

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: April 6, 2021

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB20-0616  
**1600 Alton Road "1212 Lincoln Road"**

**DRB20-0616, 1600 Alton Road "1212 Lincoln Road."** An application has been filed requesting Design Review Approval for modifications to a previously approved electronic super graphic on the side (south) elevation above the ground floor of a new 5-story building. This application is also requesting modification and deletion of conditions of the original Final Order. This item was originally approved in 2017, pursuant to DRB File No. 0416-0015.

#### **RECOMMENDATION:**

Approval with conditions

#### **LEGAL DESCRIPTION:**

Lots 1, 2, 3, 4, 5, 6, and 7, of Block 45 of the "Commercial Subdivision", According to the Plat Thereof, as Recorded in Plat Book 6, Page 5, of the Public Records of Miami-Dade County, Florida.

#### **BACKGROUND:**

On May 24, 2016, the Planning Board approved a new Conditional Use Permit for the construction of a commercial development exceeding 50,000 SF, pursuant to PB File No. 2325. On July 5, 2016, the Design Review Board approved a new five-story commercial building with accessory parking and a hotel component to replace all existing structures on site, including variances to reduce the required pedestal and tower front, street side and rear setbacks for hotel use, and to reduce the required pedestal and tower rear setback for commercial use, pursuant to DRB0416-0015. This project was approved to take place in three (3) phases as a phased development project.

On October 3, 2017, the DRB approved two artistic noncommercial electronic graphics: one facing south (~90'x 37', **3,380 SF**) and one facing north at the Grand Staircase (~24'x44', **1,063 SF**).

The City Manager subsequently appealed the DRB approval of the south facing electronic graphic (the "South Wall Graphic") to the City Commission (the "Appeal").

On April 11, 2018, the City Commission adopted Resolution No. 2018-30286, relating to the Appeal, and approving a Settlement Agreement between the City and ARRP Miami, LLC, 1212 Lincoln, LLC, and Wells Fargo Bank. The Settlement Agreement, in pertinent part, required the reduction in the size of the South Wall Graphic to **1,005 SF**; compliance with the County sign code (including, without limitation, Chapter 33, Article VI of the Miami-Dade County Code and, "in particular, . . . Miami-Dade County Code Section 33-96(c), which governs digital signs"); and reduced hours of operation.

On September 16, 2019, the DRB ratified the terms of the Settlement Agreement and approved a reduction in size for the South Wall Graphic and a reduction of the operational hours for both displays.

At the February 2, 2021 Design Review Board meeting, this application was a continued at the request of the applicant to a date certain of March 2, 2021, with no discussion on the details of the application.

On March 2, 2021, the application was continued to a date certain of April 6, 2021.

**APPROVED PROJECT:**

Zoning:	CD-2 MEDIUM INTENSITY COMMERCIAL DISTRICT
Future Land Use:	CD
Lot Size:	Phase 1: 52,542 SF Phase 1: 18, 124 SF Total: 70,666 SF / 1.62 acre
Proposed FAR:	2.0 – 141,332 SF (Phase 1 + Phase 2) *
Phase I:	84,976 SF*
Permitted FAR:	2.0 – 141,332 SF (Phase 1 + Phase 2) *
Phase 1:	84,976 SF*
Proposed Height:	60'-0" 5 stories / 77'-0" to greatest architectural projection
Permitted Height:	60'-0" / 5 stories

**LAND USES:**

North: (across Lincoln Road) Commercial  
South: (across 16<sup>th</sup> Street) Commercial  
East: (across Alton Road) Commercial / Regal Cinemas  
West: (across Alton Court) Public Parking/Multifamily Residential

**THE PROJECT:**

The applicant has resubmitted plans entitled "Tile Blush, Crescent Heights, 1212 Lincoln Road", as prepared by **Office GA**, dated 12/07/2020.

