

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: September 03, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: DRB19-0415  
**6970 Collins Avenue**

**DRB19-0415, 6970 Collins Avenue.** An application has been filed requesting Design Review Approval for the construction of a new multistory residential development with ground floor retail including variances to eliminate the off-street loading required, to reduce the required setbacks and to exceed the maximum allowable encroachment in required yards to replace a one-story commercial structure.

#### **RECOMMENDATION:**

Approval with conditions

Approval of the variances

#### **LEGAL DESCRIPTION:**

Lot 9 of Block 11 of "Normandy Beach South", according to the plat thereof filed for record and recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida.

#### **BACKGROUND:**

On November 14, 2018, the City Commission adopted the North Beach Town Center—Central Core Land Development Regulations. The ordinance established a **TC-C, Town Center – Central Core** zoning district with a FAR of 3.5, and replaced the TC-1, TC-2, TC-3, and TC-3(c) districts within the boundaries of the area established by the FAR referendum. The TC-C is a balanced approach intended to spur sustainable development to revitalize North Beach. This is the first new project developed under the new regulations.

#### **SITE DATA:**

Zoning:	TCC Town Center--Central Core
Future Land Use:	TCC Town Center--Central Core
Parking District:	8
Lot Size:	6,250 SF (50 x 125)
Proposed FAR:	21,622 SF / 3.45
Maximum FAR:	21,875 SF / 3.5
Gross SF:	24,262 SF
Amenity SF:	4,862 SF (20% = 4,852)
Retail/Restaurant:	3,499 SF (150 seats)
Units:	21 (co living)
Height:	
Proposed:	55'-0" measured from BFE +5'
Maximum:	125'-0"
CMB Grade:	5.25' NGVD
Base Floor Elevation:	8' NGVD

First Floor Clearance: 15'-0" measured from BFE +5'

Parking: Unit size: 21 units: 20 co-living (<550) and 1 not co-living (>550, @ 1091)

No parking requirement for 20 units <550.

Parking requirement: 1 units x ½ space for those units bet 851 and 1250SF=¾ spaces or 1 required spaces.

Required Parking: 1 Spaces | 0 Spaces

Required Loading: 1 Spaces | **0 Spaces\* Variance required**

Bicycle:

Required Short term: 1c + 4r = 5 required | 19 provided

Required Long term: 1c + 21r = 22 required | 31 provided

#### **SURROUNDING PROPERTIES:**

East: Three-story hotel "Normandy Plaza"

North: One-story commercial

South: One-story commercial

West: Five-story residential building "Harding Villas" condominium (1981)

#### **THE PROJECT:**

The applicant has submitted revised plans entitled "Design Review Board Final Submittal 6970 Collins Avenue", as prepared by **Antoniazzi Architecture** dated, signed and sealed 07-08-19.

The applicant is proposing a new five-story mixed use building with 21 co-living residential units above a ground floor retail restaurant space, including variances to eliminate the required loading space for the restaurant, to exceed the maximum projection into the front setback below 15'-0" from BFE +5', and to exceed the maximum encroachment on the front and interior side for habitable use above 55'-0.

The applicant is requesting the following variance(s):

1. A variance to eliminate the required off street loading spaces in order to construct a mixed-use building with more than 3,500SF of area on the premises.

- Variance requested from:

#### **Sec. 130-101. - Space requirements.**

*When any building or structure is erected, structurally altered, or converted in use, accessory off-street loading spaces shall be provided for the building, structure, additional floor area or new use in accordance with the following schedule:*

- (1) *For each retail store, department store, restaurant, wholesale house, warehouse, repair, general service, manufacturing or industrial establishment, or similar use, which has an aggregate floor area in square feet of: a. Over 2,000 but not over 10,000: One space.*

