

MIAMI BEACH

PLANNING DEPARTMENT


Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: December 11, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: HPB18-0245 a.k.a. HPB16-0059, **1045 5th Street, 1031 5th Street, 527 Lenox Avenue & 543 Lenox Avenue.**

The applicants, MAC 1045 5th Street & MAC 1031 5th Street, LLC, are requesting modifications to a previously issued Certificate of Appropriateness for the total demolition of two (2) Non-Contributing buildings and the construction of a new 4-story commercial building. Specifically, the applicant is requesting to modify a condition of the Order to introduce varying signage types including variances from the maximum area allowed for: projecting and wall signs, a directory sign, and directional signs; variances for the installation of signs above the ground floor, and for the installation of signs without providing direct access from the street, as part of a comprehensive master signage plan for a 4-story commercial building, including a parking garage.

STAFF RECOMMENDATION

Approval of the modification of the previously approved Certificate of Appropriateness with conditions

Approval of the variances under A, B, C, D, E and G with modifications.

Denial of variance under F.

BACKGROUND

On December 13, 2016, the Board reviewed and approved a Certificate of Appropriateness for the total demolition of two Non-Contributing buildings and the design of a new 4-story commercial building.

EXISTING SITE

Local Historic District:

Ocean Beach

ZONING / SITE DATA

Legal Description:

Parcel 1: Lot 9, Block 98 of MCGUIRE'S SUBDIVISION being a resubdivision of Lots 6, 7, 8, 9, 10, 11, Block 98 of OCEAN BEACH ADDITION NO.3 according to the plat thereof recorded in Plat Book 6, Page 83 of the public records of Miami Dade County, Florida.

Parcel 2: Lots 12 through 14, inclusive, Block 98 of OCEAN BEACH ADDITION NO. 3, according to the plat

thereof recorded in Plat Book 6, Page 83 of the public records of Miami Dade County, Florida.

Parcel 3: Lots 10 and 11 of MCGUIRE'S SUBDIVISION of Lots 6 through 11, Block 98 of OCEAN BEACH ADDITION NO. 3, according to the plat thereof recorded in Plat Book 6, Page 83 of the public records of Miami Dade County, Florida.

Zoning:	C-PS2, Commercial Performance Standard District, general mixed-use commercial
Future Land Use Designation:	C-PS2, Commercial Performance Standard District, general mixed-use commercial
Lot Size:	43,500 S.F. / 2.0 Max FAR
Proposed Use:	Commercial

THE PROJECT

The applicant has submitted plans entitled "The BLVD at Lenox" as prepared by Zyscovich Architects and Everbrite, LLC., dated October 5, 2018.

The project includes variances for the installation of multiple signs facing Lenox Avenue and 5th Street.

The applicant is requesting the following variances:

A. Sign area at the ground floor.

Variances to exceed by 5.3 square feet the maximum allowed aggregate sign area (which ranges from 15 square feet to 27.6 square feet for each commercial space) in order to install one 5.3 square feet projecting sign for 12 commercial spaces at the ground level along Lenox Avenue and 5th Street, resulting in an aggregate sign area ranging from 20.3 square feet to 32.9 square feet for each commercial space.

A variance to exceed by 48 square feet the maximum of zero (0 square feet) square feet of sign area allowed in order to install a wall sign (Target) with 48 square feet at the ground floor facing Lenox Avenue.

- Variances requested from:

Sec. 138-16. Wall sign.

Wall signs are signs attached to, and erected parallel to, the face of, or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall. Such signs shall be governed by the following chart:

Maximum area percentage, Wall Sign Design Standards per District, CPS-2: 0.75 square feet for every foot of linear frontage.

Maximum quantity per frontage, Wall Sign Design Standards per District, CPS-2: Multiple signs for the same establishment may be permitted through the design review process if the aggregate sign area does not exceed the largest maximum permitted area.

