



200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131

www.brzoninglaw.com

305.377.6236 office

305.377.6222 fax

mamster@brzoninglaw.com

January 22, 2021

VIA ELECTRONIC SUBMITTAL

Michael Belush, Chief of Planning & Zoning
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: DRB20-0576 - Request for Design Review Approval for Property
Located at 959 West Avenue in Miami Beach, Florida

Dear Michael:

This law firm represents Gumenick Family Investments No. 2 (the "Applicant"), the owner of the captioned property (the "Property"). The Applicant previously obtained approval from the Board of Adjustments in 2001 (BOA File No. 2792) and the Design Review Board in 2001 (DRB File No. 14084) and 2003 (DRB File No. 17198) for development of a five (5) story commercial parking garage with 751 spaces and 21,400 square feet of ground floor commercial uses. See Exhibit A, Approval History. Please consider this letter the Applicant's amended letter of intent to request design review approval and modifications to conditions of DRB Order #14084 and #17198 to provide for façade improvements and an updated signage plan for the existing structure on the Property, known as the Shoppes at West Avenue, with associated variance requests. In addition, we provide a proposed alternative to the City's harmonization plan for the raising of West Avenue that provides a better transition from the right-of-way into the commercial pedestrian plaza on the west side of the Property.

Property Background. The Property is located on the east side of West Avenue spanning from 9th Street to 10th Street. The Property is identified by Miami-Dade County Folio No. 02-4203-001-0420 and is located within the RM-2 Multi-Family Residential zoning district. See Exhibit B, Property Appraiser Profile. The five (5) story commercial garage was built in 2002. The building provides ground level retail all along the street frontages of the structure, currently divided into fourteen (14) retail bays.

Project. The façade improvements will consist largely of an updated paint job and finishes to modernize and accentuate the retail

component of the structure. The improvements include a replace of the awnings and a redesign of the primary garage entrance along West Avenue framed by a green wall surrounding the recessed vestibule and awning. The improvements also provide for new hardscape and landscape features abutting the retail frontage on the Property providing for attractive paver design to delineate a pedestrian corridor immediately adjacent to the retail fronts with a flex zone of 15 feet in width next to the pedestrian corridor. The flex zone will be programmed to serve as a café seating space, planting area, and area for urban furniture.

The updated signage plan will include two (2) detached signs—one at the corner of West Avenue and 9th Street and one at the corner of West Avenue and 10th Street as allowed under Section 138-19 of the Code. The signage plan will also provide for three (3) projecting signs to identify parking for the garage. The projecting parking signs will each be on a distinct frontage (9th Street, West Avenue, and 10th Street). The wall signs on the Property will be consistent with the requirements of Section 138-16. The main entrance vestibule to the garage will have a wall sign of 30 square feet in size identifying the structure as The Shoppes at West Avenue. Additionally, there will be a wall sign assigned to each accessory retail use on the ground level of the structure. The accessory retail signage will include the wall sign as provided in Section 138-16 of the Code, as well as the additional signage located on the valance of each canopy. Lastly, the signage plan will include one directory sign next to the entrance of the garage vestibule.

Requests. The Applicant seeks a design review approval for the façade improvements, landscape and hardscape improvements, including addressing the alternative harmonization in conjunction with the raising of West Avenue, and updated signage plan including signage above the ground level for the existing structure on the Property. Additionally, the Applicant requests a modification of DRB Order #14084 and #17198 to reflect the updated site plan and signage plan proposed. In order to allow for the proposed design, the Applicant requests the removal of the following conditions from DRB File No. 14084:

B1(d). All awnings shall consist of a woven fabric and shall incorporate a simple, rectangular pitch, with no side panels or valences.

B1(g). The center feature of the east and west elevations shall be increased to three (3) bays and the book-ends shall be increased to two (2) bays in order to better break down the scale and mass of the structure as it relates to the entire City block, in a manner consistent with Exhibit "A" submitted at the meeting, subject to the review and approval of staff.