The subject property is located in the North Beach Town Center Central Core District, which is envisioned as a dense, highly walkable, vibrant urban center. One of the core components of the district is to encourage alternative modes of transportation from single occupancy vehicles; including, but not limited to walking, bicycling, and public transportation. The existing 50'-0" wide midblock property is located on the west side of Collins Avenue with

no alley access. The proposed program consists of 21 co-living units and ground floor retail which have no parking requirements for parking district No. 8. This is an ideal set-up to coincide with a community and zoning vision that seeks to promote its users to use alternative transportation methods. While the goal of the recommendation is to enable the design and construction of larger buildings within the Town Center, smaller lots were not as thoroughly considered, and under Section 130-101, a small retail space has a single loading requirement. The introduction of a driveway and curb cut midblock along Collins Avenue to provide on-site enclosed loading would be antithetic to the primary goal of walkability of the neighborhood. In lieu of an off-street loading space the applicant is proposing that an existing on-street loading space adjacent to the property be accepted to satisfy the above referenced requirement. The subject loading space is currently utilized by the existing on-site restaurant and is approximately 80'-0" from the project site, as depicted on architectural drawings that are part of this application. Due to the inherent hardships of the subject site, the above loading requirement cannot be satisfied while preserving reasonable use of the site while maintaining a continuous pedestrian friendly streetscape along Collins Avenue. As such, staff is supportive of the variance.

2. A variance to exceed the maximum projection into the front setback below 15'-0" from BFE +5'.

- Variance requested from:

**Sec. 142-745. Street Frontage, Design, and Operations Requirements.**

**(8) Commercial, Hotel, and Access to Upper Level Frontages.** In addition to other requirements for specific frontage types and other requirements in the City Code, frontages for commercial, hotel, and access to upper level frontage shall be developed as follows: (a) A shade structure that projects for a minimum depth of five (5) feet (from BFE +5') into the setback beyond the building facade, shall be provided at a height between 15 feet and 25 feet. Said shade structure may consist of an eyebrow or similar structure. Additionally, an allowable habitable encroachment such as balconies or parking deck may take the place of the shade structure.

The new structure is proposed with a ground floor clearance of 28'-0" from CMB Grade, or with a ground floor clearance of 15'-0" when measured from BFE +5'. This greater height clearance at the ground floor is intended to promote a more resilient building standard with greater adaptability for the ground floor components of mixed-use buildings. Many factors contribute to creating a "walkable city" but the most important, and arguably the most neglected, is the design of the sidewalk. The TCC ordinance anticipates this through the creation of a "clear pedestrian path", which is a minimum width of 10'-0", which is to be maintained free from obstructions. In order to further realize the activation of the sidewalk a (continuous) shade structure may encroach into the required setback in order to provide shade coverage and visual interest. Additional regulations require minimum transparency levels for commercial frontages and allowance of uses, as well as minimum tree canopies. For the purposes of new construction in this zoning district, heights are measured from the City of Miami Beach Freeboard of five (5) feet, or 13' NGVD in this instance. As staff is realizing, while the clearance may work well for the interior space, the shade structure really should be lower in order to enhance the pedestrian scale, add visual interest and provide shade for the intended user, the pedestrian. The lower floors of a building wall are most important in relation to the factor of human scale and complexity. Staff is working towards

correcting this portion of the regulations in order to allow lower shade structures when they are not an integral structural component of the building. Staff is supportive of the variance as proposed.

3. A variance to exceed by 2'-6" (50%) the maximum allowed projection of 2'-6" (25%) for roof overhangs within the side and front yard in order to construct a new building with a roof overhang projection of 5'-0" (50%) into the south side and east front yard.
  - 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.*
- (7) Roof overhangs.*

The TCC ordinance allows certain allowable habitable encroachments into required setbacks for distances determined by street class and height. These consist of shade structures, balconies or parking decks. Since amenity roof decks are not listed as habitable encroachments within the new ordinance, the distance limitation defers to Section 142-1132 projections, which limits to 25% of the required setback. Staff is working towards correcting this portion of the regulation to allow for amenity decks to be identified as "allowable habitable encroachments". In order to maintain a consistent design for all five levels, 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 inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. Railing and Roof terrace is not an allowable encroachment into setback-relocate to setback line. Add height to Projecting eyebrow at ground level, projecting element is limited to 25% of the required 10' setback. Variance requested.
2. A-301 Align balcony glass vertical posts with window mullions. Level 3 has seven window panels, level 4 and 5 has six.
3. The eyebrow encroaching into the front setback below 15'-0" cannot exceed 25% (2'-6") into the front setback. Variance requested
4. Clarify location and type of required bicycle (long vs short term) parking on plans. Under Section 130-40(a) to remove all of the required 1 parking spaces 5 additional long term biking. Total 27 required 31 provided
5. A-102 and A104 Balcony must be separate and private for Units B along north side or count towards FAR. No balcony dividers shown on plans or elevation.
6. A-105 As the "elect bbq area" is not an allowable height exceptions as defined in section 142-1161, demonstrate the element elect bba area is setback 20' from north and south setback lines.

