are pleased to submit the accompanying drawings for our project at 363 Coconut Row, Palm Beach, FL. The proposed work includes the renovation of the existing 4-Story 32,758 square foot structure hotel. The scope of work includes the complete exterior and interior renovation including the reduction of rooms from 57 keys to 41, the reconstruction of historic door and window locations and associated hardscape/landscape. There are no proposed modifications to the number of existing parking spaces.

Please note the following as it relates to this application:

- A. Landmarks Preservation in accordance with Section 54-122 and/or Section 54-161.
 - a. We are submitting modifications to the existing building that are visually compatible with the buildings and environment.
 - 1) The proposed modifications to the subject property will be visually compatible with the height, gross volume, and the proportion between width and height of the façade of the existing building.
 - 2) The original proportions and relationships between doors and windows will be reconstructed from historic images.
 - 3) The original rhythm of solids to voids created by openings in the facade will be reconstructed from historic images.
 - 4) The proposed materials used in the façade will match the existing building.
 - 5) The proposed texture used in the façade will match the existing building.
 - 6) The colors, patterns and trim used in the façade will be reconstructed from historic images.
 - 7) The design of the roof will match the existing building.
 - b. The existing rhythm created by the existing building masses and space between them will be preserved.
 - c. The landscape plan is sensitive to the individual building and its occupants and needs and is visually compatible with the buildings and environment with which it is visually related and historic images.
 - d. The proposed modifications to the existing street (west) façade blend directionally with the existing building and historic images.
 - e. At existing elements, architectural details will be restored or replaced. Details and fenestration represented in historic images will be reintroduced, directly relating the new with the old and enhancing the inherent architectural characteristics of the area.

Sections 134-201, 134-226, 134-227 and 134-____. Applicant is requesting site plan approval with special exception and variances to allow continued use as a hotel, restaurant, nightclub and swimming pool as specifically permitted pursuant to Section 134-386. Said uses are grandfathered non-conforming uses in the R-C Zoning District per said Section 134-386. The following zoning relief is requested:

1. Section 134-226, 134-227 and 134-326. Special exception and site plan approval to permit the following non-conforming uses: hotel with reduction of rooms from 57 to 41; restaurant, nightclub and swimming pool with 197 combined seats.
2. Section 134-2106. Special exception to permit outdoor café seating.
3. Section 134-948(8)(d): A variance for new construction of an elevator bulkhead on an existing nonconforming fourth floor in lieu of the 2 stories maximum allowed. This variance request is referred to as Variance #1.
4. Section 134-948(8)(d) and (e): A variance to allow new construction of a covered trellis on an existing nonconforming third floor with a building height & overall building height of 33'0" in lieu of 23'6" maximum height and 26'6" maximum building height permitted. This variance request is referred to as Variance #2.
5. Section 134-1607(1). A variance to permit the installation five air conditioning units on the roof at a height of 9' above the maximum height permitted in lieu of 4' maximum height permitted for air conditioning units. This variance request is referred to as Variance #3.
6. Section 1607(1). A variance to permit two air conditioning scrubber exhaust mechanisms at a height of 7' in lieu of 3' maximum permitted. This variance request is referred to as Variance #4.
7. Section 134-201(a)(6) and 134-387. A variance to permit the expansion of the restaurant, nightclub and pool area uses with 197 combined seats. Originally, 113 seats were permitted for the dining room use. Additional seats do not require parking as a result of credit for the elimination of 16 hotel rooms. This variance request is referred to as Variance #5.

The special exception should be granted because all of the requested uses are grandfathered due to continuous use in the same manner for many, many years in this landmarked hotel. Section 134-386 of the Zoning Code specifically permits the continuation of such uses.

The site plan should be approved because the intensity of use is not being increased and the number of rooms is being decreased from 57 to 41. No negative impact will result.

The hardship that runs with the property is that the current hotel is a Town and federally landmarked building first constructed in 1918. The use is not permitted by right or by special exception in the R-C zoning district, so it is virtually impossible to renovate and enhance the hotel, which is in great need of renovation, restoration and enhancement, without the need to obtain variances. Quite simply, the zoning code for the R-C zoning district was not drafted to apply to a hotel. The Applicant proposes to actually reduce the number of hotel rooms, which will reduce the impact on the surrounding neighborhood and on required Town services.

Granting of the variances will not be contrary to the public's interest because no negative impact to the neighbors will result. In fact, the almost 30% reduction in the number of rooms will decrease impacts such as parking. The zoning code requirements related to the proposed location of air

conditioning equipment is a great example of the need for technical variances because the proposed location on the roof is superior for the neighbors because it will not be visible and sound will be decreased due to distance from neighbors, but the applicable code sections do not permit the proposed location, yet variances are required.

