

# MIAMI BEACH

PLANNING DEPARTMENT  
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: May 07, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB19-0375  
**4747 North Bay Road**

**DRB19-0375, 4747 North Bay Road.** An application has been filed requesting Design Review Approval for the construction of a new pool and associated deck in the rear yard including variances to exceed the maximum elevation in required yards, to exceed the maximum height allowed for fences and to exceed the maximum height for allowable encroachments within required yards.

**RECOMMENDATION:**  
Approval of the variances

**HISTORY:**

On December 04, 2018, the Design Review Board (DRB), reviewed and approved an application for the construction of a new two-story residence but denied the rear setback variance to construct a pool and deck at a higher elevation than allowed, pursuant to File No. DRB18-0332.

**LEGAL DESCRIPTION:**

Lot 8 and the south half of Lot 7 , Block 3 of Nautilus Subdivision of the Miami Beach Bay Shore Co., According to the Plat Thereof, as Recorded in Plat Book 8 at Page 95, of the Public Records of Miami-Dade County, Florida.

**SITE DATA:**

Zoning: RS-4  
Future Land Use: RS  
Lot Size: 9,000 SF  
Lot Coverage:  
    Approved: 2,155.5 SF / 23.9%  
    Maximum: 2,700 SF / 30%  
Unit size:  
    Approved: 3,983.5 SF / 44.2%  
    Maximum: 4,500 SF / 50%  
2<sup>nd</sup> Floor Volume to 1<sup>st</sup>: N/A

Height:

Approved: 24'-0" flat roof  
Maximum: 24'-0" flat roof

Grade: +4.0' NGVD

Base Flood: +8.00' NGVD

Adjusted Grade: +6.0' NGVD

30" (+2.5') Above Grade: +6.5' NGVD

First Floor Elevation: +13.00' NGVD (BFE +5')

**SURROUNDING PROPERTIES:**

North: Two-story 1930 residence

South: Two-story 1933 residence

West: Two-story 1929 residence

East: One-story 1956 residence

**THE PROJECT:**

The applicant has submitted plans entitled "4747 Residence" as designed by **Domo Architecture + Design**, signed, sealed, and dated March 11, 2019.

The applicant is proposing to construct a new rear yard with pool and associated stairs and decking for a new two-story residence on an interior lot at a higher elevation than permitted.

The applicant is requesting the following variance(s):

1. A variance to exceed by 3'-0" the maximum elevation of 6.56' NGVD within the required rear yard in order to construct a pool and raised lawn up to 9.56' NGVD.

- Variance requested from:

**Sec. 142-105. - Development regulations and area requirements.**

*(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

*(8) Exterior building and lot standards.*

*c. Maximum yard elevation requirements. The maximum elevation of a required yard shall be in accordance with the following, however in no instance shall the elevation of a required yard, exceed the minimum flood elevation, plus freeboard:*

*4. Rear Yard. The maximum elevation for a required rear yard, (not including portions located within a required side yard or side yard facing the street), shall be calculated according to the following:*

*(B) Non-waterfront. The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater.*

Pools and associated decks are commonly located in the required rear yards of single-family residences at a setback distance of 6'-0" to the rear property line for the deck and 7'-6" to the water's edge. The maximum elevation of these elements in the rear yard varies when the rear property line abuts other property or faces the waterway. When the property is waterfront, the rear yard (not including the side yards) can be elevated to match the first floor of the home with a minimum 1 foot above flood elevation up to 5 feet above flood elevation. In this case, the subject property is non-waterfront and the pool and pool deck are not allowed to be constructed to match the first floor of the home located at the maximum freeboard. The maximum elevation is determined by the specific grade elevation at the front of the property. In this case, grade is 4.0' NGVD and the maximum elevation allowed in the rear yard is 6.56' NGVD. If the site had a higher grade elevation, the pool and deck in the rear yard can also be constructed at a higher elevation. With a grade elevation of 7.0' NGVD, the rear yard could be constructed up to 9.50' NGVD, similar to the elevation proposed. Staff finds that the existing low elevation of the site creates practical difficulties that result in the variance requested in order to transition from the main home to the rear yard.

2. A variance to exceed by 2.3' the maximum elevation allowed of 8.5' NGVD for allowable encroachments in required yards in order to construct steps within the rear and side yard up to 10.8' NGVD.

