

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: July 07, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB20-0548
1787 Purdy Avenue

An application has been filed requesting Design Review Approval for exterior design modifications to an existing Design Review Approval to an existing two-story commercial structure and including the deletion of conditions of the original Final Order. This item was originally approved in 2016, pursuant to DRB File No. 23220.

RECOMMENDATION:

Approval with conditions

LEGAL DESCRIPTION:

Western ½ of Lot 9 of Block 16, of "Island View Subdivision", according to Plat thereof as recorded in Plat Book 6, Page 115, of the Public Records of Miami-Dade County.

BACKGROUND:

On January 15, 2016, the Design Review Board reviewed and approved exterior design modifications for an existing two-story commercial structure, pursuant to DRB File No. 23220. This included the construction of new rooftop structure, a new elevator, an exterior open-air staircase and a rooftop trellis/canopy.

The City Code requires that restaurants in the Sunset Harbour area with over 100 seats and an occupant content of more than 125 persons obtain a CUP. The existing restaurant received Conditional Use approval from the Planning Board on May 24, 2016, pursuant to PB17-0112 approved (f.k.a. PB File No. 2287). More recently, the CUP was amended on September 26, 2017 with an updated disclosure that restructured the ownership interest. Neither the plans nor the operational conditions have changed in any way. The original Planning Board approval (PB 2287) was on December 15, 2015.

SITE DATA:

Zoning: CD-2
Future Land Use: CD-2
Parking District: 5
Lot Size: 50' x 75' (3,750 SF)
Existing FAR: 3,811 SF/ 1.01
Approved FAR 2016: 5,398 SF/ 1.44
Proposed FAR: 4,131 SF / 1.1
Permitted FAR: 5,625 SF/ 1.5

*As represented by the applicant
Proposed # seats: 140 total seats (81 persons first floor 59 persons rooftop).

Grade: +3.1' NGVD
Future Grade: +5.26' NGVD
Base Flood Elevation (BFE): +8.00' NGVD
Difference: 4.9' NGVD
Adjusted Grade: +5.55' NGVD
Finished Floor Elevation: +3.32' NGVD

SURROUNDING PROPERTIES:

East: 2-story 1950 Commercial Building
North: Surface lot / 2-story restaurant
South: 1-story bungalow
West: Maurice Gibb Memorial Park

THE PROJECT:

The applicant has submitted plans entitled "Stiltsville Fish Bar: Roof Deck Addition", as prepared by **SAI Sustainable Architecture Initiative** dated, signed, and sealed May 11, 2020.

The applicant is proposing exterior design modifications to a previously approved Design Review Board approval and the modification/deletion of several conditions in the recorded Final Order from 2016. The original approval included a new elevator, exterior open-air staircase and rooftop trellis/canopy for an existing two-story commercial structure, as well as an operable storefront system at the ground level.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the following sections of the City Code, with the exception of the requested variance. The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Applicable
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Applicable
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Satisfied
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this

Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.

Satisfied

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.

Satisfied

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.

Satisfied

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

Not Satisfied; a lighting plan has not been submitted.

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

Not Applicable

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

Not Applicable

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

Satisfied

13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise,

the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

Not Applicable

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

Satisfied

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

Satisfied

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

Satisfied

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

Not Applicable

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.

Not Applicable

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

Not Applicable

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.

Not Applicable

- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

Not Applicable

- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Not Applicable

- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.

Not Applicable

- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

Not Applicable

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.

Not Applicable

- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

Not Applicable

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

Not Applicable

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

- (10) In all new projects, water retention systems shall be provided.

Not Applicable

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Not Applicable

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Not Applicable

ANALYSIS:
DESIGN REVIEW

On January 15, 2016, the Design Review Board reviewed and approved exterior design modifications and renovation plans for an existing two-story building to accommodate a new restaurant build out. The approved plans contemplated an interior renovation, as well as a rooftop dining and bar and the construction of new rooftop structures including a new elevator, exterior open-air staircase and rooftop trellis/canopy. Additionally, a new operable storefront was also approved at the ground level.

