

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

MEETING DATE: December 11<sup>th</sup>, 2023

FILE NO: DRB23-0965

PROPERTY: **801 South Pointe Drive**

APPLICANT: RJR Realty LLC.

LEGAL: See Exhibit 'A'

IN RE: An application for Design Review Approval for modifications to the ground level of a previously approved 6-story building, associated with a new restaurant.

**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 2.1.3.1 of the Land Development Regulations. 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 consistent with the Design Review in Section 2.5.3.1 of the Land Development Regulations.
- 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 not consistent with Sea Level Rise Criteria 4 in Section 7.1.2.4(a)(i) of the Land Development Regulations.
- D. The project will remain consistent with the criteria and requirements 2.5.3.1 and/or Section 7.1.2.4(a)(i) with the following conditions:
  - a. All proposed improvements and elements that are located in the right-of-way, including, but not limited to, planters and furniture shall require the review and approval of the Public Works Department.
  - b. The proposed plant material shall include a majority of native species, subject to the review and approval of staff.



- c. The final design details of the exterior lighting including the LED strip lights 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.
- d. 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.
- e. 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.
- f. 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 2.2.4.8 of the Land Development Regulations, the applicant, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal a decision of the design review board for design review approval only to the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission.

**I. Variance(s)**

- A. No variance(s) were filed as part of this application.

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

- A. Prior to the issuance of any permit for the installation of the mural, review and approval of the City Commission, in accordance with the applicable requirements of Chapter 6 of the Land Development Regulations, shall be required.
- B. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- C. 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.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

A small logo consisting of the letters "DS" in a small font above a stylized signature or initials "PK" enclosed in a rounded rectangular border.

- E. 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.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. 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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled " Existing Restaurant Remodel", as prepared by **Jose L. Gomez** signed, sealed and dated October 10<sup>th</sup>, 2023, 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 set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

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 Section 2.2.4.6 of the Land Development Regulations; 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.

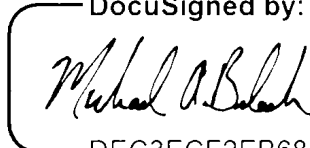
In accordance with Chapter 2 of the Land Development Regulations, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 2 of the Land Development Regulations, for revocation or modification of the application.

Dated 2/13/2024 | 10:12 AM EST



DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:



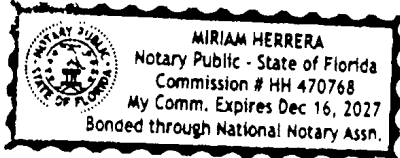
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BY:

Michael Belush, AICP  
Planning & Design Officer  
For Chair

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

The foregoing instrument was acknowledged before me this 14 day of February 2024 by Michael Belush, Planning & Design Officer of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



{NOTARIAL SEAL}

Notary: Miriam Herrera  
Print Name Miriam Herrera  
Notary Public, State of Florida  
My Commission Expires: 12-16-27  
Commission Number: HH 470768

Approved As To Form: Feroat Andashvna ( 2/13/2024 | 10:12 AM EST )  
City Attorney's Office: \_\_\_\_\_ ( \_\_\_\_\_ )

Filed with the Clerk of the Design Review Board on Jessica Gonzalez ( 2/13/2024 | 11:56 AM EST )

Exhibit 'A'

LEGAL DESCRIPTION:

PARCEL I:

A PORTION OF LOT 18 AND THE 10 FOOT WALK ADJACENT THERETO, BLOCK 51 OF THE PLAT OF OCEAN BEACH FLA. ADDITION NO. 3 AS RECORDED IN PLAT BOOK 2, PAGE 81, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF SAID LOT 18 AND THE 10 FOOT WALK ADJACENT THERETO LYING EASTERLY AND NORTHERLY OF THE FOLLOWING DESCRIBED LINE: BEGIN AT A POINT ON THE NORTHERLY LINE OF SAID LOT 18, SAID POINT BEING 0.39 FEET EASTERLY OF THE NORTHWESTERLY CORNER OF SAID LOT 18; THENCE SOUTH 12°46'00" EAST, PARALLEL WITH AND 0.39 FEET EASTERLY OF THE WESTERLY LINE AT SAID LOT 18 FOR 74.85 FEET TO A POINT OF MONANGENTIAL CURVE LEADING TO THE LEFT AND CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 47.50 FEET AND WHOSE RADIUS POINT BEARS NORTH 88°24'46" EAST; THENCE SOUTHERLY AND EASTERLY THROUGH A CENTRAL ANGLE OF 37°27'30" FOR AN ARC DISTANCE OF 31.06 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 18 AND ON THE NORTHERLY LINE OF A 10 FOOT WALKWAY AS SHOWN ON SAID PLAT OF OCEAN BEACH FLA. ADDITION NO. 3, SAID POINT BEING ALSO A POINT OF COMPOUND CURVE HAVING A RADIUS OF 46.00 FEET; THENCE SOUTHERLY AND EASTERLY THROUGH A CENTRAL ANGLE OF 23°25'51" FOR AN ARC DISTANCE OF 18.40 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF THE EASTERLY LINE OF SAID LOT 18, SAID POINT BEING 9.78 FEET SOUTHERLY OF THE SOUTHERLY CORNER OF SAID LOT 18 AND THE TERMINAL POINT OF THE HEREIN DESCRIBED LINE.