- Variance requested from:

**Sec. 142-1132. - Allowable encroachments within required yards.**

*(o) Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following*

may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.

(6) Porches, platforms and terraces (up to 30 inches above the elevation of the lot.

This variance is related to the previous variance as it allows the construction of steps to transition from the lower grade of 6.56' NGVD and 9.56' NGVD to the rear terrace of the home. Staff is supportive of this variance as the low grade elevation of 4.0' NGVD limits the maximum elevation allowed for projections up to 8.5' NGVD and impose design challenges when transition from the low yard elevation to the finish floor located at the maximum freeboard.

3. A variance to exceed by 3'-0" the maximum allowed height of 7'-0" for fences in order to construct stair railings and fencing along the raised lawn located in the rear yard up to 10'-0" as measured from grade of 4.0' NGVD.

- Variance requested from:

**Sec. 142-1132: - Allowable encroachments within required yards.**

*(h) Fences, walls, and gates. Regulations pertaining to materials and heights for fences, walls and gates are as follows:*

*(1) All districts except I-1:*

*b. Within the required rear or side yard, fences, walls and gates shall not exceed seven feet, as measured from grade, except when such yard abuts a public right-of-way, waterway or golf course, the maximum height shall not exceed five feet*

This variance is related to the height of stair railings and the security railing along the raised lawn. These elements are not allowed to exceed 7'-0" from grade elevation as required for fences. The existing low grade established at 4.0' NGVD determine the maximum height for fences within the required yards and in this case, again creates practical difficulties that justify the variance requested. In summary, staff is supportive of the variance.

**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.

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, 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;

- 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.

**COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the City Code aside from the requested variances.

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.

**COMPLIANCE WITH DESIGN REVIEW CRITERIA:**

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Not Satisfied; applicant is seeking a rear yard variance.**
2. 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.  
**Not Satisfied; applicant is seeking a rear yard variance.**

3. 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; applicant is seeking a rear yard variance.**
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.  
**Not Satisfied; applicant is seeking a rear yard variance.**
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.  
**Not Satisfied; applicant is seeking a rear yard variance.**
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.  
**Not Satisfied; applicant is seeking a rear yard variance.**
7. The design and layout of the proposed site plan, as well as all new and existing buildings 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 contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.  
**Satisfied**
8. 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 all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.  
**Satisfied**
9. 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. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.  
**Not Satisfied; a lighting plan has not been submitted.**
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

**Satisfied**

11. 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.  
**Satisfied**
12. The proposed structure has 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 Satisfied; applicant is seeking a rear yard variance.**
13. The building has, where feasible, space in that part of the ground floor fronting a 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 street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.  
**Satisfied**
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.  
**Satisfied**
15. An 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**
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.  
**Satisfied**
17. 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.  
**Satisfied**
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.  
**Not Applicable**

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

**Not Satisfied; see below**

**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 Satisfied**  
**A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Satisfied**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Satisfied**
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.  
**Satisfied**
- (5) The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.  
**Satisfied**
- (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 and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.  
**Satisfied**
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.  
**Satisfied**
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.  
**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) In all new projects, water retention systems shall be provided.

**Not Satisfied**

- (11) Cool pavement materials or porous pavement materials shall be utilized.

**Not Satisfied**

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

**Not Satisfied**

**STAFF ANALYSIS:**  
**DESIGN REVIEW**

On December 04, 2018, the Design Review Board (DRB) reviewed and approved an application for the construction of a new two-story residence elevated at BFE + maximum freeboard, +13.00' NGVD. The approved residence was designed with a unit size of 44.26% and lot coverage of 23.95%. That design featured a rear yard with a pool and associated decking proposed slightly below the finished first floor. Since that configuration exceeded the maximum allowable elevation permissible, and was higher than 3'-0", a setback variance was sought and subsequently denied by the DRB.

Now, the applicant has refined the rear yard design and is seeking a different variance to obtain a higher rear yard than permitted.

Min. Rear Yard elevation (non-waterfront): 6.56'

Max. Rear Yard elevation (non-waterfront): 6.56'

Proposed Rear Yard elevation (non-waterfront): 9.56'

Previously Proposed Rear Yard elevation (non-waterfront): 12.00' NGVD

First Floor Elevation: +13.00' NGVD (BFE +5')

Staff recommends approval of the design.

