

EXHIBIT A

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: March 5, 2013

FILE NO: 22945

PROPERTY: 910 West Avenue

LEGAL: Lots 11-18, Block 1, Fleetwood Subdivision, According to the Plat Thereof, as recorded in Plat Book 28 at Page 34, of the Public Records of Miami-Dade County, Florida.

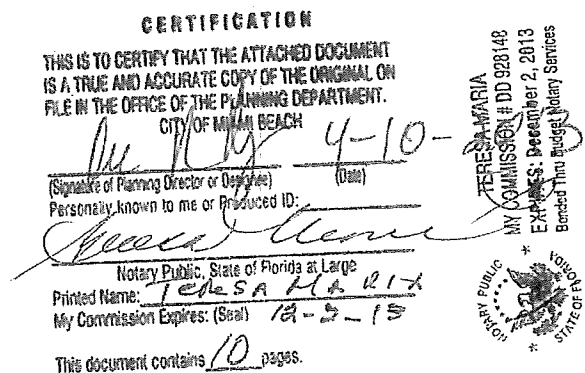
IN RE: The Application for Design Review Approval for modifications to the exterior of two (2) existing 14-story apartment buildings, including design modifications to the existing facades, and new roof-top terraces, and a new hardscape and landscape plan for the site, including an outdoor dining area, and 10th Street street-end improvements in the Public right-of-way, and modifications to previously approved conditions for the construction of a public baywalk.

ORDER

The applicant, Southgate Towers, LLLP, filed an application with the City of Miami Beach Planning Department for Design Review Approval.


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:

- A. 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 consistent with Design Review Criteria No. 3 in Section 118-251 of the Miami Beach Code.
- B. The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:



1. The subject application shall not include any encroachments into City Right-of-Way. This shall include, but not be limited to, terraces, decks, ramps and walkways. Any proposed encroachments will require the review and approval of the City Commission, and such encroachments must first be authorized by the City Commission, prior to any action by the Design Review Board.
2. Revised elevation, site plan and floor plan drawings shall be submitted; at a minimum, such drawings shall incorporate the following:
 - a. Roof-top mechanical screening of existing mechanical equipment shall be required, including incorporation of sound attenuation measures, and shall be further explored and may be implemented in a manner to be reviewed and approved by staff.
 - b. Cladding of the existing elevator towers with decorative screening and lighting features shall be further explored and may be implemented, in a manner to be reviewed and approved by staff.
 - c. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required. All windows visible from 10th Street and West Avenue shall contain horizontal and vertical muntins to closely match the original window configurations, to the greatest extent possible, subject to the review and approval of staff.
 - d. Bicycle racks shall be provided, in a manner to be reviewed and approved by staff.
 - e. 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.
3. 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. Street trees shall be required on the applicant's property along the north side of the north building, where feasible, in a manner to be reviewed and approved by staff.
 - b. A site wall, shall be provided, so long as it can be constructed in compliance with all applicable zoning requirements, without requiring a variance, along the north side of the proposed dining terrace in order to further mitigate sound transmission, in a manner to be reviewed and approved by staff.
 - c. All proposed Sylvester palms shall be replaced with Date palms, in a manner to be reviewed and approved by staff.
 - d. No landscape material or planters, other than sod, shall be permitted within ten (10') feet of the rear property line, along the entire western perimeter of the site, except as approved by the Design Review Board or staff in conjunction with the design of a baywalk.

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- e. Irrigation, uplighting and the City's standard bound aggregate system with fertilization trench may be required for all street trees located within the sidewalk, subject to the review and approval of staff.
 - f. 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. Right-of-way areas shall also be incorporated as part of the irrigation system.
 - g. The utilization of root barriers and/or structural soil, as applicable, shall be clearly delineated on the revised landscape plan.
 - h. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures; such fixtures and devices shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of backflow preventors, siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
 - i. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms; such transformers and vault rooms, and all other related devices and fixtures, shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of any exterior transformers, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
 - j. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.
4. The applicant has voluntarily offered, proffered and agreed to provide an easement for a public bay walk ("Public Baywalk") along the upland portion of the rear of the subject site in accord with the following conditions. This proffer and its acceptance are based on a particularized evaluation and assessment of the subject project, the rational nexus between such project and impacts to the local transportation network, and the rational nexus and rough proportionality between the project and impacts to the transportation network and the bay walk proffered.
- a. At such time that 800 West Avenue, South Bay Club, grants an easement, release of riparian rights or other document to permit a Public Baywalk, the applicant shall enter into and record a public easement, approved by the City Attorney, which runs with the land, for the construction and maintenance of an upland Public Baywalk, in perpetuity, and confirming public access to such Public Baywalk, in accordance with the conditions herein ("Public Baywalk Easement"). The easement shall be recorded in the public records, at the expense of the applicant.
 - b. The Public Baywalk Easement, located on the upland portion of the applicant's property, shall commence at the northwest corner of the property, via a direct pedestrian connection to the public street-end at the western terminus of 10th
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Street. The Public Baywalk Easement shall continue south along the rear of the upland portion of the applicant's property to the south west corner of the subject property, and shall be a minimum of ten (10') feet clear in width, contiguous with the rear (west) property line ("the Public Baywalk Easement area").

