



BERCOW RADELL FERNANDEZ & LARKIN
ZONING, LAND USE AND ENVIRONMENTAL LAW

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VIA HAND DELIVERY & EMAIL

December 9, 2019

Roy Coley, Director
Public Works Department
City of Miami Beach
1700 Convention Center Drive, 4th Floor
Miami Beach, Florida 33139

Re: Letter of Intent for Revocable Permit Application for 1570 Alton Road,
Miami Beach, FL

Dear Roy:

This law firm represents TD Bank, N.A. (the "Applicant") and The Sterling Building, Inc. (the "Owner") with regards to the captioned property (the "Property"). The Applicant is the lessee for a portion of the Property, and is seeking approval, along with the Owner, of a Revocable Permit to permit the encroachment of a projecting blade sign to encroach over the City's right-of-way. The Owner has consented to the Application as the signatory of the Revocable Permit application. This request is in compliance with development approval granted by the Design Review Board ("DRB") on September 16, 2019. See Exhibit A, DRB19-0396.

Property Description. The Property, which is identified by Miami-Dade Tax Folio No. 02-3234-018-0520, is located at the southwest corner of Alton Road and 16th Street. The Property is located within the CD-2 zoning district. The one-story commercial structure on the Property was built in 1998 and is approximately 4,107 square feet in size.

Approved Development. Pursuant to DRB19-0396, the Property was approved for modifications to the signage and façade features of the existing

structure to accommodate the change of use for a TD Bank. The previous use on the leased space of the Property was a Starbucks. The scope of the DRB approval included new signage to reflect the TD Bank and to retrofit the space as clearly identifiable for such use. The existing structure on the Property is up against the property line to the north and east, thus fronting the public right-of-way (sidewalk and street). The design of this building is urban in character and thus compatible with pedestrian activity. As such, the provided parking for the structure is located on the rear of the Property behind the structure and can only be accessed behind the building from 16th Street. This design makes it increasingly important to have signage that identifies the parking, as accessible parking is an essential component for a bank use in the area. As such, the approved DRB design includes a blade sign of 4 square feet attached to the building frontage along 16th Street to identify the parking for the building. The approved signage is located just above ground level, where it extends two (2) feet beyond the property line into the right-of-way above the sidewalk. Accordingly, the Applicant seeks a Revocable Permit in accordance with Section 82-94 of the Code to allow this minor encroachment for the approved parking sign.

Satisfaction of the Revocable Permit Criteria. The City Code provides the ability to obtain a revocable permit for encroachments into the public rights of way. The Applicant satisfies the revocable permit criteria stated in Section 82-94 of the City Code as follows:

- **The Applicant's need is substantial.**

The Applicant respectfully requests the revocable permit in order to provide necessary signage for the identification of parking for the retail structure. Given the fact that the structure is existing and designed in an urban capacity fronting the right-of-way, the parking is not readily identifiable. But, the bank use on the Property will have a need to provide parking, and thus it is essential that this small sign clearly demarcate that the parking associated with the banking use is accessible from 16th Street. The success of any business relies, in part, on providing signage that is clearly visible and identifiable. The Property is also located in an area where vehicular traffic is prominent. Therefore, visible signage is critical. The proposed signage complies with all City regulations and provides the necessary visibility to make this a successful site.

- **The Applicant holds title to an abutting property.**

The Owner is jointly the Applicant for the revocable permit and holds title to the Property.

- **The proposed improvements will comply with applicable codes, ordinances, regulations, neighborhood plans and laws.**

The proposed parking blade sign will comply with applicable codes, ordinances, regulations, neighborhood plans and laws, as evidenced by the DRB approval. The Applicant has requested a revocable permit to ensure that encroachment of the existing signs complies with the applicable regulations.

- **The grant of the application will have no adverse effect on governmental/utility easements and uses on the property.**

The grant of the revocable permit will allow the Applicant to improve the Property with the approved design and use. The encroachments will be installed at an appropriate height, allowing for a minimum clearance of 14'1", which permits free pedestrian passage below the signage and does not obstruct the right-of-way. The encroachment will have no adverse effect on governmental/utility easements and uses on the property.

- **That the grant of the revocable permit will enhance the neighborhood and/or community by such amenities as, for example, enhanced landscaping, improved drainage, improved lighting, and improved security.**

The proposed encroachment will allow for the use of the Property as approved by the DRB. Additionally, the Applicant is providing key public benefits through the provision of parking on the Property to complement the structure that is compatible with pedestrianism and an urban environment. The approved development will make better use of the Property and improve the pedestrian experience of the neighborhood.