A building permit¹ was issued in 2016 (BC0616-0499), and upon completion of construction a certificate of occupancy was issued (CO18-096) that did not include the rooftop dining area construction and improvements—including the proposed elevator and stairwell. The restaurant has been in successful operation for three years. According to the letter of intent, it is now the intention to complete the originally proposed rooftop improvements, with several minor modifications to the design to make the work feasible. The proposed modifications include the following:

1. Redirecting the staircase from the approved design (through the building to the roof deck) to an alternate design providing access directly from the lower sidewalk level to the roof deck.
2. Removal of the previously approved retractable awning and replacing it with standard umbrellas for the tables; the remainder of the second floor dining area will be open to the sky.
3. The deletion of several conditions of the original Final Order that are no longer applicable.

There are no significant operational changes proposed as part of this application. The physical modifications to the building are fairly straightforward and staff has no serious design concerns. Staff did previously have some concerns with the original 2016 location and orientation of the exterior open-air stairwell that led directly to the rooftop from the sidewalk, as it suggested the appearance of a stand-alone and separate venue from the ground floor enclosed restaurant component.

As approved by the Planning Board (PB 17-0112, f.k.a. PB File No. 2287, most recently amended on September 26, 2017), 54 seats were approved on the rooftop with an accessory outdoor bar counter that is required to close by 12:00 am daily. The regulations for the Sunset Harbour neighborhood currently prohibit the operation of an outdoor bar counter anywhere on a property, but do allow up to 40 seats to be located above the ground floor with operations to cease by 8 p.m.

¹ Although a building permit was approved, the original DRB approval for DRB23220 is still in effect due to several governor declarations of a state of emergency. The prior extensions extended the DRB approval until March 05, 2022, and the Planning Board approval until Feb 05, 2022. As such, the application is before the DRB as a modification to the original DRB approval and not a new application. The current Covid-19 crisis would extend this to an even later date.

Because, the property has an active land use board approval that was issued prior to August 23, 2016, the prohibition on the outdoor bar counter, and limitations on outdoor seating does not apply to this property; however, the previously approved seating and bar counter could not be expanded. Further, all alcoholic beverage establishments in the sunset harbor neighborhood are now required to close all exterior operations by 12:00 am nightly, with all operations ceasing by 2:00 am nightly. These hours are consistent with those approved by the Planning Board.

Although originally recommending “flipping” the exterior stairwell along the south elevation, staff supports the proposed change in its orientation and open-air nature in order to provide a more efficient and cost effective method to address life safety egress concerns. Additionally, staff is supportive of the applicant’s proposal to eliminate the roof-top pergola and retractable awning system. However, it is recommended as a condition of approval of this revision that should such roof-top elements proposed to be reintroduced in the future, Board approval would be required. As such, staff supports the elimination of all conditions referencing the rooftop and the exterior stairwell orientation.

DELETION OF CONDTIONS

The 2016 DRB Order included several conditions related to the stairwell and rooftop canopy. Given the proposed removal of the retractable canopy (and its accompanying bulk), as well as the reorientation and reduction in the massing of the proposed stairwell, the following conditions need to be modified or deleted from the 2016 Order:

- ~~I(C)(2)(b) The proposed alterations to the front façade, including the expanded window openings and installation of operable windows, shall be permitted. All window frames shall be composed of an aluminum finish. All windows shall consist of clear glass and incorporate the minimum tint required by the energy code, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. This condition is no longer necessary given the status of the permit and the completion of this work.~~
- ~~I(C)(2)(c) Any future proposed demolition to the front façade in order to expand the openings, and install any additional operable doors, windows or other storefront systems shall be permitted, subject to the review and approval of Planning staff consistent with the Design Review Criteria and/or the directions from the Board. The extent of all openings shall not exceed the façade area directly below the existing eyebrow. The existing eyebrow shall not be demolished. This condition is no longer necessary given the status of the permit and the completion of this work.~~
- ~~I(C)(2)(d) The proposed vertical supports of the retractable rooftop canopy shall be centered and symmetrical to the existing front ziggurat feature on the front façade. This condition is no longer necessary given the removal of the canopy from the design.~~

