

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: July 02, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB18-0357  
**1050 Stillwater Drive**

**DRB18-0357, 1050 Stillwater Drive.** An application has been filed requesting Design Review Approval for the construction of a new two-story single-family residence to replace an existing one-story residence, including one or more waivers and variances to exceed the maximum allowable height for a parapet wall and to exceed the maximum elevation allowed in required yards.

#### **RECOMMENDATION:**

Approval with conditions

#### **LEGAL DESCRIPTION:**

Lot 10, Block 16, of "Biscayne Beach 2<sup>nd</sup> Addition", According to the Plat Thereof, as Recorded in Plat Book 46, Page 39, of the Public Records of Miami-Dade County, Florida.

#### **HISTORY:**

This item was continued at the May 07, 2019 Design Review Board meeting at the request of the applicant.

#### **SITE DATA:**

Zoning: RS-4  
Future Land Use: RS  
Lot Size: 8,000 SF  
Lot Coverage:  
Proposed: 2,173 SF / 27%\*  
Maximum: 2,400 SF / 30%  
Unit size:  
Proposed: 3,704 SF / 46%  
Maximum: 4,000 SF / 50%  
**2<sup>nd</sup> Floor to 1<sup>st</sup>: 85.2%\* 2303 | 1962**  
**\*WAIVER REQUIRED**

Height:  
Proposed: **24'-0"** Flat Roof  
Maximum: 24'-0" Flat Roof  
Grade: +5.26' NGVD

Base Flood Elevation: +8' NGVD  
Adjusted Grade: +6.63' NGVD  
30" (+2.5') Above Grade: +7.76' NGVD  
First Floor Elevation: +10.00' NGVD  
(BFE+2' FB)  
Min. Yard Elevation (side): 6.56' NGVD  
Max. Yard Elevation (side): 7.76' NGVD  
Min. Yard Elevation (rear): 6.56' NGVD  
Max. Yard Elevation (rear): 10' NGVD

#### **EXISTING STRUCTURE:**

Year: 1948  
Architect: J. Richard Ogden Jr.  
Vacant: Yes  
Demolition: Total

**SURROUNDING PROPERTIES:**

East: One-story 1948 residence  
North: Two-story 1953 residence

South: Biscayne Bay  
West: One-story 1949 residence

**THE PROJECT:**

The applicants have submitted revised plans entitled "New Single Family Residence", as prepared by **David Lawrence Architecture, Inc.** dated June 10, 2019.

The applicant is proposing a new two-story residence on a waterfront lot, requesting three design waivers.

The applicant is requesting the following design waiver(s):

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c).
2. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).

The applicant is withdrawing the following variance(s) originally requested:

1. A variance to exceed by 3'-0" the maximum height of a two-story residence of 24'-0" in order to construct an architectural wall at 27'-0" in height.
2. A variance to exceed by 0.54' the maximum elevation allowed of +7.76' NGVD within the required side yards in order to elevate the east side yard up to +8.3' NGVD.
3. A variance to exceed by 0.54' the maximum elevation allowed of +7.76' NGVD within the required side yards in order to elevate the west side yard up to +8.3' NGVD.

**COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code:

1. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than one percent of the lot area. The open space provided along a side elevation in accordance with this subsection, whether required or not, shall not be included in the lot coverage calculation provided that the combined depth of the open space, as measured from the required side setback line(s), is less than 30 percent of the maximum developable building width of the property, as measured from the interior setback lines, and the total open space provided does not exceed five percent of the lot area. Any portions of the interior side yard open space in excess of five percent of the lot area shall be included in the total lot coverage calculation. **The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and at least**

**75 percent of the required interior open space area shall be sodded or landscaped previous open space.** The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from the minimum requirements of this provision may be granted only through design review board approval in accordance with the applicable design review criteria.

2. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a 2<sup>nd</sup> Floor Volume to 1<sup>st</sup> of 86% with a 27% lot coverage which will require a waiver from the DRB.**
3. The enclosed elevator vestibule area must be counted towards the overall unit size of the property on the roof level (sheet A-0.4)

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; the applicant is requesting three design waivers from the Board.**
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; the applicant is requesting three design waivers from the Board.**
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; the applicant is requesting three design waivers from the Board.**
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.  
**Satisfied**

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; the applicant is requesting three design waivers from the Board.**
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; the applicant is requesting three design waivers from the Board.**
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**
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; the applicant is requesting three design waivers from the Board.**

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.  
**Not Applicable**
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.  
**Satisfied**
- (12) The project design shall minimize the potential for a project causing a heat island effect on site.  
**Satisfied**

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

The applicant is proposing to construct a new two-story residence on a waterfront site on the south side of Biscayne Beach. The proposed revised design now seeks only the three design waivers as part of this application. All three of the originally requested variances have been withdrawn. The first floor elevation of the new residence is proposed at 10.00' NGVD, which is base flood elevation plus free board of 2'. Designed in a contemporary style, the new two-story home is rectilinear in massing. The front elevation is predominately finished in white stucco and incorporates a contrasting, smooth polished grey concrete wall element in the middle that extends over the main roof line in an attempt to break up the overall rectilinear massing. A street facing garage is proposed at the front of the lot, with glass and aluminum doors.