**COMPLIANCE WITH ZONING CODE**

A preliminary review of the project indicates that the application, as proposed, is legal non-conforming with the following sections of the City Code:

- Sec. 138-204. - Noncommercial graphics and images.
  - (b) Electronic graphics and images. Artistic murals, graphics and images, including projected or illuminated still images and/or neon banding, may be installed on a building or structure, if approved by the design review board or historic preservation board, as applicable, in accordance with the applicable design review or certificate of appropriateness criteria.
    - (1) Unless moving images are approved by the design review board or historic preservation board, as applicable, only still, non-moving, murals, graphics or images shall be permitted.
    - (2) The maximum number of electronic murals, graphics or images shall not exceed two per property.

- (3) The maximum size of an electronic mural, graphic or image shall not exceed 100 square feet, unless approved by resolution adopted by a majority vote of the city commission.
- (4) All such electronic murals, graphics or images shall only be permitted in commercial or mixed-use districts and **shall not be visible from the right-of-way.**

It should be noted that when the electronic graphics were initially approved by the DRB, the prohibition on electronic graphics from being visible from a right-of-way was not part of the City Code at that time. This amendment, as well as the overall limitation of such displays to no more than 100 SF unless approved by the City Commission, was adopted by the City Commission at a later date.

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 is 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.  
**Satisfied**
- 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.  
**Satisfied**
- 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.  
**Not Satisfied; See Staff Analysis.**
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; See Staff Analysis.**
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.  
**Not applicable**
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.  
**Not Applicable**
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) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.  
**Not Applicable**

- (5) Whether 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, including a study of land elevation and elevation of surrounding properties were considered.

**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.

**Not Applicable**

- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

**Not Applicable**

- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

**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**

#### **STAFF ANALYSIS:**

##### **DESIGN REVIEW**

On October 3, 2017, the DRB approved two artistic noncommercial electronic graphics: one facing south and one facing north (Grand Staircase). Both LED panels were designed as open air exterior architectural elements, structurally connected to the wall of the building. The applicant proposed to operate the graphic system for the LED panels at all times.

The City Manager sought appellate review by the City Commission of the DRB approval of the South Wall Graphic (which was originally approved at a size of 3,380 SF). The City Manager did not appeal the approval of the North Wall Graphic (Grand Staircase). On April 11, 2018, and pursuant to Resolution No. 2018-30286, the City Commission approved a Settlement Agreement between the City and the Applicant in order to resolve the pending Appeal.

On September 16, 2019, the DRB approved, pursuant to the Settlement Agreement, a reduction in size of the South Wall Graphic from 3,380 SF to no greater than 1,005 SF in area. Additionally, a

reduction of the operational hours for both signs was agreed upon as part of the Settlement Agreement.

The Board also approved a limited palette of images to be employed on the two screens; specifically, images of the murals that were once installed on the bank building at 1634 Alton Road. The applicant proposes additional electronic images with noncommercial graphics, which will be provided by LED panels, for both the south and north walls. The proposed packet includes both static and moving images (in a mostly story-board format) from 11 contemporary artists, with the static images showcasing artist's works and the moving images showing short films of a virtual gallery within which the subject artist's work is displayed. The applicant has provided a video of the gallery concept for one artist, which depicts the overall consistency in intensity and slow pace of motion. Provided the Board approves this video display concept, the remaining videos would be produced for the remaining artists, subject to the final review and approval of staff

The LED screen proposed on the subject building's south wall is visible from Alton Road and, given its location, would face vehicular traffic. Staff has some concerns with the visibility of the screens from the right-of way, and specifically the south-facing South Wall Graphic, which faces oncoming vehicular traffic on Alton Road, a State road. Moving images prominently displayed toward Alton Road could impact the safety of drivers, and in turn, pedestrian safety. Staff believes the applicant has mitigated these concerns with the slow pace of motion, and consistency in intensity now shown for the proposed video display.

The applicant has agreed to the submission of a Hold Harmless Covenant indemnifying and holding the City harmless from any claim or loss in the event of an accident involving a motor vehicle or other instrument due to visual distraction of the new building's digital display equipment to the public right-of way.