- c. The future Public Baywalk shall be designed, permitted and built by the applicant. All costs associated with the design, permitting and construction of the Public Baywalk, as described herein, shall be borne by the applicant, as proffered by the applicant.
- d. The Public Baywalk shall connect directly to any future Public Baywalk to the south of the property, as well as connect to a public baywalk segment at 10th Street.
- e. The material, details and design of the Public Baywalk shall be provided, in a manner to be reviewed and approved by the Design Review Board.
- f. The Public Baywalk shall become publicly accessible (open to the general public) concurrent with the completion of, and public accessibility to the Public Baywalk for 800 West Avenue (South Bay Club), and at such time when the City has completed construction of a sidewalk on the south side of 10th Street from West Avenue to the Bay.
- g. The Public Baywalk may be secured and segregated from the upland portions of the site, in a manner to be reviewed and approved by the City's Planning Department design review staff and the applicant. The City has agreed to partially fund the construction of a fence separating the Public Baywalk from the applicant's property located eastward of the Public Baywalk Easement area in an amount not to exceed \$195,000 (based upon \$300 per linear foot for 650 linear feet).
- h. The applicant shall be responsible for the maintenance, repair and, if necessary, the replacement, if destroyed in whole or part, of a future Public Baywalk on its property, as provided herein, including the seawall, and shall establish reserves and insurance to accomplish this obligation.
- i. At such time that the Public Baywalk becomes open to the Public, all Public Baywalk access points shall be posted with standard "Public Baywalk" signs. The overall design, number, dimensions, placement and color of such signs shall be subject to the review and approval of Planning Department design review staff.
- j. At such time that the Public Baywalk becomes open to the Public, the installation of fences, gates or other barriers, which permanently block public access to the Public Baywalk shall be prohibited.
- k. If the applicant sells, leases or otherwise conveys the property, these conditions shall run with the land, and the applicant's successors and/or assigns shall be obligated to comply with these conditions.

5. All building signage shall be consistent in type, composed of flush mounted, non-plastic individual letters and shall require a separate permit. No illuminated signage shall be permitted facing north. → limit hours

6. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
7. A traffic mitigation plan, which addresses all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, if required, shall be submitted prior to the issuance of a Building Permit and the final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
8. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required, prior to the issuance of a building permit.
9. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view, in a manner to be approved by staff.
10. All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC).
11. The applicant may be required to submit a separate analysis for water and sewer requirements, at the discretion of the Public Works Director, or designee. Based on a preliminary review of the proposed project, the following may be required by the Public Works Department:
 - a. A traffic and neighborhood impact study shall be conducted as a means to measure a proposed development's impact on transportation and neighborhoods. The study shall address all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, and if required, shall be submitted prior to the issuance of a Building Permit. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code. The developer shall refer to the most recent City of Miami Beach's Traffic and Neighborhood Impact Methodology as issued by the Public Works Department.
 - b. Remove/replace sidewalks, curbs and gutters on all street frontages, if applicable. Unless otherwise specified, the standard color for city sidewalks is red, and the standard curb and gutter color is gray.
 - c. Mill/resurface asphalt in rear alley along property, if applicable.
 - d. Provide underground utility service connections and on-site transformer location, if necessary.
 - e. Provide back-flow prevention devices on all water services.
 - f. Provide on-site, self-contained storm water drainage for the proposed development.
 - g. Meet water/sewer concurrency requirements including a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.



- h. Payment of City utility impact fees for water meters/services.
- i. Provide flood barrier ramps to underground parking or minimum slab elevation to be at highest adjacent crown road elevation plus 8".
- j. Right-of-way permit must be obtained from Public Works.
- k. All right-of-way encroachments must be removed.
- l. All planting/landscaping in the public right-of-way must be approved by the Public Works and Parks Departments.

12. The Applicant agrees to the following operational conditions for all permitted uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment.

a. NOISE CONDITIONS

- i. No commercial outdoor bar counters shall be permitted on the premises.
- ii. The Design Review Board (DRB) or the Planning Director shall retain the right to call the owners and/or operators back before the DRB, at the expense of the owners and/ or operators, to impose and/or modify the hours of operation, or amend or impose other conditions, should there be a valid violation (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise or other conditions of this approval. An adverse adjudication of a violation against the owner or operator is not necessary for the board to have jurisdiction over the matter under this condition. This condition vests jurisdiction independent of any other condition hereof.
- iii. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended, shall be deemed a violation of this approval and subject the approval to modification in accordance with the procedures for modification of prior approvals as provided for in the Code, and subject the applicant to the review provided for in the first sentence of this subparagraph.
- iv. Except as may be required for fire or building code/Life Safety Code purposes, no loudspeakers shall be affixed to or otherwise located on the exterior of the premises at the northwest corner of the site in the area of the proposed outdoor dining terrace, or anywhere along 10th street.
- v. No commercial outdoor live music associated with the proposed restaurant shall be permitted at any time, inclusive of percussion, musical instrument, or vocal.