ALL OF THE ABOVE LYING AND BEING IN SECTION 3, TOWNSHIP 54 SOUTH, RANGE 42 EAST, CITY OF MIAMI BEACH, DADE COUNTY, FLORIDA.

TOGETHER WITH:

PARCEL II:

A PORTION OF LOTS 29 AND 30 AND THE 10 FOOT WALK ADJACENT THERETO, BLOCK 51 OF THE PLAT OF OCEAN BEACH ADDITION NO. 3 AS RECORDED IN PLAT BOOK 2, PAGE 81, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWESTERLY CORNER OF SAID LOT 29; THENCE NORTH 77°13'28" EAST ALONG THE NORTHERLY LINE OF SAID LOTS 29 AND 30 A DISTANCE OF 55.15 FEET TO A POINT; THENCE SOUTH 00°37'13" WEST FOR A DISTANCE OF 112.35 FEET TO A POINT ON THE SOUTHERLY LINE OF A 10 FOOT WALK SHOWN ON THE SAID PLAT OF OCEAN BEACH ADDITION NO. 3; THENCE SOUTH 78°12'58" WEST ALONG THE SOUTHERLY LINE OF SAID 10 FOOT WALK A DISTANCE OF 31.51 FEET TO ITS INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WESTERLY LINE OF SAID LOT 29; THENCE NORTH 12°48'00" WEST ALONG THE SAID SOUTHERLY EXTENSION AND ALONG THE WESTERLY LINE OF SAID LOT 29 A DISTANCE OF 110.02 FEET TO THE POINT OF BEGINNING.

ALL THE ABOVE LYING AND BEING IN SECTION 3, TOWNSHIP 54 SOUTH, RANGE 42 EAST, CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.

AND TOGETHER WITH:

PARCEL III:

LOTS 4, 5, 6, 7, 8, 9, 19, 20, 21, 22, 23, 24, 25, 26, 27 AND 28, BLOCK 51 OF OCEAN BEACH, FLA. ADDITION NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 81 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; TOGETHER WITH A 10.00 FOOT STRIP OF LAND SHOWN ON THE REFERENCED PLAT AS A 10.00 FOOT WALK ADJACENT TO, LOTS 19, 20, 21, 22, 23, 24, 25, 26, 27 AND 28, BLOCK 51, AND BOUNDED ON THE NORTH BY THE SOUTHERLY LINE OF REFERENCED LOTS, BOUNDED ON THE WEST BY THE WESTERLY LINE OF LOT 19, EXTENDED SOUTHERLY; BOUNDED ON THE EAST BY THE EASTERLY LINE OF LOT 28 EXTENDED SOUTHERLY; SAID WALK BEING VACATED PURSUANT TO OFFICIAL RECORDS BOOK 13567, PAGE 1812, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

AND TOGETHER WITH:

PARCEL IV:

A PERPETUAL EASEMENT TO OCCUPY AND USE THE "AIRSPACE", AS CREATED BY AIR RIGHTS CONSENT AND EASEMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND TRO-ALASKA III, LLC, RECORDED NOVEMBER 9, 2005 IN OFFICIAL RECORDS BOOK 23948, PAGE 684 PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, OVER AND ACROSS THE FOLLOWING DESCRIBED PARCEL:

A PORTION OF BISCAVNE COURT BEING A 15 FOOT PUBLIC RIGHT OF WAY, LYING BETWEEN LOTS 4, 5, 6, 7, 8, 9 AND 24, 25, 26, 27, 28, 29, BLOCK 51, OCEAN BEACH, FLA. ADDITION NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 81 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND BEING A PERIMETRICAL BOUNDARY LYING ABOVE ELEVATION +20.00 FEET RELATIVE TO THE NATIONAL GEODETTIC VERTICAL DATUM OF 1929

SUBJECT TO THE TERMS AND PROVISIONS CONTAINED IN SAID INSTRUMENT

