

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:



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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 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 twelve (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.

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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.

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

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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, F 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.

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- 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.



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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 13 day of December, 2018.

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)

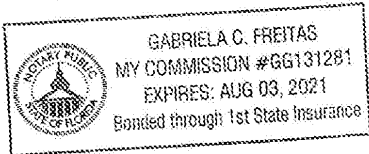


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The foregoing instrument was acknowledged before me this 13th day of December 2018 by Deborah Tackett, Preservation and Design Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.



[Signature]
 NOTARY PUBLIC

Miami-Dade County, Florida

My commission expires: 8-3-21

Approved As To Form: *[Signature]*

City Attorney's Office: (12/13/18)

Filed with the Clerk of the Historic Preservation Board on Jessie Gundry (12/13/18)