The ground floor of the building contains 12 commercial spaces for which signs are proposed. The maximum sign area is determined by the length of each space frontage, with a minimum of 15 square feet to a maximum of 100 square feet. The Code allows one or multiple signs for a business with a total sign area not exceeding the maximum permitted. The applicant is proposing a wall sign and a projecting sign for each commercial space. The wall sign area in each space complies with the maximum area allowed. The addition of the projecting sign triggers the variance request to exceed the maximum sign area allowed. As there is no practical difficulties associated with the addition of a projecting sign for each space in addition to the main sign, staff is not supportive of the variances as requested. Staff would be supportive of the variances with modifications to the projecting signs to be non-illuminated and reduced in size to a maximum of three (3) square feet each and letters with a maximum height of six (6) inches, similar to the signs under awnings or canopies which are allowed by the Code in addition to the main wall sign. These signs are also projecting signs attached to an awning or canopy, instead of a wall.

A wall sign is also proposed at the ground level for Target facing Lenox Avenue. As the store is located at the second floor, a wall sign at the ground floor or at any floor would not be permitted. The sign is located on the wall that is part of the main access to the upper floors. A directory sign including the names of all business in the building is allowed which may include the names of the business occupying upper floors. If the building fully complied with the requirements of a vertical retail center, signs at the ground floor for a business located above would be allowed. In this case, the building does not meet the minimum requirements of area to allow vertical retail signs. However, staff finds that the commercial use of the building is similar to the vertical retail center, which makes the proposed sign compatible with a larger retail building. As such, staff is supportive of this variance.

B. Street Access.

Variances from the requirement of having direct access to the street for each licensed establishment, for six (6) signs facing Lenox Avenue and seven (7) signs facing 5th Street.

- Variances requested from:

Sec. 138-13. General sign requirements and design standards.

The following standards shall apply to all signs unless otherwise exempted in this chapter or these land development regulations:

(1) Direct access to the street or waterway from the licensed establishment is required for a sign that faces a public right-of-way or waterway.

Business signs are allowed at the ground floor on facades that provide direct access from the street to the commercial space. In this project, commercial business located at the second floor and third floor do not have a direct access from the street; therefore, they are not allowed to place any sign on the facades of the building. The Code allows a directory sign to facilitate location of the business when they are located above the ground floor. Staff would note that for larger commercial buildings with a minimum of 150,000 square feet of gross commercial area and other specific conditions, signs are allowed above the first floor with a maximum total sign area of five percent (5%) per façade. In this case, the building area is approximately 82,000 square feet and the total sign area on the Lenox Avenue is approximately 350 square feet representing about two percent (2%) of the entire façade and the total sign area on 5th Street is approximately 352 square feet representing about 3.4 percent of the entire facade. Based on this analysis, staff finds that there are practical difficulties associated with the size of the building

and the location of the commercial uses above the first floor that create the need for the variances requested.

C. Location

Variances for the location of five (5) signs facing Lenox Avenue and seven (7) signs facing 5th Street, to be located above the ground floor.

- Variances requested from:

Sec. 138-16. Wall sign.

Wall signs are signs attached to, and erected parallel to, the face of, or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall. Such signs shall be governed by the following chart:

Height restrictions, Wall Sign Design Standards per District, CPS-2, Shall not be located above the ground floor.

Uses located above the first floor are not allowed the display of any signs on the building walls. The City Code provides for a directory sign in order to identify the location of a business located above the first floor. Only larger commercial buildings considered vertical retail buildings are allowed signs on the façade above the first floor. In this case, the building does not meet the minimum gross area and individual area per business, but the use is in essence similar to the vertical retail center, as the entire building will have commercial uses. As such, staff is supportive of the variances due to the size of the building and size of the individual spaces that impose practical difficulties that justify the variances requested.

D. Sign area above the ground floor.

Variances to exceed the maximum sign area of zero square feet in order to install three (3) wall signs on the third (3rd) floor facing Lenox Avenue and three (3) wall signs on the third (3rd) floor facing 5th street, each with an area of 25 square feet.

Variances to exceed the maximum sign area of zero (0) square feet in order to install one (1) wall sign and one (1) projecting sign associated with Target on the second floor facing Lenox Avenue, with an aggregate area of 52.2 square feet, and to install three (3) wall signs and one (1) projecting sign associated with Target on the second floor facing 5th Street, with an aggregate area of 117.7 square feet.