- ~~l(C)(2)(e) The retractable rooftop canopy umbrellas shall be kept extended open to cover the rooftop dining and bar area during nighttime operation hours. This condition is no longer necessary given the removal of the canopy from the design.~~
- ~~l(C)(2)(f) The applicant shall explore incorporating more port-hole style windows along the south elevation of the proposed exterior stair and elevator, in a manner to be review and approve by staff consistent with the Design review Criteria and/or the direction from the Board. The condition should be deleted. The west wall of the staircase is removed in the new design. The staircase now proposed is an "open" staircase. The south elevation is a fire wall/ fire barrier that has been greatly reduced in size from initial design, negating the need to break up its mass.~~
- ~~l(C)(2)(g) The proposed exterior stairwell along the south elevation shall be flipped in orientation and only have direct access from inside the ground floor restaurant, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. The condition should be deleted. The west wall of the staircase is removed in the new design.~~
- ~~l(C)(2)(h) The final design and detailing for the new pergola and retractable awning proposed on the roof-top shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. This condition is no longer necessary given the removal of the canopy from the design.~~
- ~~l(C)(2)(i) Wind screen or other extensions located on the side(s) of the rooftop pergola and awning, extending towards or near the ground shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. This condition is no longer necessary given the removal of the canopy from the design.~~
- ~~l(C)(2)(j) The fabric material for the retractable awning umbrellas shall be canvas or sailcloth or like material, and the color shall be a solid neutral hue, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.~~

Additionally, staff recommends the following deletion of redundant conditions reflected in the Conditional Use Approval in order to have a clearer separation of approvals and avoid overlap and contradiction in the two land use boards. Elimination of the following will not reduce the restrictions on the operations of the venue.

- ~~4. Prior to the issuance of a Building Permit for the improvements proposed herein, the applicant shall submit a revised site plan and floor plan. At a minimum, such plans shall include the following:~~
- ~~a. An air conditioned trash room(s) / garbage room(s), which shall be large enough or sufficient in number so that more than one pick up of garbage per day will not be necessary. The location, dimensions and access points of such trash/garbage room(s) shall be subject to the review and approval of staff.~~

- ~~b. The route of all refuse containers from the trash / garbage room(s) to the sidewalk.~~
 - ~~c. A high-level trash/garbage compacting device may be located in the air-conditioned trash/garbage holding room within the facility.~~
 - ~~d. All trash containers shall utilize rubber wheels, 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.~~
 - ~~e. Garbage dumpster covers shall be closed at all times except when in active use.~~
- ~~5. Prior to the issuance of a building permit for the improvements proposed herein, the applicant shall submit a detailed valet parking and delivery plan, which shall be subject to the review and approval of the Parking Department. At a minimum, such plan shall include the following:~~
- ~~a. The valet drop off shall be located in a designated off-street parking space, subject to the approval of the Parking Department.~~
 - ~~b. The locations for all delivery vehicles shall be clearly delineated on a revised loading plan, and shall be subject to the review and approval of the Parking Department. Delivery vehicles shall only be permitted to make deliveries from designated loading zones and spaces approved by the Parking Department.~~
 - ~~c. Delivery vehicles shall only be permitted to make deliveries from 8:00 AM to 2:00 PM.~~
 - ~~d. Delivery trucks shall not idle in the loading zone.~~
- ~~6. 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.~~
- ~~e. OPERATIONAL CONDITIONS~~
 - ~~i. The Noise and Operational Conditions below are issued to the Applicant, TB Purdy Restaurant, LLC, ("Operator") as tenant and operator of the proposed restaurant on the property. Any change of the operator shall require review and approval by the Design Review Board as a modification of this approval. Subsequent operators shall be required to appear before the Board, within ninety (90) days of change~~

~~of operator to affirm their understanding of the conditions listed herein. The Board reserves the right to determine the timing and need for future progress reports for the new operator.~~