B1(h). The six (6) remaining intermediate bays, flanking the new three (3) bay center feature on the east and west elevations, shall be in an alternating A, B format; alternatively,

an AA, BB format, or variations thereof, may be utilized, in a manner consistent with Exhibit "A" submitted at the meeting, subject to the review and approval of staff.

B2(a). All exterior walkways shall consist of decorative pavers, set in sand or other semi-pervious material, subject to the review and approval of staff.

B3. All building signage shall be consistent in type, composed of flush mounted, non plastic individual letters and shall require a separate permit.

Alternative harmonization. The City's harmonization plan abutting the west side of the Property calls for a landscape strip next to the street and the sidewalk at the property line. Due to the significant height differential of the proposed raised right-of-way and the existing commercial plaza, this requires a substantial retaining wall at the property line and will require handrails for the entire length of the sidewalk. This creates an inhospitable environment that will negatively impact the experience of patrons and pedestrians frequenting this area. The Applicant proposes an alternative where the sidewalk and the landscape strip are flipped on the right-of-way, allowing the landscape to be in the form of a berm that provides for a more appropriate transition in height from the higher sidewalk to the lower plaza. No retaining wall will be needed along the west side of the Property and other areas of the City, including nearby on West Avenue, have the sidewalk adjacent to the street, therefore this proposal is compatible with the surrounding area. The overall result is a much more neighborhood friendly streetscape that blends with and is complementary to the commercial uses on the Property.

Variances. In order to accommodate the new signage plan and improvements to the façade, landscape, and hardscape, the Applicant requests the following variances:

1. Variance to allow for encroachments within the required front yard ("Front Yard Variance");
2. Variances to permit one parking projecting sign on each of the three street frontages ("Parking Signs Variances").
3. Variance to allow two detached monument signs where one detached sign is permitted ("Monument Sign Variance").
4. Variances to allow for the three distinct signs per frontage where one is permitted ("Frontage Signage Variances")

Practical Difficulty. The Front Yard Variance is needed in order to make the improvements to the existing commercial parking garage structure with ground level retail. The Applicant faces a practical difficulty for the Front Yard Variance as the existing structure and property is nonconforming with regards to the front yard requirements. The proposed improvements will serve to lessen the degree of nonconformity by increasing the green space and landscaping and reducing the impervious area in the front yard. The improvements increase the green space in the front yard by 60%. The Front Yard Variance will allow for these improvements to the front yard as well as the aesthetics of the structure.

The Parking Signs Variances will allow for needed visibility for access and use of the commercial parking garage, which is the main use of the existing structure. The proposed parking signs will serve to improve wayfinding and parking access in the area. The Applicant faces a practical difficulty in that the commercial parking garage is an existing nonconforming structure within the RM-2 District. The Applicant is simply seeking to provide signage to better serve the functioning of the existing structure in line with that which would typically be allowed for the structure in other districts.

The Monument Sign Variance is needed to allow for monument signage located at both ends of the property and existing structure. The square footage for the two monument signs does not exceed the maximum 15 square feet allowed. The proposed signage area is split as each of the two proposed monument signs are 7.5 square feet in size. This allows for monument signage consistent with the intent of the Code while accommodating the reality that this is an existing nonconforming structure on a property that spans an entire block. The splitting of the allowable 15 square feet in signage into two distinct locations on the site is needed in order to adequately account for wayfinding for the large property and existing structure.

The Frontage Signage Variances reflect the fact that the proposal is seeking to provide wall sign, detached sign, and blade sign for each frontage where technically the Code only allows for one signage per frontage. The Applicant faces a practical difficulty in that the commercial parking garage is an existing nonconforming structure within the RM-2 District. The Applicant is simply seeking to provide signage to better serve the functioning of the existing structure in line with that which would typically be allowed for the structure in other districts. The signage is necessary to accommodate the wayfinding and practical operation of the existing mixed-use commercial parking garage with multiple retail tenants serving the neighborhood.