**VARIANCE ANALYSIS:**

As noted in the 'Project' section of the staff report, the applicant is requesting a variance to construct a pool, deck and raised lawn higher than the maximum elevation permitted for allowable structures in the rear yard. The maximum elevation in required yards is determined by two site elevations: CMB grade for the lot and base flood elevation. The relationship between these points results in higher or lower yard elevations.

The subject property has an established minimum yard elevation of 6.56' NGVD within required yards, with the exception of driveways and transition areas. In this instance, because the site is not waterfront and grade elevation for the site is relatively low at 4.0', the



minimum and maximum elevation required in the rear yard is the same at 6.56' NGVD. The elevation of the first floor is proposed at the maximum elevation allowed of 5'-0" above flood elevation. The existing grade at the front is 4.0' NGVD and the finish floor of the residence is at 13.0' NGVD. The pool was originally proposed slightly below the first finish floor and the lawn about 2' below the finish floor. Staff had serious concerns with the 'structures' being potentially visible from the adjacent properties. Now, the design has been lowered 3'-0" but is still higher than the maximum elevation allowed for non-waterfront lots and the stairs and railings also require variances from the maximum fence height and maximum elevation for allowable encroachments.

The variances requested will allow the applicant to construct an elevated pool and pool terrace at +9.56' NGVD, approximately 3'-6" below the level of the first floor of the home (+13.00 NGVD). Current zoning only allows a maximum elevation of +30" above adjusted grade or 8.5' NGVD for elements that project into the required yards. This elevation is 4.5' lower than the first floor of the home at 13.0' NGVD. The first floor of the home contains the primary living spaces and therefore the pool and terrace are requested to be set half way between the first habitable floor of the home and the rear yard for accessibility purposes. Variance request #2 and #3 are the minimum request that would allow reasonable access and transitions to the first floor of the home and the design meets required setback and rear yard open space criteria for such elements by code. Based on the existing low grade elevation of the site, staff is supportive of the variances. As proposed, the building will reduce sea level rise impact in the future and contribute to higher resiliency in the area. In summary, staff recommends approval of the variances #1, #2 and #3.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria.

TRM/JGM/IV

**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: May 07, 2019

FILE NO: DRB19-0375

PROPERTY: **4747 North Bay Road**

APPLICANT: GaGa Holdings 4747 Joint Trust

LEGAL: Lot 8 and the south half of Lot 7 , Block 3 of Nautilus Subdivision of the Miami Beach Bay Shore Co., According to the Plat Thereof, as Recorded in Plat Book 8 at Page 95 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new pool and associated deck in the rear yard including variances to exceed the maximum elevation in required yards, to exceed the maximum height allowed for fences and to exceed the maximum height for allowable encroachments within required yards.

**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**

- 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, 2, 3, 4, 5, 6, 9, 12, and 19 in Section 118-251 of the Miami Beach Code.
- C. 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 Sea Level Rise Criteria 1 and 10 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
  - 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 4747 North Bay Road shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The final design details of the exterior materials and finishes 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
  - b. 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.
  - c. 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 plans 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 plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
  - b. 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-way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
  - c. 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.

**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. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to exceed by 3'-0" the maximum elevation of 6.56' NGVD within the required rear yard in order to construct a pool and raised lawn up to 9.56' NGVD.
  2. A variance to exceed by 2.3' the maximum elevation allowed of 8.5' NGVD for allowable encroachments in required yards in order to construct steps within the rear and side yard up to 10.8' NGVD.
  3. A variance to exceed by 3'-0" the maximum allowed height of 7'-0" for fences in order to construct stair railings and fencing along the raised lawn located in the rear yard up to 10'-0" as measured from grade of 4.0' NGVD.
- 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;

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 variance(s) requested, and imposes the following conditions 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. Design Review Approval and 'II. Variances' noted above.**

- A. 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.
- B. 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.
- C. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- D. If applicable, 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.
- E. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- F. 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.

- G. 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.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. 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.
- J. 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.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. 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 Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "4747 Residence" as designed by **Domo Architecture + Design**, signed, sealed, and dated march 11, 2019, 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 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 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.

Filed with the Clerk of the Design Review Board on \_\_\_\_\_ ( )