

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: January 05, 2020

PROPERTY/ FOLIO: 959 West Avenue 02-4203-001-0420

FILE NO: DRB20-0576

IN RE: An has been filed requesting Design Review Approval for exterior design modifications to an existing Design Review Approval including the redesign and reconfiguration of the existing commercial facades, hardscape and landscape improvements and an updated signage program including one or more variances from the signage regulations. This application is also requesting modification of conditions of the original Final Orders. This item was originally approved in 2001 and 2003, pursuant to DRB File No. 14084 and DRB File No.17195, respectively.

LEGAL: Lots 8, 9, 10, 11, 12, 13, 14 and 15, of Block 3, of amended plat 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.

APPLICANT: Gumenick Family Investments No. 2

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 2, 3, 4, 5, 6, 9, 11, 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 inconsistent with Sea Level Rise Criteria 3, and 10 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 project shall comply with all the conditions imposed by the Board of Adjustment File No.2792.
2. All of the original conditions of approval by this Board, as reflected in the Final Order dated February 22, 2001 pursuant to DRB File No. 14084, and August 19, 2003, DRB File No. 17189 shall remain in effect except as modified and approved herein.
3. Revised elevation, site plan, and floor plan drawings for the proposed exterior façade modifications, landscape, hardscape and signage shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. All awnings shall be consistent in fabric, pattern and placement, subject to the review and approval of staff.
 - a. The proposed 'PARKING' projecting signage shall be reverse channel, led backlit, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. The final design details of the proposed monument signs 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.
 - c. The design of ground floor retail signage shall be approved as proposed. All signage shall be consistent in type and placement, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. The final design details of the bronze metal commercial facades 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. The proposed artificial moss tile shall be of a high-quality material and installation, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. All electrical conduits and methods of illumination shall be contained within the structure of the building and shall not be surface mounted or projecting from a raceway, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - g. All exterior guardrails and support posts shall incorporate a flat profile. Final materials and colors 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.
 - h. The final design details of the metal canopy proposed for the primary garage entrance on West Avenue 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.

- i. The final design details of the illuminated signage for the metal canopy on the primary garage entrance on West Avenue 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.
- j. The final design details of the illuminated directory sign 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.
- k. The final design details and material finish of the proposed concrete benches 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.
- l. The final design details of the exterior materials and finishes 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.
- m. The proposed color, finish and installation of the proposed stone pavers 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.
- n. 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.
- o. 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):
 1. A variance to exceed the maximum number of one (1) sign allowed in the RM-2 zoning district per street frontage, in order to install three (3) signs facing West Avenue.
 2. A variance to exceed by 7.5 SF the maximum sign area of zero (0) SF for the installation of a monument sign with 7.5 SF facing West Avenue.
 3. A variance to exceed by 15 SF the maximum sign area of zero (0) SF for the installation of a projecting sign with 15 SF facing West Avenue.

4. A variance to exceed the maximum number of one (1) sign allowed in the RM-2 zoning district per street frontage, in order to install two (2) signs facing 9th Street.
 5. A variance to exceed by 7.5 SF the maximum sign area of zero (0) SF for the installation of a monument sign with 7.5 SF facing 9th Street.
 6. A variance to exceed the maximum 25% allowed projection within the front yard of 20'-0" in order to provide pavement up to the front property line facing West Avenue, provided that the amount of pervious area is not reduced from the existing percentage.
- B. The applicants have submitted plans and documents with the application that 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 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.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable

- C. The Board hereby **Approves** the variance requests and imposes the following condition 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.

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. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
- D. 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.
- E. The applicants shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the brightness, flickering, intensity and/or overall visual distraction of the new building's digital display equipment to the public right-of way.
- F. In the event Code Compliance receives complaints of unreasonably bright and intense light, bothersome light pollution, or distractions from pedestrians or motorists from the digital display super graphics 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 light intensity and brightness of the digital display imagery, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.
- G. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. 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.

- J. 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.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. 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 "Shoppes at West Avenue", as prepared by **Urban Robot & Associates** dated November 9, 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.

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.