- vi. Special events pursuant to the Miami Beach City Code, associated with the proposed restaurant, may not be held on the premises and the applicant agrees that it will not seek or authorize applications for such permits.

b. OPERATIONAL CONDITIONS

- i. Within sixty (60) days of the issuance of the TCO or CO for the project, or the date of commencement of operation of the restaurant, whichever is later, the restaurant operator shall make a progress report to the Design Review Board. The Board reserves the right to modify the conditions of this approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports.
- ii. No valet shall be permitted at any time along 10th street. Any valet operation shall take place at the existing primary vehicular drop-off and pick-up area located on the east side of the building, or from within the existing parking lot located on the south side of the northernmost building.
- iii. The applicant shall maintain a landscape buffer on the north side of the Outdoor Dining Area parallel to 10th Street, consistent with the landscape plans approved herein.
- iv. The applicant shall maintain a combination of roof overhang, shade structure, awning, canopy, and/or umbrellas over the Outdoor Dining Area.
- v. Any proposed outdoor seating associated with the restaurant shall be limited to a maximum of 75 seats.
- vi. With the exception of any required emergency egress, no pedestrian access to the proposed restaurant shall be permitted from the north side of the site along 10th street. All pedestrian access to any restaurant located on the north side of the site shall be provided from within the existing internal building circulation, or from within the subject property from the west (bayfront) elevation.
- vii. All trash containers shall have rubber tops AND all trash containers shall utilize inflated tires or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
- viii. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
- ix. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that no more than one pick up of garbage per day will be necessary.

- x. Garbage dumpster covers shall be closed at all times except when in active use.
 - xi. Garbage pickups and service deliveries shall not take place between 6PM and 8AM Monday through Friday, and shall not take place between 6PM and 10 AM Saturday and Sunday.
 - xii. All kitchens and other venting shall be internally chased and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.
 - xiii. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - xiv. Interior loudspeakers shall not be located near doors leading to outside dining areas and interior music levels shall not interfere with the normal conversation of diners.
 - xv. The restaurant's primary function shall be food service, and at no time shall it become a dance hall, disco or nightclub. Entertainment shall be limited to background music and the restaurant shall operate under a 2:00 AM liquor license.
 - xvi. The hours of operation for any food and beverage service located at the northwest corner of the site on the exterior shall be limited to:

8:00 AM to 11:00 PM, Sunday through Thursday
8:00 AM to Midnight, Friday and Saturday

Staff cleanup shall cease within one (1) hour after closing times, including closing of the outdoor restaurant dining area.
 - xvii. The restaurant operators shall take all steps necessary to protect nearby residents from noise, odors and other disturbances incidental to restaurant operations such as parking facilities, delivery vehicles and garbage trucks. All garbage, refuse and trash dumpsters shall be placed within an air-conditioned, fully enclosed garbage room, which satisfies the requirements of the applicable Building Code.
13. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy.
14. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
15. At the time of completion of the project, only a **Final** Certificate of Occupancy (CO) or **Final** Certificate of Completion (CC) may be applied for; the staging and scheduling of the construction on site shall take this into account. All work on site must be completed in accordance with the plans approved herein, as well as any modifications approved or required by the Building, Fire, Planning, CIP and Public Works Departments, inclusive of all conditions imposed herein, and by other Development Review Boards, and any modifications required pursuant to field

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inspections, prior to the issuance of a CO or CC. This shall not prohibit the issuance of a Partial or Temporary CO, or a Partial or Temporary CC.

16. 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.
17. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
18. 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 adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-18, inclusive) hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Design Review Board, as determined by staff, entitled "Southgate Towers Renovation", as prepared by ADD Inc Architecture + Design, dated February 11, 2013., modified in accordance with the conditions set forth in this Order and staff review and approval.

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 Design Review 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 Design Review Approval was granted, the Design Review Approval will expire and become null and void, unless the applicant makes 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. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit 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 Design Review Approval will expire and become null and void.

In accordance with Section 118-264 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.

Dated this 10th day of APRIL, 20 13.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]

THOMAS R. MOONEY, ATCP
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

STATE OF FLORIDA)

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COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 10th day of
APRIL 2013 by Thomas R. Mooney, Design and Preservation Manager,
Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf
of the Corporation. He is personally known to me.



TERESA MARIA
MY COMMISSION # DD 928148
EXPIRES: December 2, 2013
Bonded Thru Budget Notary Services

[Signature]
NOTARY PUBLIC

Miami-Dade County, Florida

My commission expires: 12-2-13

Approved As To Form: [Signature]

Legal Department: [Signature]

(4-10-2013)

Filed with the Clerk of the Design Review Board on 4-10-2013 (WJR)

[Signature]