- **That granting the revocable permit requested will not confer on the applicant any special privilege that is denied by this article to other owner of land, structures or buildings subject to similar conditions located in the same zoning district.**

Granting the revocable permit will not confer any special privilege upon the Applicant. Any property owner within the City of Miami Beach can apply for a revocable permit provided that the application meets the criteria stated in the

Roy Coley, Director
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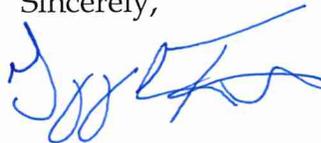
Code, does not interfere with the utilization of public property, and enhances the community.

- **That granting the revocable permit will be in harmony with the general intent and purpose of this article, and that such revocable permit will not be injurious to surrounding properties, the neighborhood, or otherwise detrimental to the public welfare.**

Granting the revocable permit will not devalue any of the adjacent properties and will not have a detrimental effect on the public welfare. In fact, it will allow for an improved design upon the Property and a favorable use in the neighborhood, while providing more guided flow of traffic as patrons of the building will have a clear understanding of the parking.

Conclusion. The approval of this revocable permit application is necessary to successfully operate the TD Bank at the Property. We respectfully request your recommendation of approval for the revocable permit to allow the DRB approved use and design to be carried out. We believe that the granting of the revocable permit is compatible with the City's requirements and will ultimately result in a great improvement to the Property and the surrounding area. As always, we look forward to your favorable review. Should you have any questions, please do not hesitate to contact me at: (305) 377-6233.

Sincerely,



Greg Fontela

Attachments

EXHIBIT A

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: September 16, 2019

FILE NO: DRB19-0396

PROPERTY: **1570 Alton Road**

APPLICANT: TD Bank NA

LEGAL: The East 80 feet of Lots 3 and 4 of Block 66 of the "Commercial Subdivision", According to the Plat thereof, as Recorded in Plat Book 6, Page 5, of the Public Records of Miami-Dade County, Florida.

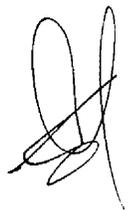
IN RE: The Application for Design Review Approval for exterior alterations to an existing one-story building including new signage and modifications to the façade and a variance to exceed the maximum sign area for projecting signs.

ORDER

The City of Miami Beach Design Review 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. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- 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 is inconsistent with Design Review Criteria 1, 2, 3, 4, 5, 6, 9 in 12 Section 118-251 of the Miami Beach Code.
- C. 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 is not applicable with Sea Level Rise Criteria in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 1. Revised elevation, site plan and image drawings for the proposed signage program located at 1570 Alton Road shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The TD Bank three-faced cube sign **shall be** approved as proposed.



- b. The proposed night deposit wall **shall be** approved as proposed.
- c. The proposed green neon/LED exterior lighting tubes along the upper levels of the canopy **shall be** approved as proposed.
- d. The 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 Design Review Criteria and/or the directions from the Board.
- e. 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.
- f. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):

The following variance(s) was **Approved** by the Board:

1. A variance to exceed by ~~25.3~~ **21** SF the maximum area of 15 SF for a projecting sign in order to allow the installation of one, three-sided projecting sign at the corner of the building with a total of ~~40.3~~ **36** SF.
- B. The applicants have submitted plans and documents with the application that **do** 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 applicants have submitted plans and documents with the application that also **do** 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.

- C. The Board hereby **Approves** the Variance request(s), and 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.
 2. A revocable permit may be required for the installation of signs located in the public right-of-way.

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. Design Review Approval and 'II. Variances' noted above.

- A. A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department, in a manner to be reviewed and approved by staff.
- B. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- C. 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.
- D. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.



- E. The Supplemental Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. 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.
- G. 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.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- I. 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.

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 DENIED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "1570 Alton Road", as prepared by Enterprise Real Estate, dated July 08, 2019, and as approved by the Design Review 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 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 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.

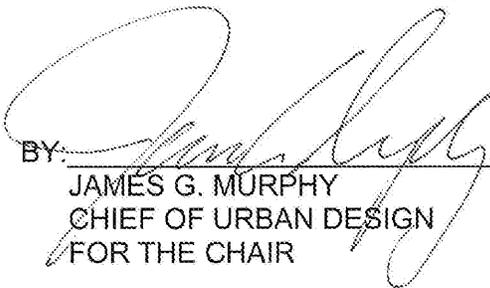
If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with 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 shall 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.

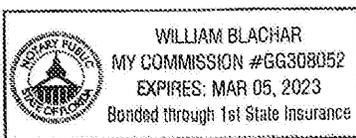
Dated this 24 day of September, 2019.

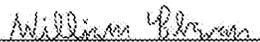
DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: 
JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 24th day of September 2019 by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.




NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: March 5th, 2023

Approved As To Form: _____
City Attorney's Office: Nick Kallegis (9/20/2019)

Filed with the Clerk of the Design Review Board on Jessie Guley (9/24/19)