

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

MEETING DATE: March 18, 2021

PROPERTY/ FOLIO: 910 West Avenue 02-4203-001-0080

FILE NO: DRB20-0528

IN RE: An application 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 space to accommodate an indoor and outdoor restaurant operation oriented towards the bay. This item was originally approved in 2013, pursuant to DRB File No. 22945.

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

APPLICANT: Southgate Towers, LLLP

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 a 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, 5, 6, 9, 11, 13, 15, 17 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 the Sea Level Rise Criteria 7 in Section 133-50(a) of the Miami Beach Code.
 - 1. All prior conditions pursuant to Design Review Board Orders File No. 22945, dated March 5, 2103 and August 6, 2013, remain in full force and effect, unless modified herein.
 - 2. Revised elevation, site plan and floor plan drawings for the proposed mixed-use development at 910 West Avenue shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

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- a. The artificial 'green' wall on the north elevation shall **NOT** be approved as proposed. Artificial greenery shall not be permitted. The incorporation of living greenery may be permitted, in a manner to be reviewed and approved by staff.
- b. The new landscaping along the north side of the property shall be approved as proposed.
- c. The new hardscape along the north side of the property **shall not** be approved as proposed.
- d. The new beach/lounge area **shall not be** approved as proposed; however seating (up to 15 seats) may be permitted, setback a minimum of thirty (30') feet from the north property line, and without any permanent covering, in a manner to be reviewed and approved by staff.
- e. The proposed sliding glazing system **shall not** be permitted as proposed. The proposed openings may be enlarged and installed with floor to ceiling fixed glass system with a maximum of two double door swing door openings, in a manner to be reviewed and approved by staff.
- f. The proposed retractable covered shade structure shall be approved. The final design and detailing for the new retractable awning proposed on the terrace 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. The fabric material for the awning shall be canvas or sailcloth or like material, and the color shall be a solid neutral hue and match any proposed table umbrella fabric, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- g. The proposed wood structure shall not be approved.
- h. A gate and associated fencing (if required) shall be installed on the north side of the site (where there is no landscaping that would otherwise prevent access) restricting access to the bayfront restaurant and rear of the property from 10th street to only residents and service access. Such access shall be restricted through the use of a key fob. A sign noting 'Access for residents and service only' shall be posted on or near the exit gate onto 10th Street, in a manner to be reviewed and approved by staff.
- i. The proposed sign located at the corner of 10th Street and West Avenue shall be prohibited from containing signage for the bayfront restaurant located at the northwest corner of the site.

An arrow shall be incorporated into this corner sign (for the establishments listed) pointing towards the main entrance of the building on West Avenue, in a manner to be reviewed and approved by staff.

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- j. The final details of all new exterior surface finishes and materials, including samples, 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 and details of all new exterior and interior lighting 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. New exterior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding area. No new florescent or intensive 'white' lighting (or similar intensive lighting) visible from the adjacent public rights of way or adjacent properties shall be permitted.
 - l. Any future kitchen ventilation or mechanical venting shall be chased through the interior of the building to the roof. No exhaust ducts or vents shall be permitted on any building elevations.
 - m. The final design details and pattern of the hardscape and exterior walkways 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. Any new exterior ground floor exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions, material and color of all new exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
 - o. All building signage shall require a separate permit. A uniform sign plan for the new building shall be required. Such sign plan shall be consistent in materials, method of illumination and sign location, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - p. Final details of all proposed new storefront systems and associated details shall be provided for all ground floor elevations on the project site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - q. 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.
 - r. 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. Native canopy trees shall be planted along the 10th Street frontage, if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- b. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
- c. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- d. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed application, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- e. All overhead utility lines shall along all street frontages within the block of the subject property be relocated underground. All utility poles shall be removed.
- f. All exterior walkways and drives shall consist of decorative pavers, set in sand or other semi-pervious material, with the exception of a small portion of slab to accommodate loading in the alley, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- g. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- h. The Backflow prevention device shall not be permitted within any area fronting a street or sidewalk, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board

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- i. Street trees shall be required within the sidewalk 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.
- j. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- k. 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.
- l. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- m. 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.
- n. 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 wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- o. 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.

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 variances were filed as part of this application.

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.

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

- A. 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.
- B. 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.
- C. 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.
- D. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- 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 applicant agrees and shall be required to provide access to areas subject to this Design Review Approval (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this Final Order.
- H. 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.
- I. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- J. 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

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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 "Southgate Towers", as prepared by **Urban Robot & Associates** dated January 25, 2021, 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.

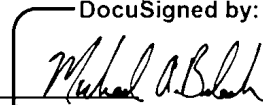
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Dated _____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

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BY: _____



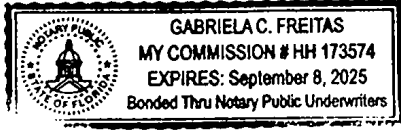
Michael Belush, AICP
Chief of Planning and Zoning
For Chairman

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STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)



The foregoing instrument was acknowledged before me this 6th day of APRIL 2022 by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



[Handwritten Signature]
Notary:
Print Name Gabriela C. Freitas
Notary Public, State of Florida
My Commission Expires: Sept. 8, 2025
Commission Number: HH 173574

{NOTARIAL SEAL}

Approved As To Form: [Signature]
City Attorney's Office: [Signature]
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Filed with the Clerk of the Design Review Board on Jessica Gonzalez 4/7/2022 | 9:09 AM EDT
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