- ~~ii. Within sixty (60) days of the issuance of the TCO or CO for the project, the 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.~~
- ~~iii. The hours of operation shall be within the hours of 11:30 AM to 12:00 AM on Sundays through Thursday and from 11:30 AM to 2:00 AM on Fridays and Saturdays. The outdoor portion shall close by 12:00 AM (midnight) daily.~~
- ~~iv. At all times the establishment is open, food service with a full menu and operating kitchen shall be required throughout the venue, including the roof-top area. At the discretion of the operator, the roof-top area may cease operations prior to the closing of the venue, and while the first level is operational.~~
- ~~v. The roof-top area shall be limited to restaurant service only, and shall only be open and operational when the first level of the establishment is open. The rooftop area shall not become a stand-alone drinking establishment or bar at any time.~~
- ~~vi. The patron occupant content shall be a maximum of 199 persons, or as determined by the Fire Marshall, whichever is lower.~~
- ~~vii. The number of seats within the confines of the property shall not exceed 140 and the number of seats on the adjacent sidewalk, if approved, shall not exceed 15.~~
- ~~viii. The sound system and sound attenuation measures shall be implemented as per recommendations of the sound system specifications submitted in the application. A final sound transmission report which includes the performance of sound systems and sound attenuation devices shall be submitted to staff for review and approval prior to a Certificate of Use or Business Tax Receipt for the entertainment portion is approved.~~
- ~~ix. Entertainment shall be prohibited at all times. On the rooftop and sidewalk, or any other exterior portion of the project, the sound system shall be turned off entirely by 10:00 PM Sunday thru Wednesday, 11:00 PM Thursdays and 12:00 AM (midnight) on Fridays and Saturdays.~~

- x. ~~Special events pursuant to the Miami Beach City Code, associated with the proposed establishment, may not be held on the premises and the applicant agrees that it will not seek or authorize applications for such permits.~~
- xi. ~~Street flyers and handouts shall not be permitted, including handbills from third-party promotions.~~
- xii. ~~Any queuing of patrons shall occur within the property or inside the restaurant only. Security staff shall monitor the crowds to ensure that they do not obstruct the sidewalk.~~
- xiii. ~~Security staff shall monitor patron circulation and occupancy levels and shall take measures to strictly enforce patron age restrictions in the City Code at all times.~~
- xiv. ~~The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and the areas of the street adjacent to the property. When sweeping the sidewalk in front of the establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately. In addition, at the end of business each day sidewalks shall be swept and hosed down.~~

In summary, staff recommends that the application be approved.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved** subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review and Sea Level Rise criteria as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: July 07, 2020

PROPERTY/FOLIO: 1787 Purdy Avenue 02-3233-012-0590

FILE NO: DRB20-0548

IN RE: An application has been filed requesting Design Review Approval for exterior design modifications to an existing Design Review Approval to an existing two-story commercial structure and including the deletion of conditions of the original Final Order. This item was originally approved in 2016, pursuant to DRB File No. 23220.

LEGAL: Western ½ of Lot 9 of Block 16, of "Island View Subdivision", according to Plat thereof as recorded in Plat Book 6, Page 115, of the Public Records of Miami-Dade County, Florida.