As previously noted, the Code does not allow signs for businesses located above the first floor, therefore no sign area is allowed. The project proposes multiple signs on Lenox Avenue and 5th Street for business located at the second and third floors. As the building use is similar to a vertical retail center, which allows signs above the first floor, staff finds that the size of the building and the size of the individual spaces create the practical difficulties that result in the variances requested. The overall sign area per façade is well below the maximum allowed for a larger vertical retail center for which staff is supportive of the variances requested.

E. Projecting sign area

Variances to exceed by five (5) square feet the maximum sign area of 15 square feet allowed for a projecting sign in order to install one projecting sign (Target sign A) facing Lenox Avenue and one projecting sign facing 5th Street, each with an area of 20 square feet.

- Variances requested from:

Sec. 138-18. Projecting sign.

Projecting signs are signs attached to and projecting more than 12 inches from the face of a wall of a building. This includes marquee signs. A projecting sign which extends more than 36 inches above a roof line or parapet wall shall be designated as a roof sign.

Maximum area, CPS-2: 15 square feet

In addition to wall signs, two (2) projecting signs are proposed on each street side for Target. As noted before, signs are not allowed for a business located at the second floor. The projecting signs exceed the maximum size of a projecting sign as allowed. As the overall sign area per facade is lower than the maximum allowed for vertical retail centers, staff finds that the building deemed to be 'undersized' for this purpose creates practical difficulties that result in the variances requested. In this case, again, staff is supportive of the variances.

F. Directory sign area

A variance to exceed by 18 square feet the maximum area of six (6) square feet allowed for a directory sign in order to install a directory sign with 24 square feet at the ground floor facing 5th Street.

- Variance requested from:

Sec. 138-20. Directory sign.

Commercial buildings are allowed an exterior directory sign, attached to the building, up to six square feet in area, listing the names of all licensed uses within the building is permitted; sign material and placement shall be subject to approval through the design review process.

The building is allowed a directory sign not to exceed 6 square feet of area. The multiple signs proposed on both façades, and the location of the building on a corner facilitates visibility of all signs on the walls from the adjacent surrounding area. As the proposed directory sign can be located in the internal common area at the ground floor, not visible from the street, staff is not supportive of this variance and recommends denial.

G. Directional sign area

A variance to exceed by eight (8) square feet the maximum area of two (2) square feet allowed for exempted signs in order to install a parking sign with 10 square feet at the second floor facing 5th Street.

- Variance requested from:

Sec. 138-4. Exempt signs.

The following signs may be erected, posted or constructed without a permit but in accordance with the structural and safety requirements of the South Florida Building Code and all other requirements of these land development regulations.

(3) Signs directing and guiding pedestrians and traffic and parking on private property, but bearing no advertising matter and not exceeding two square feet in area.

This variance is related to the parking sign 'P' part of the Target projecting sign located on 5th Street. Staff is supportive of the variance, as it is compatible in size to the upper portion of the sign with the Target symbol and allows identification of parking along 5th Street. The sign is part

of the overall sign area that does not exceed five percent (5%) of the total sign area allowed for vertical retail centers. Staff also recommends approval of this variance request.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variance F, as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code with the exception of variance F, as noted above:

- 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 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.

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application, with the exception of the variances requested herein is consistent with the City Code.

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.

CONSISTENCY WITH 2025 COMPREHENSIVE PLAN

A preliminary review of the project indicates that the proposed **commercial use** appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

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) Where feasible and appropriate, water retention systems shall be provided.
Not Applicable

COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.
Not Applicable
 - b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.
Satisfied
- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. Exterior architectural features.
Satisfied
 - b. General design, scale, massing and arrangement.
Satisfied
 - c. Texture and material and color.
Satisfied
 - d. The relationship of a, b, c, above, to other structures and features of the district.
Satisfied
 - e. The purpose for which the district was created.
Satisfied
 - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.
Satisfied
 - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.
Not Applicable
An historic resources report was not required.
 - h. The original architectural design or any subsequent modifications that have acquired significance.
Not Applicable
- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. 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
- b. 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.
Not Satisfied
The applicant has applied for variances.
- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.
Satisfied
- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.
Not Applicable
- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces 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 preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.
Not Applicable
- f. 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 any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.
Satisfied
- g. 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 and consistent with a City master plan, where applicable.
Not Applicable