Conclusion. These requests will allow for the exterior improvements and updates for the Shoppes at West Avenue that are needed to keep the site attractive and in good shape. Further, the alternative harmonization provides a gentle transition, rather than an abrupt height change, to address the raising of West Avenue. These improvements will benefit each of the retail tenants and will enhance the pedestrian experience for the surrounding West Avenue community. If you have any questions or comments in the interim, please give me a call at 305-374-5300

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matthew Amster', with a long horizontal line extending to the right.

Matthew Amster

Attachments

cc: Michael W. Larkin, Esq.
Robert Behar, Esq.

EXHIBIT A

**DESIGN REVIEW BOARD
City of Miami Beach, Florida**

MEETING DATE: February 22, 2001

IN RE: The Application for Design Review Approval for the construction of a
5 story parking structure with accessory retail space.

PROPERTY: 901-963 West Avenue

FILE NO: 14084

ORDER

The applicant, Gumenick Family Investments #2, Ltd., 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 the Design Review Criteria Nos. 2, 3, 4, 6, 7 & 8 in Section 118-251 of the Miami Beach Code.
- B. The project would be consistent with the above criteria and requirements if the following conditions are met:
 - 1. Revised elevation, site plan and floor plan drawings, in accordance with Exhibit "A" submitted at the meeting, shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The proposed parking/ramp system shall be inverted so that the entrance to the speed ramp is from Tenth (10th) Street and the grade level parking area fronts Ninth (9th) Street. Access to the

relocated grade level parking area shall be from the alley, and not from the street along Ninth Street; retail space shall be extended eastward at the first level, along the south property line, to the stairwell, in a manner to be approved by staff.

- b. The elevations of the subject structure shall be further refined and developed, in a manner to be approved by staff.
- c. The proposed arches at the top part of the center of the west and east elevations shall be eliminated.
- d. All awnings shall consist of a woven fabric and shall incorporate a simple, rectangular pitch, with no side panels or valences.
- e. All garage entrance gates and service areas, fronting Tenth Street, shall be substantially opaque and the final details and design shall be subject to the review and approval of staff.
- f. All garage openings, on all elevations, shall incorporate screening panels, the design, details and dimensions of which shall be subject to the review and approval of staff.
- g. The center feature of the east and west elevations shall be increased to three (3) bays and the book-ends shall be increased to two (2) bays in order to better break down the scale and mass of the structure as it relates to the entire City block, in a manner consistent with Exhibit "A" submitted at the meeting, subject to the review and approval of staff.
- h. The six (6) remaining intermediate bays, flanking the new three (3) bay center feature on the east and west elevations, shall be in an alternating A, B format; alternatively an AA, BB format, or variations

- 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.

- c. The Royal Palms on the west side of the site shall be replaced with shade trees, in a manner to be approved by staff.
- 3. All building signage shall be consistent in type, composed of flush mounted, non-plastic individual letters and shall require a separate permit.
- 4. 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.
- 5. 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.
- 6. 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.
- 7. 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.
- 8. All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC).
- 9. 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.

10. The applicant shall be required to obtain any and all variances from the Board of Adjustment, prior to the issuance of a Building Permit.

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 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 hereof (conditions #1-10, inclusive), to which the applicant has agreed.

No building permit may be issued unless and until all conditions of approval as set forth herein 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 zoning approval. If adequate handicapped access is not provided, this approval does not mean that such handicapped access is not required or that the Board supports an applicant's effort to seek waivers relating to handicapped accessibility requirements.

When requesting a building permit, three (3) sets of plans approved by the Board, modified in accordance with the above conditions, as well as annotated floor plans which clearly delineate the Floor Area Ratio (FAR) calculations for the project, shall be submitted to the Planning Department. If all of the above-specified conditions are satisfactorily addressed, the plans will be reviewed for building permit approval. Two (2) sets will be returned to you for submission for a building permit and one (1) set will be retained for the Design Review Board's file. If the Full Building Permit is not issued within one (1) year of the meeting date at which Design Review Approval was granted and construction does not commence and continue in accordance with the requirements of the

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Meeting Date: February 22, 2001

DRB File No. 14084

applicable Building Code, the Design Review approval will expire and become null and void.