While there are aspects of the proposed electronic images that are now non-conforming with the City Code, the Final Order for the previously approved electronic images (Condition D.5.a.) notes that any proposed electronic graphics shall comply with the Miami Dade County Code, at Chapter 33, Article VI:

*Sec. 33-96. - Illumination.*

- (a) All signs shall be static and shall not include digital technology, except as expressly provided for in this Code. This section does not allow digital technology signs in any particular location or zoning district; digital technology signs may only be permitted as specifically authorized in other sections of this chapter. All static signs shall conform to subsection (b) below. All digital technology signs shall conform to subsection (c) below.*
- (b) Static Signs. Signs illuminated by flashing, moving, intermittent, chasing or rotating lights are prohibited. Signs may be illuminated by exposed bulbs, fluorescent tubes, interior lighting, or by indirect lighting from any external source. Indirect lighting, such as floodlights, shall not shine directly on adjacent property, motorists or pedestrians. Illumination shall be such that it will provide reasonable illumination and eliminate glare and intensity which might pose safety hazards to drivers and pedestrians. Revolving and rotating signs shall be illuminated by internal lighting only.*
- (c) Digital Signs. Where digital technology is allowed, it shall be provided in compliance with the following:*
  - (1) No auditory message or mechanical sounds shall be emitted from the sign.*

- (2) The sign shall not display any illumination that moves, appears to move, blinks, fades, rolls, dissolves, flashes, scrolls, shows animated movement, or changes in intensity during the static display period.
- (3) *All digital signs shall be modulated so that, from sunset to sunrise, the brightness shall not be more than 500 Nits. Sunset and sunrise times are those times established by the Miami office of the National Weather Service. At all other times, the maximum brightness levels shall not exceed 5,000 Nits. All digital signs shall have installed ambient light monitors and at all times shall allow such monitors to automatically adjust the brightness level of the sign based on ambient light conditions.*
- (4) *The message display shall not change more often than once each eight seconds, with all moving parts or illumination moving or changing simultaneously.*
- (5) *Any digital sign that malfunctions, fails, or ceases to operate in its usual or normal programmed manner shall immediately revert to a black screen and shall be restored to its normal operation conforming to the requirements of this section within 24 hours.*

As it was not the intent of the prior approvals to label the video display as a sign, staff is recommending that the Final Order be amended to remove the condition requiring compliance with Section 33-96 of the Miami-Dade County Code. In this regard, it is recommended that the following conditions be included, which more clearly reflect the applicable conditions for compliance:

The images on the LED panels murals, graphics or images shall be reduced in illumination to a maximum of 500 Nits from sunset to midnight, and 250nits from Midnight– 2:00 a.m., when such operation is permitted Friday and Saturday nights (12:00 a.m. to 2:00 am Saturday and 12:00 a.m. to 2:00 am Sunday). Between 7:00 a.m. and 8:00 a.m illumination shall not exceed 500 Nits, and between 8:00 a.m. and sunset, illumination shall not exceed 5000 Nits. The panels shall have installed ambient light monitors and at all times shall allow such monitors to automatically adjust the brightness level of the sign based on ambient light conditions.

No audible message or mechanical sounds may be emitted from the LED panels. This shall not prevent the implementation of a system that permits the use of individual headphones to listen to a presentation associated with images presented on the panel(s).

The LED panels shall immediately revert to a black screen if the panel malfunctions, fails, or ceases to operate in its usual or normal programmed manner. The panels shall be restored to normal operation conforming to this Order within 24 hours.

Moving images used to display approved artworks may not include blinking, flashing, quick changes in intensity or quick fades.

Lastly, on March 1, 2021, Miami-Dade County advised counsel for the Applicant that the County Code relies on municipalities to enforce the County's sign regulations within their respective jurisdictions. With the latest submission of the video display concept, staff is supportive of the "virtual gallery" model showcasing emerging artists and recommends approval.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **approved** subject to the conditions enumerated in the attached draft Final Order, which address the inconsistencies with the aforementioned Design Review criteria.