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HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 03, 2015

FILE NO: 23207

PROPERTY: **6930 Collins Avenue**

APPLICANT: Golden Miles Shoppe Inc.

LEGAL: Lot 11-12 of Block D of the "Corrected Plat of Atlantic Height", According to the Plat Thereof, as Recorded in Plat Book 9, Page 14, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new three-story addition to an existing one-story commercial building.

ORDER

The City of Miami Beach Design Review 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. Design Review Approval

A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.

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 is inconsistent with Design Review Criteria 1—7, 10, 14, and 17 in Section 118-251 of the Miami Beach Code.

C. The project would remain consistent with the criteria and requirements of section 118-251 if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

   a. Comprehensive Floor Area Ratio (FAR) diagrams and calculations will be required at time of building permit.

   b. The use of the exterior terrace shall be reviewed and approved by staff and be consistent with the TC-1 Zoning District permitted uses.

   c. The FPL Vault shall be setback at minimum distance of 15'-0" from the rear property line. The final location and details for the FPL Vault, including materials, dimensions and finishes, shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

   d. The north and south elevations shall incorporate additional architectural detail and visual interest, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

   e. A minimum of two (2) high quality contrasting finishes in addition to the smooth stucco finish, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board

   f. The proposed operable bifold door and folding glass wall storefront shall not be permitted. All access doors shall consist of single, swing doors, and the number of doors shall be limited to that necessary to meet minimum egress requirements. All exterior glass will be fixed and non-operable. All window frames shall be composed of an aluminum finish. All windows shall consist of clear glass and incorporate the minimum tint required by the energy code, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

   g. The architect shall explore reconfiguring the top floor and orienting the terrace eastward, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

   h. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall configured to be as close to the center of the roof as possible and screened from view on all sides, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

   i. A fully enclosed, air-conditioned trash room shall be provided, which is sufficient to handle the maximum uses intended for the proposed structure. External dumpsters shall not be permitted.

j. The 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 Design Review Criteria and/or the directions from the Board.

k. 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.

l. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

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 in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. At a minimum, such plan shall incorporate the following:

a. All proposed planters shall be built-in planters with irrigation systems, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

b. The second floor planters facing Collins Avenue shall be removed if proper access cannot be provided for maintenance and upkeep, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

c. The architect shall incorporate canopy shade trees into the landscaping plan within the front sidewalk spaced 20'-0" on center for the entirety of the property width, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

d. 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. Right-of-way areas shall also be incorporated as part of the irrigation system.

e. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.

f. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the

site and landscape plans, and shall be subject to the review and approval of staff.

g. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.

h. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

3. The Applicant agrees to the following operational conditions for all permitted uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment.

a. <u>OPERATIONAL AND NOISE CONDITIONS</u>

i. The Noise and Operational Conditions below are issued to the Applicant City Middle, LLC ("Operator") as tenant and operator of the proposed miniature golf course facility on the property. Any change of the operator shall require review and approval by the Design Review Board as a modification of this approval. Subsequent operators shall be required to appear before the Board, within ninety (90) days of change of operator to affirm their understanding of the conditions listed herein. The Board reserves the right to determine the timing and need for future progress reports for the new operator.

ii. Within ninety (90) days of the issuance of the TCO or CO for the project, the Operator shall make a progress report to the Design Review Board. The Board reserves the right to modify the conditions of this approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports.

iii. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Doors shall remain closed and secured when not in active use.

iv. Garbage pickups and service deliveries shall not take place between 7PM and 8AM.

v. Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors will be contained within the premises. All kitchens and other venting shall be chased to the roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.

vi. No outdoor bar counters shall be permitted on the premises.

vii. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (the "Noise Ordinance"), as may be amended from time to time, shall be deemed a violation of this Order and shall subject this Order to modification proceedings before the Board, in accordance with the procedures for modification of prior approvals as provided for in the City Code. Should the City's Code Compliance Department or other regulatory agency issue a violation of the Noise Ordinance to the owners and/or operators, the Board and/or the Planning Director shall retain the right to call the owners and/or operators back before the Board, at the expense of the owners and/or operators, to impose or modify conditions relating to the hours of operation, and/or to impose or modify other conditions. This condition shall vest the Board with jurisdiction over this Order, independently of any other condition hereof, regardless of whether an adjudication over this order, independently of any other condition hereof, regardless of whether an adjudication of liability is entered against the owners and/or operators.

viii. No outdoor speakers shall be permitted.

ix. Outdoor restaurant seating, not exceeding 40 seats, associated with indoor venues shall be permitted in any open area above the ground floor until 8:00 PM with no background music—amplified or non-amplified.

x. No outdoor live music shall be permitted at any time, inclusive of percussion, musical instrument, or vocal.

xi. No DJ shall be permitted inside or outside the establishment.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission.

II. Variance(s)

A. No variance(s) were filed as part of this application.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

A. Where an alley or service corridor does not exist and is not feasible to construct at the time of the redevelopment of any property, the applicant shall dedicate an alley right-of-way within the setback (10'-0") until the City builds the alley (as required pursuant to Section 142-737(f), of the Land Development Regulations.

B. Alternatively, pursuant to section 142-737(f), the applicant shall execute and record a covenant, in a form acceptable to the City Attorney, effecting such dedication upon certification by the Planning Director that the construction of an alley has become feasible. The Planning Director may accept a perpetual access easement for an alley in lieu of dedication of an alley if he or she determines such would be appropriate under the circumstances of any particular property. The applicant shall maintain the area until the City builds the alley.

C. 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, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.

D. 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.

E. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.

F. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.

G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

H. 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.

I. 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.

J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

K. 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.

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 "New Addition of Golden Mile Shoppes" as prepared by **Isaac Sklar Architecture** dated signed and sealed September 11, 2015, and as approved by the Design Review 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 12th day of November, 20 15.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

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

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

The foregoing instrument was acknowledged before me this 12th day of November 2015 by Deborah J. Tackett, Design and Preservation Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

STEVEN GREENE
MY COMMISSION EXPIRES
JUL 26, 2017
#FF038517
Bonded through 1st State Insurance
NOTARY PUBLIC, STATE OF FLORIDA

_____
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 07-26-2015

Approved As To Form:
City Attorney's Office: _____ (11-9-15)

Filed with the Clerk of the Design Review Board on _____ (11-12-15)

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