The first design waiver pertains to the second floor to first floor ratio of the home. Since the proposed home has a lot coverage of 27%, any second floor massing is restricted to 70% of the first floor unless a waiver is granted by the DRB. The applicant is seeking a 15% increase over the restriction. As previously advised to the applicant, staff would be supportive of the increased second floor ratio waiver, if the requested height variance for the signature wall element was removed; it subsequently has been (withdrawn variance #1). Staff would note however that should the residence be redesigned at a higher finished floor height or freeboard elevation in the future time of permitting, staff would recommend a return to the Board to reassess the design waiver. The applicant has submitted revised plans depicting compliance with both side open space requirements.

The applicant is also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length along both side (east and west) elevations. Specifically, the applicant proposes recesses along both the east and west side interior elevations to fulfill the open space requirement of the Code in the form of elevated outdoor lawn areas. The traditional, nearly square floorplan contains a front "loaded" street facing garage but the overall massing is mostly compactly contained within the building envelope. The west side, two-story elevation measures 34'-11" in length at the front portion of the design and 14'-7" in length at the rear, with a fairly wide 20'-5" open space in between. The open area indentation of the façade, or "notch", is 8'-0" deep with some roof overhangs above encroaching into this area and an elevated lawn area with an elevation of 9'-5", where the code limits the maximum elevation in the open space to 7.76' NGVD. The east side, two-story elevation measures 25'-8" in length at the front portion of the design, and a rear massing that spans 27'-5" in length divided by a 13'-1" open space. The open area indentation of the façade, or "notch", is also 8'-0" deep with some roof overhangs above encroaching into this area and an elevated lawn at an elevation of 9'-5", where the code limits the maximum elevation in the open space to 7.76' NGVD. As designed, the proposed open spaces do not meet the Code's requirements but endeavor the intent of the regulation by breaking up long expanses of uninterrupted two-story volumes. Staff is supportive of both side open space waivers, as the applicant has revised the elevation of the adjacent required side yards to comply with the maximum yard elevation and eliminated the previously requested variance and incorporated the stepping or terracing within the open space.

With the revised plans, staff is fully supportive of the proposed design including the design waivers.

**VARIANCE REVIEW**

All previously requested variances have been withdrawn.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the design, including the waivers, be **approved** subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review and Sea Level Rise criteria as applicable.

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

MEETING DATE: July 02, 2019

FILE NO: DRB18-0357

PROPERTY: **1050 Stillwater Drive**

APPLICANT: 1050 Stillwater LLC

LEGAL: Lot 10, Block 16, of "Biscayne Beach 2<sup>nd</sup> Addition", According to the Plat Thereof, as Recorded in Plat Book 46, Page 39, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new two-story single-family residence to replace an existing one-story residence, including one or more waivers and variances to exceed the maximum allowable height for a parapet wall and to exceed the maximum elevation allowed in 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, 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 1050 Stillwater Drive shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The 70% limitation for the second floor volume **shall** be waived as proposed.
  - b. All required yards shall comply with the minimum yard elevations.
  - c. 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
  - 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. 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. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
  - c. Prior to any site demolition work, a tree protection fence following the City standard shall be installed for trees scheduled to remain subject to the review and approval of the City Urban Forester.
  - d. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
  - e. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the

issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.

- f. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- g. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- h. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- i. Any proposed new street trees shall be of a planting species consistent or similar with existing street trees in the immediate area or consistent with any master street tree plan for the area, subject to the review and approval of the City Urban Forester.
- j. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- k. 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.
- l. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- m. 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.
- n. 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.

- o. 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):

The following variances were withdrawn by the Applicant:

1. A variance to exceed by 3'-0" the maximum height of a two-story residence of 24'-0" in order to construct an architectural wall at 27'-0" in height.
2. A variance to exceed by 0.54' the maximum elevation allowed of +7.76' NGVD within the required side yards in order to elevate the east side yard up to +8.3' NGVD.
3. A variance to exceed by 0.54' the maximum elevation allowed of +7.76' NGVD within the required side yards in order to elevate the west side yard up to +8.3' NGVD.

**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. 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.
- B. 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.

- C. 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.
- D. 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.
- E. 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.
- F. 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.
- 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 Finding of Fact, to which the applicant has agreed.



The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ ( )

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

DRAFT