CONSOLIDATED 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 9 ~~1, 2, 3, 4, 5, 6, 9, 12, and 19~~ in 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 consistent 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. The applicant shall be subject to all of the conditions within the Conditional Use Permit (CUP) approved by the Planning Board (PB File No. 2287 and PB17-0112).
 2. Revised elevation, site plan, and floor plan drawings for the proposed structures at 1787 Purdy Avenue shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The fabric material for the ground floor awning shall be canvas or sailcloth or like material, and the color shall be a solid neutral hue, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- b. Any future elements, such as trellises, covered structures or retractable or other awnings, proposed on the rooftop area, shall be subject to the review and approval of the Design Review Board.
- c. ~~The proposed alterations to the front façade, including the expanded window openings and installation of operable windows, shall be permitted. All window frames shall be composed of an aluminum finish. All windows shall consist of clear glass and incorporate the minimum tint required by the energy code, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.~~
- d. ~~Any future proposed demolition to the front façade in order to expand the openings, and install any additional operable doors, windows or other storefront systems shall be permitted, subject to the review and approval of Planning staff consistent with the Design Review Criteria and/or the directions from the Board. The extent of all openings shall not exceed the façade area directly below the existing eyebrow. The existing eyebrow shall not be demolished.~~
- e. ~~The proposed vertical supports of the retractable rooftop canopy shall be spaced within the roof, centered and symmetrical to the existing front ziggurat feature on the front façade.~~
- f. ~~The retractable rooftop canopy shall be kept extended to cover the rooftop dining and bar area during nighttime operating hours.~~
- g. ~~The applicant shall explore incorporating more porthole-style windows along the south elevation of the proposed exterior stair and elevator, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.~~
- h. ~~The proposed exterior stairwell along the south elevation shall be flipped in orientation and only have direct access from inside the ground floor restaurant, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.~~
- i. ~~The final design and detailing for the new pergola and retractable awning proposed on the roof-top shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.~~
- j. ~~Wind screen or other extensions located on the side(s) of the rooftop pergola and awning, extending towards or near the ground shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.~~

- k. The fabric material for the ~~retractable-awning~~ umbrellas shall be canvas or sailcloth or like material, and the color shall be a solid neutral hue, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - l. A detailed rooftop lighting plan shall be provided. All roof-top lighting fixtures shall be designed to preclude light from spilling over to adjacent properties, in a manner consistent with the limits and requirements of the City Code, subject to the review and approval of staff.
 - m. All exterior building signage shall be composed of flush mounted, individual letters, and shall require a separate permit.
 - n. An air conditioned trash room(s) / garbage room(s), which shall be large enough or sufficient in number so that more than one pick up of garbage per day will not be necessary. The location, dimensions and access points of such trash/garbage room(s) shall be subject to the review and approval of staff.
 - o. All roof-top fixtures, air-conditioning units and mechanical devices proposed, shall be clearly noted on a revised roof plan and shall be screened from view with noise attenuating materials, in a manner to be approved by staff.
 - p. 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.
 - q. 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 within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
 - b. 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.
 - c. The utilization of Silva Cells shall be used along both street frontages for all plantings and clearly delineated on a revised landscape plan.

- d. The applicant shall install street trees on all sides of the project consistent with the City's Street Tree Master Plan, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and root barriers shall be installed along the sidewalk in conjunction with structural soils.
 - e. 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. 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.
 - f. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. 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.
 - g. 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. ~~Prior to the issuance of a Building Permit for the improvements proposed herein, the applicant shall submit a revised site plan and floor plan. At a minimum, such plans shall include the following:~~
- a. ~~An air conditioned trash room(s) / garbage room(s), which shall be large enough or sufficient in number so that more than one pick up of garbage per day will not be necessary. The location, dimensions and access points of such trash/garbage room(s) shall be subject to the review and approval of staff.~~
 - b. ~~The route of all refuse containers from the trash / garbage room(s) to the sidewalk.~~
 - c. ~~A high-level trash/garbage compacting device may be located in the air-conditioned trash/garbage holding room within the facility.~~
 - d. ~~All trash containers shall utilize rubber wheels, 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.~~
 - e. ~~Garbage dumpster covers shall be closed at all times except when in active use.~~
5. ~~Prior to the issuance of a building permit for the improvements proposed herein, the applicant shall submit a detailed valet parking and delivery plan, which shall~~

be subject to the review and approval of the Parking Department. At a minimum, such plan shall include the following:

- a. ~~The valet drop-off shall be located in a designated off-street parking space, subject to the approval of the Parking Department.~~
 - b. ~~The locations for all delivery vehicles shall be clearly delineated on a revised loading plan, and shall be subject to the review and approval of the Parking Department. Delivery vehicles shall only be permitted to make deliveries from designated loading zones and spaces approved by the Parking Department.~~
 - c. ~~Delivery vehicles shall only be permitted to make deliveries from 8:00 AM to 2:00 PM.~~
 - d. ~~Delivery trucks shall not idle in the loading zone.~~
6. ~~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. OPERATIONAL CONDITIONS
 - i. ~~The Noise and Operational Conditions below are issued to the Applicant, TB Purdy Restaurant, LLC, ("Operator") as tenant and operator of the proposed restaurant on the property. Any change of the operator shall require review and approval by the Design Review Board as a modification of this approval. Subsequent operators shall be required to appear before the Board, within ninety (90) days of change of operator to affirm their understanding of the conditions listed herein. The Board reserves the right to determine the timing and need for future progress reports for the new operator.~~
 - ii. ~~Within sixty (60) days of the issuance of the TCO or CO for the project, the 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.~~
 - iii. ~~The hours of operation shall be within the hours of 11:30 AM to 12:00 AM on Sundays through Thursday and from 11:30 AM to 2:00 AM on Fridays and Saturdays. The outdoor portion shall close by 12:00 AM (midnight) daily.~~

- ~~iv. At all times the establishment is open, food service with a full menu and operating kitchen shall be required throughout the venue, including the roof-top area. At the discretion of the operator, the roof-top area may cease operations prior to the closing of the venue, and while the first level is operational.~~
- ~~v. The roof-top area shall be limited to restaurant service only, and shall only be open and operational when the first level of the establishment is open. The rooftop area shall not become a stand-alone drinking establishment or bar at any time.~~
- ~~vi. The patron occupant content shall be a maximum of 199 persons, or as determined by the Fire Marshall, whichever is lower.~~
- ~~vii. The number of seats within the confines of the property shall not exceed 140 and the number of seats on the adjacent sidewalk, if approved, shall not exceed 15.~~
- ~~viii. The sound system and sound attenuation measures shall be implemented as per recommendations of the sound system specifications submitted in the application. A final sound transmission report which includes the performance of sound systems and sound attenuation devices shall be submitted to staff for review and approval prior to a Certificate of Use or Business Tax Receipt for the entertainment portion is approved.~~
- ~~ix. Entertainment shall be prohibited at all times. On the rooftop and sidewalk, or any other exterior portion of the project, the sound system shall be turned off entirely by 10:00 PM Sunday thru Wednesday, 11:00 PM Thursdays and 12:00 AM (midnight) on Fridays and Saturdays.~~
- ~~x. Special events pursuant to the Miami Beach City Code, associated with the proposed establishment, may not be held on the premises and the applicant agrees that it will not seek or authorize applications for such permits.~~
- ~~xi. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.~~
- ~~xii. Any queuing of patrons shall occur within the property or inside the restaurant only. Security staff shall monitor the crowds to ensure that they do not obstruct the sidewalk.~~
- ~~xiii. Security staff shall monitor patron circulation and occupancy levels and shall take measures to strictly enforce patron age restrictions in the City Code at all times.~~
- ~~xiv. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and the areas of the street adjacent to the property. When sweeping the sidewalk in front of the~~

~~establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately. In addition, at the end of business each day sidewalks shall be swept and hosed down.~~

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. No variance(s) were filed as part of this application. ~~The variance, originally filed as part of this application, has been withdrawn by the applicant~~

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- ~~A. The Design Review Board (DRB) shall retain jurisdiction over this matter. The 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) including violations related to 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.~~

- A. This Final Order consolidates all conditions and requirements for Design Review Approval set forth, in the original Order dated January 15, 2016 and as modified herein. Accordingly, this Order shall serve as the Final Order for the proposed project and, in the event of a conflict between the provisions herein and those in the original Final Order, the provisions herein shall control.

- B. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.

- C. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.

- D. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.

- E. The 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 GRANTED 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 "Stiltsville Fish Bar: Roof Deck Addition", as prepared by **SAI Sustainable Architecture Initiative** dated, signed, and sealed May 11, 2020 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.