Dated this _____ day of _____, 20____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
THOMAS R. MOONEY, AICP
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

Approved As To Form:

Legal Department: _____ (_____)

Filed with the Clerk of the Design Review Board on _____ (_____)

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BEFORE THE BOARD OF ADJUSTMENT
OF THE CITY OF MIAMI BEACH, FLORIDA

MEETING DATE: MARCH 2, 2001
FILE NO. 2792

IN RE: The application of
GFI #2, LTD.
959 WEST AVENUE
LOTS 8 THROUGH 15 INCLUSIVE; BLOCK 3
AMENDED PLAT OF FLEETWOOD SUB., PB 28 - 24
MIAMI-DADE COUNTY, FLORIDA

ORDER

The applicant, GFI #2, Ltd., filed an application with the Planning Department for variances in order to construct a five story, 751 space commercial garage, with 21,400 sq. ft. of ground floor commercial spaces facing West Avenue, as follows:

1. A variance to waive 23.28' of the minimum required 31.28' side yard setbacks in order to construct the above garage 8' from the property line along 9th and 10th streets.
2. A variance to waive 7' of the minimum required 15' rear yard setback in order to construct the above garage 8' from the rear property line facing the alley.
3. A variance to exceed by 10' the maximum allowable depth of 40' for commercial spaces located in garages permitted as main uses in a residential zoning district, in order to provide commercial spaces 50' deep facing West Avenue.

Notice of the request for variances was given as required by law and mailed to owners of property within a distance of 375 feet of the exterior limits of the property on which application was made.

THE BOARD FINDS that the property in question is located in the RM-2 Zoning District.

AT THE HEARING, Variance Request No. 1 was modified as follows:

1. A variance to waive ~~23.28'~~ **15.28'** of the minimum required 31.28' side yard setbacks in order to construct the above garage 8' from the property line along 9th Street and 8' **16'** from the property line along 10th Street.

File No. 2792

GFI #2, Ltd.

959 West Avenue

THE BOARD FURTHER FINDS, based upon evidence, testimony, information and documentation presented to the Board, and portions of the staff report and recommendations, as applicable, which are incorporated herein by this reference, that with regard to the requested variances:

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 variances 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 variances granted are the minimum variances that will make possible the reasonable use of the land, building or structure;

That the granting of the variances will be in harmony with the general intent and purpose of this Ordinance and that such variances 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.

IT IS THEREFORE ORDERED, by the Board, that the Variance Nos. 2 and 3, as requested and set forth above, and Variance No. 1, as modified above, be APPROVED with the following conditions to which the applicant has agreed:

1. The applicant shall comply with all of the conditions imposed by the Design Review Board.
2. The applicant shall comply with all of the conditions imposed by the Planning Board.

File No. 2792
GFI #2, Ltd.
959 West Avenue

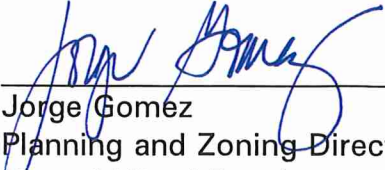
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REC. 19636PC3281

3. The applicant shall resolve any outstanding City Liens or violations prior to obtaining a Building Permit.
4. The parking garage shall serve only residential uses with the exception of any commercial space within the garage.
5. Retail space on the ground floor shall be limited to a depth of 50 ft.
6. The applicant shall comply with all conditions imposed by the Public Works Department.
7. The applicant shall obtain a building permit within one (1) year of the date of this hearing. If the building permit is not issued within one year of the date of this hearing or the building permit lapses after the one-year period, this variance shall become null and void.

