

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: February 11, 2020

FILE NO: HPB19-0351

PROPERTY: 7330 Ocean Terrace, Unit CU-5

APPLICANT: Sushi Bichi, LLC.

LEGAL: Lots 1 thru 6, Block 10, of the Harding Townsite subdivision, according to the plat thereof, recorded in plat book 34, page 4, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for design modifications to the exterior of a ground floor commercial space and the introduction of an outdoor bar counter including variances from the required front setback and to exceed the allowed hours of operations for an outdoor bar counter.

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 Harding Townsite/South Altos del Mar.
- 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:
 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 consistent with Certificate of Appropriateness Criteria 'b', 'g' & 'o' 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 and 133-50(a) if the following conditions are met:



Page 2 of 6

HPB19-0351

Meeting Date: February 11, 2020

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
 - a. Final design and details of the proposed wood cladding and outdoor bar counter, including material samples 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.
 - b. Final design and details of the proposed hardscape and landscape areas 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):
 1. A variance to reduce by 4'-3" the required pedestal front setback of 5'-0" to construct columns and entry walls at 0'-9" from the front property line facing Ocean Terrace.
 2. A variance to exceed the allowable hours of operation of an accessory outdoor bar counter adjacent to a residential unit after 8 pm to remain open until 12 am on Sundays to Thursdays and up to 1:00 am on Fridays and Saturdays.
- B. The applicant has submitted plans and documents with the application that 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.

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:

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;

Page 3 of 6
HPB19-0351
Meeting Date: February 11, 2020

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.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

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

1. The Historic Preservation Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Historic Preservation Board for a progress report within 180 days from the issuance of the BTR. The Board reserves the right to modify the variance pertaining to the allowable hours of operation of an accessory outdoor bar counter at the time of a progress report in a non-substantive manner, including modification to the hours of operation, to impose additional conditions to address possible problems, and/or to determine the timing and need for future progress reports.
2. The variance to exceed the allowable hours of operation of an accessory outdoor bar counter is issued to Sushi Bichi, LLC. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, shall require review and approval by the Historic Preservation Board as a modification to this order.
3. 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.
4. The outdoor bar counter shall not be operated or utilized between 12 am and 8 am Sundays through Thursdays and shall not be operated or utilized between 1 am to 8 am on Fridays and Saturdays.
5. The outdoor bar counter shall not be visible from any point along the right of way.



Page 4 of 6
 HPB19-0351
 Meeting Date: February 11, 2020

6. The new staging area shall be substantially open along all sides (minimum 50% open along all sides), in order to not constitute inclusion in the overall floor area ratio (FAR) for the site.
7. The Historic Preservation Board, in accordance with Section 118-356. of the City Code entitled 'Revocation or modification of variance', shall retain the right to modify or revoke the variance for the extended hours of the outdoor bar counter, should there be valid complaints about loud, excessive, unnecessary, or unusual noise, emanating from the subject establishment.
8. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk on Ocean terrace and 74th Street in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.

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. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- B. 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.
- 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.
- E. 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.
- F. 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.

Page 5 of 6
 HPB19-0351
 Meeting Date: February 11, 2020

- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. 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.
- I. 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 "**Sushi Bichi Restaurant**", prepared by architectureworks, dated December 9, 2019, as approved by the Historic Preservation 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.

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

Page 6 of 6
HPB19-0351
Meeting Date: February 11, 2020

the City Code, for revocation or modification of the application.

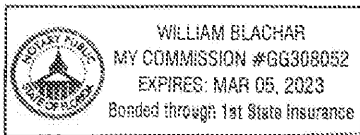
Dated this 25 day of February, 2020

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
DEBORAH TACKETT
CHIEF OF HISTORIC PRESERVATION
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 25th day of February, 2020 by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.



William Blachar
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: March 5th, 2023

Approved As To Form: Nick Kallergis, 2/25/2020
City Attorney's Office:

Filed with the Clerk of the Historic Preservation Board on Jessie Gully (2/25/2020)

[Signature]