



Neisen O. Kasdin

Akerman LLP
Three Brickell City Centre
98 Southeast Seventh Street
Suite 1100
Miami, FL 33131

T: 305 374 5600
F: 305 374 5095

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Thomas Mooney
Planning and Zoning Director
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33131

**Re: Letter of Intent – 1920 West Avenue (a/k/a Sunset Harbour Publix Store)
Final Submittal – Design Review Board (DRB 18-0282)
Expansion of Entrance and Modifications to Internal Circulation Features**

Dear Mr. Mooney:

On behalf of Publix Super Markets, Inc. (the "Applicant"), we submit this application for the property located at 1920 West Avenue in the City of Miami Beach (the "Property"). The Property is improved with an approximately 57,000 square foot building owned and operated by Applicant as the Publix Sunset Harbour grocery store (the "Store").

Specifically, Applicant is requesting Design Review Board approval to replace the Store's existing internal shopping cart conveyor belt feature with an aesthetically similar staircase feature, and, relatedly, to expand the Store entrance lobby to construct two additional customer elevators for a total floor area increase of 1,788 square feet (the "Project"). Shopping cart conveyor belt systems were previously installed in a limited number of Applicant's store locations, and Applicant is now phasing-out those antiquated systems and replacing them with superior, more easily maintainable transportation systems, as part of an overall effort improve customer circulation efficiencies.

Applicant recognizes that the existing building is widely celebrated for its unique architecture. As such, Applicant has taken care to meet with the City of Miami Beach Planning Department on multiple occasions, as well as local community organizations, to obtain design input and support for the Project. Applicant is confident that the proposed Project design respects the character of the existing building and compliments the surrounding neighborhood.

The Project requires a slight modification to a previously approved Variance for the existing building. Namely, the City of Miami Beach ("City") issued Applicant a Variance in 1996 (BOA File No. 2532) to waive required setbacks along the north property line to allow for construction of the existing building. The Project proposes to virtually mirror the existing building setbacks approved under the 1996 variance; a variance modification is required to allow Applicant to extend certain structures westward to make way for the new elevator lobby and related entrance features.

Section 118-353(d) of the City's Zoning Code establishes seven (7) criteria by which requests for variances are evaluated by the Design Review Board. These criteria are listed below in bold and underline text, with our response following each criteria in plain text.

The City Charter, Subpart B, Article I, Sec. 2 also says, "*Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of said Zoning Ordinance, the Board of Adjustment shall have the power in passing upon appeals, to vary or modify any regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done.*" We believe our responses below will show that there are practical difficulties and unnecessary hardships associated with our request for a variance.

1. 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.

On February 20, 1996, the City of Miami Beach Commission authorized the City to sell the Property to Applicant with the understanding that the Store be developed on the Property (Resolution No. 96-21893). Specifically, the Commission called for a new, first-rate supermarket that would serve the residents and visitors to the City. As such, the City encouraged the bold "boat hull" design that exists today, which design necessitated the existing setback variance. Therefore, the existing conditions and circumstances are peculiar to the structure or building involved, and are not applicable to other structures or buildings in the same zoning district. Applicant does not propose to modify or decrease existing building setbacks, but rather to extend certain existing structures westward in line with the previously granted variance in order to make way for certain Project elements.

2. The special conditions and circumstances do not result from the action of the applicant.

On February 20, 1996, the City of Miami Beach Commission authorized the City to sell the Property to Applicant with the understanding that the Store be developed on the Property (Resolution No. 96-21893). Specifically, the Commission called for a new, first-rate supermarket that would serve the residents and visitors to the City. As such, the City encouraged the bold design that exists today, which design necessitated the existing setback variance. Therefore, the special conditions result from a consensus effort to place a first-rate uniquely designed supermarket at the Property.

3. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district.

Granting the variance modification would not confer on the Applicant any special privilege because the proposed setback is consistent with the existing setbacks of the existing building, as approved under the existing variance.

4. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant.

The literal interpretation of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties and would be an undue hardship on the applicant. The Applicant is merely seeking to implement better, more reliable, and technologically superior systems for improving the functionality of the Store. The existing building was custom-designed to house a supermarket while featuring architectural elements that would compliment the neighborhood and attract a wide variety of customers. Due to evolving conditions, the Store's existing shopping cart conveyor belt system needs to be removed, and therefore additional elevators should be installed to balance increased customer demand and meet modern customer circulation demands. To deny the variance would be to prevent the Applicant from responding to changing conditions and would be an undue hardship on the applicant, especially given the single-purpose design and use of the existing building.

5. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

The variance requested is the minimum required to achieve a functional and aesthetically acceptable design. Applicant does not propose to modify or decrease existing building setbacks, but rather to extend certain existing structures westward in order to make way for certain Project elements. In other words, the requested variance modification is consistent with the existing setbacks of the existing building, as approved under the existing variance.

6. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and

that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The proposed variance modification will not be injurious or detrimental to the public welfare because it does not result in any change to the building's overall setbacks. Rather, the proposed setbacks are consistent with the existing setbacks of the existing building, as approved under the existing variance. Additionally, the portions of the Project which necessitate a variance compliment the architectural design of the existing building by "finishing" the enclosure of the building façade in what is an overall more aesthetically pleasing design. Additionally, the portions of the Project which necessitate a variance are opposite a large courtyard feature of the apartment complex across the street, and thus does not impose on any nearby buildings.

7. **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 variance requested under the Project and the Project itself is consistent with the comprehensive plan and does not reduce the level of service for any public facility.

Section 133-50 of the City Code establishes ten (10) criteria by which requests for board approvals are evaluated for compliance with the City's sea level rise and resiliency objectives. These criteria are listed below in bold and underline text, with our response following each criteria in plain text.

1. **A recycling or salvage plan for partial or total demolition shall be provided.**

Applicant will work with Staff to ensure that an adequate recycling plan is provided as part of the submittal for a demolition permit to the building department.

2. **Windows that are proposed to be replaced shall be hurricane proof impact windows.**

Hurricane proof impact windows, or the equivalent, are proposed.

3. **Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.**

The proposed addition is essentially an elevator lobby, and therefore no operable windows are proposed. Applicant is exploring other passive cooling options.

4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

Should Staff deem necessary, all new landscaping will consist of Florida friendly plants.

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.

According to the Site Plan and Survey, the first floor level will be constructed at 8', which is at base flood elevation. The Project is therefore not anticipated to be excessively impacted by Sea Level Rise.

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.

According to the Survey and Plans, Project elevations are well above road elevations.

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

All critical mechanical and electrical systems are proposed to be located at or above base flood elevations.

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. Where feasible and appropriate, water retention systems shall be provided.

Although no significant impact on water retention at the Property is anticipated by virtue of the Project, Applicant will work with Staff to ensure that feasible and appropriate water retention systems are provided.

We respectfully request your favorable review. Please do not hesitate to contact me should you have any questions related to this matter. Thank you for your consideration.

Sincerely,

AKERMAN, LLP



Neisen O. Kasdin

cc: James Murphy
Fernanda Sotelo
Michael Belush
Ricardo Guzman
Matthew Barnes
Wesley Hevia, Esq.

Enclosures