PROVIDED, the applicant shall build in accordance with the plans submitted as part of this file and as approved by the Board of Adjustment with any applicable modifications. The applicant shall have a building permit for the work contemplated herein issued by the Building Department on or before March 2, 2002 (within one year of the date of this hearing), otherwise this Order shall become null and void, unless the issuance of such permit is stayed by an appeal of this Order to a court of competent jurisdiction. This Order does not constitute a building permit, but upon presentation of a recorded copy of this Order to the Planning Department, a permit shall be processed and approved (subject to compliance with the conditions hereof) in accordance with and pursuant to the ordinances of the City of Miami Beach.

Board of Adjustment of
The City of Miami Beach, Florida

By: _____


Jorge Gomez
Planning and Zoning Director
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

File No. 2792
GFI #2, Ltd.
959 West Avenue

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 20TH day of APRIL, 2001, by Jorge Gomez, Planning and Zoning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[Signature]

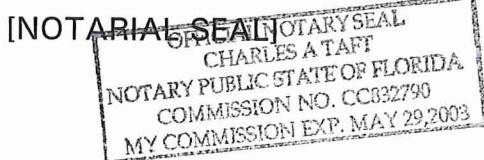
Notary:

Print Name: CHARLES A. TAFT

Notary Public, State of Florida

My Commission Expires:

Commission Number:



Approved As To Form:

Legal Department (gfk 4-17-01)

Filed with the Clerk of the Board of Adjustment on 4/24/01 (AT)

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RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA
RECORD VERIFIED
HARVEY RUVIN
CLERK CIRCUIT COURT

**BEFORE THE
BOARD OF ADJUSTMENT
OF THE CITY OF MIAMI BEACH, FLORIDA**

IN RE: The application of
**GUMENICK FAMILY INVESTMENTS #2, LTD.
a/k/a THE SHOPPES AT WEST AVENUE
959 WEST AVENUE
LOTS 8 THRU 15 INCLUSIVE; BLOCK 3
AMENDED PLAT OF FLEETWOOD SUBDIVISION
PLAT BOOK 28-34; MIAMI-DADE COUNTY, FLORIDA**

CFN 2004R1064159
DR Bk 22843 Pgs 3770 - 3772; (3pgs)
RECORDED 12/01/2004 13:20:35
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

**MEETING DATE: NOVEMBER 5, 2004
FILE NO. 3051**

ORDER

The applicant, Gumenick Family Investments #2, Ltd., filed an application with the Planning Department for a variance in order to illuminate and exceed the maximum permitted size of non-illuminated signs for each of the allowed accessory uses of an existing parking garage, as follows:

1. A variance to exceed the maximum permitted accessory use non-illuminated sign area of 10 square feet by 10 square feet in order to permit a maximum of 20 square feet illuminated signs (backlit only) for each of the permitted accessory uses in the garage.

Notice of the request for variance was given as required by law and mailed to owners of property within a distance of 375 feet of the exterior limits of the property on which application was made.

THE BOARD FINDS that the property in question is located in the RM-2 Zoning District.

THE BOARD FURTHER FINDS, based upon evidence, testimony, information and documentation presented to the Board, and portions of the staff report and recommendations, as applicable, which are incorporated herein by this reference, that with regard to the requested variance when conditioned as provided for in this Order:

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;



Board of Adjustment Order
Meeting of November 5, 2004
File No. 3051: Gumenick Family Investments #2, Ltd.
959 West Avenue Miami Beach, Florida

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.