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.
Not Applicable
- i. 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
- j. Any proposed new structure shall have 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).
Not Applicable
- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, 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 sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.
Not Applicable
- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Not Applicable
- m. Any 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).
Not Applicable
- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.
Not Applicable
- o. 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

ANALYSIS

On December 13, 2016, the Historic Preservation Board reviewed and approved a Certificate of Appropriateness for the construction of a new 4-story commercial structure located at the northwest corner of 5th Street and Lenox Avenue. The structure will contain approximately 82,251 square feet of retail space, divided amongst three floors. Parking for the building is to be located on the third, fourth, and rooftop levels. Several retail bays are located directly along 5th Street and Lenox Avenue which will be directly accessible from the sidewalk. The primary

pedestrian access to the upper floors is located at the southwest corner of the building on 5th Street, with additional access directly from the parking levels.

As part of the Certificate of Appropriateness approval, the Board imposed the following condition:

Condition I.C.1.g:

All building signage shall require a separate permit. A uniform sign plan for the new building shall be required. Signage shall consist of reverse channel, back-lit letters, in a manner to be approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

The applicant is currently requesting to remove this condition in order to implement the signage plan submitted as a part of this application. Staff is supportive of the overall design of the currently proposed signage plan and has no objection to the elimination of Condition I.C.1.g.

VARIANCE ANALYSIS

The project proposes multiple signs that are consistent with the signs allowed for a vertical retail center. As the project does not meet the minimum area to permit the installation of vertical retail center signs, multiple variances are required for the proposed signs. As noted in the project portion of this report, staff is supportive of most of the variances with modifications to meet as close as possible what is allowed by the Code, including the reduction of the projecting sign for the commercial spaces at the ground level and the elimination of variance F for the directory sign.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the Certificate of Appropriateness and variance requests A, B, C, D, E, and G be **approved** and that variance request F be **denied**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable. However, should the Board find that the variance(s) requested satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property, staff recommends that any approval be subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria.

**HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida**

MEETING DATE: December 11, 2018

FILE NO: HPB18-0245

PROPERTY: 1045 5th Street, 1031 5th Street, 527 Lenox Avenue & 543 Lenox Avenue

APPLICANTS: MAC 1045 5th Street & MAC 1031 5th Street, LLC

LEGAL: Parcel 1: Lot 9, Block 98 of McGuire's Subdivision being a resubdivision of Lots 6, 7, 8, 9, 10, 11, Block 98 of Ocean Beach Addition No.3 according to the plat thereof recorded in Plat Book 6, Page 83 of the public records of Miami Dade County, Florida.

Parcel 2: Lots 12 through 14, inclusive, Block 98 of Ocean Beach Addition No. 3, according to the plat thereof recorded in Plat Book 6, Page 83 of the public records of Miami Dade County, Florida.

Parcel 3: Lots 10 and 11 of McGuire's Subdivision of Lots 6 through 11, Block 98 of Ocean Beach Addition No. 3, according to the plat thereof recorded in Plat Book 6, Page 83 of the public records of Miami Dade County, Florida.

IN RE: The application for modifications to a previously issued Certificate of Appropriateness for the total demolition of two Non-Contributing buildings and the construction of a new 4-story commercial building. Specifically, the applicant is requesting to modify a condition of the Order to introduce varying signage types including variances from the maximum area allowed for: projecting and wall signs, a directory sign, and directional signs; variances for the installation of signs above the ground floor, and for the installation of signs without providing direct access from the street, as part of a comprehensive master signage plan for a 4-story commercial building, including a parking garage.

