

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

MEETING DATE: March 11, 2019

FILE NO: HPB18-0264

PROPERTY: 800 Lincoln Road

APPLICANT: MILA Miami LLC

LEGAL: Lots 7 and 8, Block 49 of Lincoln Subdivision, according to the plat thereof recorded in Plat Book 9, Page 69 of the public records of Miami Dade County, Florida.

IN RE: An application for a Certificate of Appropriateness for improvements at the roof levels and the introduction of a rooftop outdoor bar counter, landscape features and mechanical equipment including variances to exceed the allowable hours of operation for an accessory outdoor bar counter, to exceed the maximum sign area and for the installation of a sign along a frontage that does not provide direct access from the street.

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 Flamingo Park 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:
 - 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 not consistent with Certificate of Appropriateness Criteria 'a', 'c', 'f' & 'h' in Section 118-564(a)(2) of the Miami Beach Code.
 - 4. Is not consistent with Certificate of Appropriateness Criteria 'b', 'c', 'j' & 'l' 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:

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1. Revised elevation, site plan and floor and roof plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
 - a. The matte dark graphite color shall not be permitted to be painted on the storefront frames. The frames for any new storefront system shall be a clear anodized aluminum or a light grey or silver powder coated finish, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. The glass shall not be colored and any tinting shall be the minimum required by Energy Codes.
 - b. The proposed rooftop mechanical equipment for the kitchen shall be consolidated in order to minimize the footprint of the mechanical area and shall be shifted to the west to the greatest extent possible through the incorporation of chases within the kitchen ceiling or low profile roof chases that would not require screening, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - c. The wood-look material proposed for the rooftop mechanical screen shall not be permitted. Any rooftop mechanical screen shall consist of a natural aluminum, light grey or white finish, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - d. There shall be no overhead covering such as a canopy or awning above the rooftop outdoor bar counter.
 - e. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
 - a. Understory planting shall be provided along the perimeter of the rooftop planter and shall include native plant species that do not exceed 36" in height at maturity and taller plant material inclusive of small shade trees provided as an accent provided that such shade tree is setback a minimum of 4'-0" from the edge of the roof deck, 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. The Coconut Palms shall not be permitted and may be replaced with additional small shade canopy trees, in a manner to be reviewed and approved by staff,

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consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

- c. A permanent tree bracing/support system shall be provided for any substantially large plant material proposed for the roof deck, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- d. The A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain.

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 approved by the Board:

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

- 1. A variance from the requirement of having direct access to the street for a restaurant located at the third floor of the building to install a projecting sign and a menu board facing Meridian Avenue.
 - 2. A variance to exceed by 19 sf the maximum of zero (0 square feet) square feet of sign allow in association with a commercial space located at the third floor of the building in order to allow the installation of a projecting sign with 15 sf and a menu board sign with 4 sf facing Meridian Avenue.
 - 3. A variance to exceed the allowable hours of operation of an accessory outdoor bar counter until 2:00 am.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, as it relates to variances #1 and #2 and #3, 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 it relates to variances #1 and #2 and #3, 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;

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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.

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) #1 and #2 and #3, as noted 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.
 2. The total aggregate sign area including any future signs shall not exceed the maximum area allowed based on the length of the building facing Meridian Avenue.

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 shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.

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- 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. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- D. 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.
- E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. 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.
- G. 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.
- 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 "MILA" as prepared by STA Architectural Group, dated January 7, 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 the City Code, for revocation or modification of the application.

Dated this 18 day of March, 2019.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: 
DEBORAH TACKETT
CHIEF OF HISTORIC PRESERVATION
FOR THE CHAIR

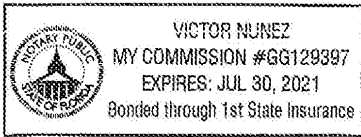
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COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 19 day of March 2019 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.



[Signature]
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: JULY 30, 2021

Approved As To Form:
City Attorney's Office: Nick Gallegos (3/13/2019)

Filed with the Clerk of the Historic Preservation Board on Jessica Garcia (3/19/19)

[Handwritten mark]