IT IS THEREFORE ORDERED, by the Board, that the variance as requested and set forth above be APPROVED with the following conditions to which the applicant has agreed:

1. The signage design and layout shall be consistent with the Design Review Board Approval for the project. Only individual reverse illuminated channel letters shall be permitted and all accessory use signage pertaining to this application shall be equipped with an automatic timer set to shut off by 11:00 pm 7 days a week.
2. A landscape plan for the entire site shall be submitted to and approved by staff before a building permit is issued for construction of the addition.
3. The applicant shall comply with all conditions imposed by the Public Works Department.
4. The applicant shall obtain a building permit within one (1) year of the date of this hearing and complete the project within two (2) years of the date of the hearing. If the building permit is not obtained or construction is not completed within the specified time limits, the applicant shall, prior to expiration of such period, apply to the Board for an extension of time. At the hearing on such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. Failure to comply with this order shall subject the variance to Section 118-356, City Code, for revocation or modification of the variance.
5. This 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.



Board of Adjustment Order
Meeting of November 5, 2004
File No. 3051: Gumenick Family Investments #2, Ltd.
959 West Avenue Miami Beach, Florida

PROVIDED, the applicant shall build in accordance with the plans submitted as part of this file and as approved by the Board of Adjustment with any applicable modifications. The applicant shall have a building permit for the work contemplated herein issued by the Building Department on or before November 5, 2005 (within one year of the date of this hearing), otherwise this Order shall become null and void, unless the issuance of such permit is stayed by an appeal of this Order to a court of competent jurisdiction. This Order does not constitute a building permit, but upon presentation of a recorded copy of this Order to the Planning Department, a permit shall be processed and approved (subject to compliance with the conditions hereof) in accordance with and pursuant to the ordinances of the City of Miami Beach.

STATE OF FLORIDA, COUNTY OF DADE

HEREBY CERTIFY that this is a true copy of the
original filed in this office on 1st day of

WITNESS my hand and Official Seal

HARVEY RUVIN, CLERK, of Circuit and County Courts
By [Signature] D.C.



Board of Adjustment of
The City of Miami Beach, Florida

By:

[Signature]
Jorge G. Gomez, AICP
Planning and Zoning Director
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 18th day of
NOVEMBER, 2004, by Jorge Gomez, Planning and Zoning Director of the
City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation.
He is personally known to me.

Expires July 17, 2007
My Commission DD233174
Charles A. Tarr



Notary:

Print Name: CHARLES A. TARR
Notary Public, State of Florida

[NOTARIAL SEAL]
My Commission Expires:

Approved As To Form:
Legal Department (Filed 11-24-04)

Filed with the Clerk of the Board of Adjustment on 11/29/04 (AT)

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: August 19, 2003

IN RE: The Application for Design Review Approval for new signage.

FILE NO: 17198

PROPERTY: 959 West Avenue

ORDER

The applicant, Gumenick Family Investments #2, Ltd., 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 2, 4, and 6 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. Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. All tenant signage shall be uniform throughout the building , in a manner to be reviewed and approved by staff.
 - b. The ends of each word on each sign shall be closed, subject to the review and approval of staff.
 - c. The raceway shall be painted to match the color of the wall, subject to the review and approval of staff.
 - 2. 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.
 - 3. 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.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information,

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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 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. 1-3, inclusive) hereof, to which the applicant has agreed.

No building permit may be issued unless and until all conditions of approval as set forth herein 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 zoning approval. If adequate handicapped access is not provided, this approval does not mean that such handicapped access is not required or that the Board supports an applicant's effort to seek waivers relating to handicapped accessibility requirements.

When requesting a building permit, three (3) sets of plans approved by the Board, modified in accordance with the above conditions, shall be submitted to the Planning Department. If all of the above-specified conditions are satisfactorily addressed, the plans will be reviewed for building permit approval. Two (2) sets will be returned to you for submission for a building permit and one (1) set will be retained for the Design Review Board's file. If the Full Building Permit is not issued within eighteen (18) months of the meeting date at which this Design Review Approval was granted and construction does not commence and continue in accordance with the requirements of the applicable Building Code, the Design Review Approval will expire and become null and void.

Dated this 21 day of AUGUST, 2003.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: Thomas R. Mooney

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

Approved As To Form: galea

Legal Department: (8-21-03)

Filed with the Clerk of the Design Review Board on 8/22/03 (att)

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