SUPPLEMENTAL ORDER

The City of Miami Beach Historic Preservation 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. Certificate of Appropriateness

- A. The subject site is located within the Ocean Beach Local Historic District.
- 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:

Meeting Date: November 9, 2018

1. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
 3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
 4. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(3) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 if the following conditions are met:
1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
 - a. ~~All building signage shall require a separate permit. A uniform sign plan for the new building shall be required. Signage shall consist of reverse channel, back-lit letters, in a manner to be approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.~~
 - a. Final design and details of the proposed signage shall be provided, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were **approved** by the Board:

A. Sign area at the ground floor.

Variances to exceed by ~~5.3~~ three (3) square feet the maximum allowed aggregate sign area (which ranges from 15 Square feet to 27.6 Square feet for each commercial space) in order to install one ~~5.3~~ three (3) square feet projecting sign for twelve (12) commercial spaces at the ground level along Lenox Avenue and 5th Street, resulting in an aggregate sign area ranging from ~~20.3~~ 18 square feet to 30.6 ~~32.9~~ square feet for each commercial space.

A variance to exceed by 48 square feet the maximum of zero (0) square feet of sign area allowed in order to install a wall sign (Target) with 48 square feet at the ground floor facing Lenox Avenue.

B. Street Access.

Variances from the requirement of having direct access to the street for each licensed establishment, for six (6) signs facing Lenox Avenue and seven (7) signs facing 5th Street.

C. Location

Variances for the location of five (5) signs facing Lenox Avenue and seven (7) signs facing 5th Street, to be located above the ground floor.

D. Sign area above the ground floor.

Variances to exceed the maximum sign area of zero square feet in order to install three (3) wall signs on the third (3rd) floor facing Lenox Avenue and three (3) wall signs on the third (3rd) floor facing 5th street, each with an area of 25 square feet.

Variances to exceed the maximum sign area of zero (0) square feet in order to install one (1) wall sign and one (1) projecting sign associated with Target on the second floor facing Lenox Avenue, with an aggregate area of 52.2 square feet, and to install three (3) wall signs and one (1) projecting sign associated with Target on the second floor facing 5th Street, with an aggregate area of 117.7 square feet.

E. Projecting sign area

Variances to exceed by 5 Square feet the maximum sign area of 15 Square feet allowed for a projecting sign in order to install one projecting sign (Target sign A) facing Lenox Avenue and one projecting sign facing 5th Street, each with an area of 20 square feet.

G. Directional sign area

A variance to exceed by 8 Square feet the maximum area of two (2) square feet allowed for exempted signs in order to install a parking sign with 10 square feet at the second floor facing 5th Street.

The following variance was **denied** by the Board:

F. Directory sign area

A variance to exceed by 18 square feet the maximum area of six (6) square feet allowed for a directory sign in order to install a directory sign with 24 square feet at the ground floor facing 5th Street.

- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variance(s) II.A.A., II.A.B, II.A.C, II.A.D., II.A.E., and II.A.G., allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, only as it relates to variance(s) II.A.A., II.A.B, II.A.C, II.A.D., II.A.E., and II.A.G:

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;

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.

C. The Board hereby **Approves** the requested variance(s) A, B, C, D, e, and G and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

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.

III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.

- A. A copy of all pages of the recorded Supplemental 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.
- B. The Supplemental Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. The Supplemental 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.
- D. The previous Final Order dated December 13, 2016 shall remain in full force and effect, except to the extent modified herein.
- E. Where one or more parcels are unified for a single development, the property owner shall execute and record an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- F. Applicant agrees that 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, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- G. 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.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- I. 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.
- J. 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.

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 "The BLVD at Lenox" as prepared by Zyscovich Architects and Everbrite, LLC., dated October 5, 2018, and as approved by the Historic Preservation Board, as determined by staff and the previously approved plans.

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.

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 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.

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 should 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

Dated this _____ day of _____, 20____.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
PRESERVATION AND DESIGN MANAGER
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by Deborah Tackett, Preservation and Design Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: _____

Approved As To Form:
City Attorney's Office: _____ ()

Filed with the Clerk of the Historic Preservation Board on _____ ()

~~Strike-Thru~~ denotes deleted language
Underscore denotes new language