See Site History attached hereto as Exhibit "A."

Criteria for Site Plan Review

1. Hotel, restaurant, nightclub and swimming pool uses are permitted as longstanding grandfathered uses at this location under the Town of Palm Beach Zoning Code.
2. The proposed renovation enhances life/safety issues, so that the public's health, safety, welfare and morals will be protected and even enhanced. In addition, the number of rooms is being decreased to reduce density and impact and aesthetics enhanced.
3. The proposed renovation will not cause injury to the values of the other properties in the neighborhood as the building is being updated and greatly improved and density is being decreased by reducing the number of hotel rooms.
4. The proposed renovation will be compatible with the intended purpose of the district in which it is to be located as the office use is consistent with the very longstanding and historic current use.
5. The proposed uses comply with very longstanding and historic current uses.
6. The proposed renovation complies with all elements of the comprehensive plan. No change from the current uses are proposed, and the reduction of density is consistent with a significant element of the Comprehensive Plan.
7. The proposed renovation will not result in substantial economic, noise, glare or other impact or odor impacts on adjoining properties, and other properties in the district; inasmuch as, the same uses have existed for many, many years and the current uses are not changing but density is being reduced.
8. Adequate ingress and egress to the property and loading are provided and being enhanced.
9. The Applicant is the fee simple owner and person in control of the subject property. One of the world's most reputable hotel operators will be managing the hotel.
10. The Applicant intends to continue with the current intended uses of the property.
11. Ingress and Egress to the subject property will be via Coconut Row by vehicle and Australian Avenue and Chilean Avenue for pedestrians.
12. See attached elevation plan for proposed construction of the renovations.

Criteria for Special Exceptions

1. The proposed uses are all grandfathered, non-conforming uses in the R-C Zoning District.
2. The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected. The proposed renovation will not adversely impact the public or neighborhood but alternatively will enhance the building and operations.
3. The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located. The proposed renovation will have no negative impact on the value of other properties in the neighborhood and should increase the neighboring property values due to the high end details proposed for the renovation.
4. The use will be compatible with adjoining development and the intended purpose of the C-TS Zoning District in which it is to be located. The proposed renovation will be compatible with the neighborhood as the uses are a continuation of the uses from the past 100 years or so.
5. The uses will comply with yard, other open space, and any special requirements set out in Article VI for the particular use involved. The building will comply with all other yard, other open space and any special requirements set forth in Article VI of the Zoning Code.
6. The uses will comply with all elements of the comprehensive plan including a reduction in density due to the reduction in the number of hotel rooms.
7. The uses will not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district. The proposed renovation will not result in substantial economic, noise, glare, or odor impacts on the adjoining properties and properties in the district, as the renovation enhances the current building and makes it more compliant with life/safety codes. No variances for parking are required.
8. The proposed uses will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations. The proposed renovation will bring the building into compliance with the fire/safety code and will actually reduce the burden through a reduction of approximately 30% in the total number of hotel rooms.

Criteria for Authorizing a Variance (Applicable to variance requests # 1 and 2)

1. List the special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district.

The hardship and special conditions applicable to this property are that the building was constructed pursuant to a different code and is non-compliant with current codes. The code requirements for the R-C zoning district are completely inconsistent with requirements for a landmarked hotel. No new increases on height and no new floors are proposed.

2. Indicate how the special conditions and circumstances do not result from the actions of the Applicant.

The special conditions existed upon construction of the building and were not created by the Applicant. The Applicant is proposing to make the building, which was constructed in 1918, safer and to also greatly enhance the aesthetics of this historic building.

3. Demonstrate that the granting of the variance 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.

No special privileges will be conferred on the Applicant if the variances are granted because insignificant work on the existing 4th floor will not be visible from the ground and no increase in height is proposed.

4. Demonstrate how literal interpretation 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.

Literal interpretation of the ordinances would deprive Applicant of the right to bring the building into compliance with life/safety codes and to preserve and enhance this beautiful historic building.

5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

The requested relief is the minimum necessary for the requested small improvements on the existing 4th floor do not increase the height at all. The variance is required only because the existing building does not comply with the existing code.

6. For granting of a variance to sections 134-387, or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings must be demonstrated pertaining to the nonconforming use for which the variance is requested:

- a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
- b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 - i. Be granted only for the continuation of the same hotel or residential use; and,
 - ii. Require the Applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.

