



To: Dona Spain, Historical Resources and Cultural Arts Director for the City of Coral Gables

From: Gustavo Ceballos, Assistant City Attorney for the City of Coral Gables

Approved: Miriam Soler Ramos, City Attorney for the City of Coral Gables *MSR*

RE: Legal Opinion Regarding 2907 Columbus Blvd - Non-Conforming Setback

Date: May 9, 2018

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I have reviewed the matter and the proposed revisions to the previously approved plans, specifically the gazebo, will not require a variance. This falls within prior legal opinions given by the City Attorney's Office relating to historically designated structures and Article VI of the Zoning Code. If otherwise in conformity with the Zoning Code, the addition, or in this case the gazebo, can be done along the established legally non-conforming setback line as long as (1) there is not further encroachment beyond the established legally non-conforming setback line and (2) the Historic Preservation Board approves a Special Certificate of Appropriateness in a publicly noticed, quasi-judicial hearing. See, e.g., CAO 2015-048. The City Commission would also have authority to review the matter if any affected party appeals. As indicated in CAO 2015-048, "one purpose of Article VI is to ensure that properties are not penalized for legal non-conformities. This is particularly true for historic properties where the City has made a policy decision that these properties should be historically preserved as originally built, which substantially restricts an applicant from being able to modify the structure to comply with the current setback in an historically appropriate manner."

This opinion is based on the specific facts of this matter and the proposed revisions to the previously approved plans and pursuant to Section 2-252(e)(1) and (8) of the City Code and Section 2-702 of the Zoning Code, authorizing the City Attorney's Office to issue opinions and interpretations on behalf of the City.

**From:** [Ramos, Miriam](#)  
**To:** [Ceballos, Gustavo](#)  
**Cc:** [Spain, Dona](#); [Kautz, Kara](#); [Guin, ElizaBeth](#); [Paulk, Enga](#)  
**Subject:** Re: 2907 Columbus  
**Date:** Thursday, May 10, 2018 9:43:53 AM  
**Attachments:** [image001.png](#)

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Looks great. Please proceed.

Enga, please publish.

Miriam Soler Ramos, B.S.C.  
City Attorney  
City of Coral Gables

On May 9, 2018, at 10:09 AM, Ceballos, Gustavo <[gceballos@coralgables.com](mailto:gceballos@coralgables.com)> wrote:

Attached is the requested draft. Please confirm it is ok to send.

Thanks

**Gustavo J. Ceballos**

**Assistant City Attorney**

City of Coral Gables

405 Biltmore Way, 3rd Floor

Coral Gables, Florida 33134

Main Phone: (305) 460-5218

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<image001.png>

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**From:** Spain, Dona

**Sent:** Monday, May 7, 2018 9:04 PM

**To:** Ramos, Miriam <[mramos@coralgables.com](mailto:mramos@coralgables.com)>

**Cc:** Ceballos, Gustavo <[gceballos@coralgables.com](mailto:gceballos@coralgables.com)>; Kautz, Kara

<[KKautz@coralgables.com](mailto:KKautz@coralgables.com)>; Guin, ElizaBeth <[eguin@coralgables.com](mailto:eguin@coralgables.com)>

**Subject:** Re: 2907 Columbus

Thanks a lot.

Sent from my iPhone

On May 7, 2018, at 5:40 PM, Ramos, Miriam <[mramos@coralgables.com](mailto:mramos@coralgables.com)> wrote:

There is significant precedent in our City Attorney opinions for the continuation of an already-existing legal non-conformity at a historic property. Gus, please draft an opinion for my review and issuance.

Thanks,

Miriam Soler Ramos, B.S.C.  
City Attorney  
City of Coral Gables

On May 7, 2018, at 11:55 AM, Spain, Dona <[dspain@coralgables.com](mailto:dspain@coralgables.com)> wrote:

Miriam and Gus –

We're meeting with you next Tuesday on a few projects that were already reviewed by our board with the understanding that variances weren't going to be required. This one is a revision to an already approved site plan, but fits into the same situation that the others have. The proposed gazebo is following the same setback as a legally non-conforming setback of an existing historic building.

We'll take this to our board as a revision, but is this something that will require a variance? In the past Craig has issued legal opinions I similar situations that it would not. Let me know and we'll still meet on Tuesday for the others. Thanks.

Dona M. Spain  
Historical Resources and Cultural Arts Director  
City of Coral Gables, Florida  
(305) 460-5095

<(1)A9.1-Study Diagrams-LAYOUT.pdf>

<Navarro Site Plan.pdf>

<opinion - CAO 2907 Columbus Blvd - Non-conforming Setback.docx>