All of the existing uses have been in place for well over 15 years, are to be continued and no new uses are proposed.

7. Show how the granting of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granting of these variances are in harmony with the intent and purpose of the Zoning Code because the requested renovation is an improvement to this beautiful, historic building and the neighborhood to improve the aesthetics and update the life/safety features in the building. No new height and no new levels are proposed.

Criteria for Authorizing a Variance (Applicable to variance request # 3 and 4)

1. List the special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district.

The hardship and special conditions applicable to this property are that the building was constructed pursuant to a different code and is non-compliant with current codes. The code requirements for the R-C zoning district are completely inconsistent with requirements for a landmarked hotel. The proposed location of the air conditioning equipment is better for the neighbors and will reduce impact. The variances are required only because the Zoning Code for the R-C zoning district was in no way drafted to apply to a hotel.

2. Indicate how the special conditions and circumstances do not result from the actions of the Applicant.

The special conditions existed upon construction of the building and were not created by the Applicant. The Applicant is proposing to make the building, which was constructed in 1918, safer and to also greatly enhance the aesthetics of this historic building.

3. Demonstrate that the granting of the variance 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.

No special privileges will be conferred on the Applicant if the variances are granted because locating the air conditioning equipment on the roof will not be visible from the ground and no increase in height is proposed. Impact will actually be decreased.

4. Demonstrate how literal interpretation 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.

Literal interpretation of the ordinances would deprive Applicant of the right to bring the building into compliance with life/safety codes and to preserve and enhance this beautiful historic building.

5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

The requested relief is the minimum necessary for the requested placement of air conditioning equipment on the roof is the best location for the neighbors and no other reasonable alternative exists. The variance is required only because the existing building does not comply with the existing code.

6. For granting of a variance to sections 134-387, or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings must be demonstrated pertaining to the nonconforming use for which the variance is requested:
 - a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
 - b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 - i. Be granted only for the continuation of the same hotel or residential use; and,
 - ii. Require the Applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.

All of the existing uses have been in place for well over 15 years, are to be continued and no new uses are proposed.

7. Show how the granting of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granting of these variances are in harmony with the intent and purpose of the Zoning Code because the requested renovation is an improvement to this beautiful, historic building and the neighborhood to improve the aesthetics and update the life/safety features in the building.

Criteria for Authorizing a Variance (Applicable to variance request # 5)

1. List the special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district.

The hardship and special conditions applicable to this property are that the building was constructed pursuant to a different code and is non-compliant with current codes. The code requirements for the R-C zoning district are completely inconsistent with requirements for a landmarked hotel. No new increases on height and no new floors are proposed. Although some new seats are proposed for the dining, nightclub and pool areas, the overall hotel use is being reduced in intensity by a reduction of rooms from 57 to 41.

2. Indicate how the special conditions and circumstances do not result from the actions of the Applicant.

The special conditions existed upon construction of the building and were not created by the Applicant. The Applicant is proposing to make the building, which was constructed in 1918, safer and to also greatly enhance the aesthetics of this historic building. In addition, there is a greater demand for dining out in today's world, so the request for additional seating to be spaced out throughout the hotel is reactive to today's world and not self-created. The reality is that the former operator had at least 197 seats for such uses.

3. Demonstrate that the granting of the variance 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.

No special privileges will be conferred on the Applicant if the variances are granted because this zoning district contains limited other hotel uses, and the request to spread out seats is reasonable.

4. Demonstrate how literal interpretation 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.

Literal interpretation of the ordinances would deprive Applicant of the right to bring the building into compliance with life/safety codes, to preserve and enhance this beautiful historic building and to meet the demands of today's demographic in Palm Beach.

5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

The requested relief is the minimum necessary as it continues to be consistent with the parking requirements applicable to the hotel.

6. For granting of a variance to sections 134-387, or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings must be demonstrated pertaining to the nonconforming use for which the variance is requested:

- a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
- b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 - i. Be granted only for the continuation of the same hotel or residential use; and,

- ii. Require the Applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.

All of the existing uses have been in place for well over 15 years, are to be continued and no new uses are proposed.

7. Show how the granting of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granting of these variances are in harmony with the intent and purpose of the Zoning Code because the requested renovation is an improvement to this beautiful, historic building and the neighborhood to improve the aesthetics and update the life/safety features in the building. By significantly reducing the number of hotel rooms (57 to 41) and spreading the seats for food and beverage use throughout the hotel, the overall impact is more likely to decrease as opposed to increase.

EXHIBIT “A”
Site History

1. The hotel was designated as a landmarked property on January 8, 1991.