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.

**CONSISTENCY WITH 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **residential** use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

**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 variances 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 variances 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 variances 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.  
**Not Satisfied; the applicant is requesting three variances from the Board.**
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 variances 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 variances 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; 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; the applicant is requesting three variances 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.

**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**

The subject site is a single, mid-block lot located within the boundaries of the TC-C, Town Center – Central District. The applicant is proposing to develop the site with a contemporary residential five story mixed use building to replace an existing one story restaurant. The design features 21 co-living residential units, 20 of which are under the minimum size for a traditional residential unit. Modern trends in the housing and hotel industries are co-living units and micro-hotels. In order to develop more housing options, these types of units have been introduced into the proposed overlay. A co-living unit provides for smaller units than what has been traditionally seen; however, they provide many amenities and opportunities for social interaction which may be more attractive to some people than a larger living space. Amenities may include community gourmet kitchens, business centers, gyms, community rooms, pools, restaurants, etc. The proposal provides more than the minimum requirement of 20 percent of a building's gross floor area for amenities that are available to residents. Each of the units has a private outdoor balcony. Due to the smaller square footages, this type of housing component does not have a parking requirement. The design has been programmed with four residential floors of living area above a ground floor programmed for a 3,500 SF new restaurant space.

The design features a prominent floor to ceiling glass façade facing Collins Avenue. Tapered, front loaded balconies span the building length. An operable storefront system has been configured for the ground floor in order to seamlessly expand their interior space and merge indoor and outdoor spaces and uses to aid in creating a vibrant urban atmosphere.

The two interior windowless side elevations, fire walls, have been configured with both colored painted stucco gradient and scored with a 1" reveal in order to add interest to the featureless stark walls that are evident above the existing one story commercial. The rooftop is enclosed by a glass railing and is accented by a rooftop pool and bbq area that has been setback from the building edge. In all, staff commends the design on its simple elegant solution. Staff is supportive of the design and recommends its approval as proposed.

**VARIANCE REVIEW**

As identified under the 'Project' description of the analysis, all three variances are fundamentally linked to the minimal single lot development for the TCC zoned site. Staff believes that certain variances will be necessary to construct a reasonably sized and shaped structure on the site. Staff recommends approval of the variances.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the requested variances #1, #2 and #3 be approved, and the design 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, and Practical Difficulty and Hardship criteria, as applicable.

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

MEETING DATE: September 03, 2019

FILE NO: DRB19-0415

PROPERTY: **6970 Collins Avenue**

APPLICANT: Las Vegas Beach Corp

LEGAL: Lot 9 of Block 11 of "Normandy Beach South", according to the plat thereof filed for record and recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida.

IN RE: An application has been filed requesting Design Review Approval for the construction of a new multistory residential development with ground floor retail including variances to eliminate the off-street loading required, to reduce the required setbacks and to exceed the maximum allowable encroachment in required yards to replace a one-story commercial structure.

**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 the Sea Level Rise Criteria 1, 5, 10, 11, and 12 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 development at 6970 Collins Avenue shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. 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.
  - b. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be 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 approved by staff.
  - c. Any exterior ground floor exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions, material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of 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 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. 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. 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.

- d. 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.
- e. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- f. Street trees shall be required within the swale at the front and side facing street of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- g. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- h. 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.
- i. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. 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.
- k. 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.
- l. 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 eliminate the required off street loading spaces in order to construct a mixed use building with more than 3,500SF of area on the premises.
2. A variance to exceed the maximum projection into the front setback below 15'-0" from BFE +5'.
3. A variance to exceed by 2'-6" (50%) the maximum allowed projection of 2'-6" (25%) for roof overhangs within the side and front yard in order to construct a new building with a roof overhang projection of 5'-0" (50%) into the south side and east front yard

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 request(s), 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. A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department, in a manner to be reviewed and approved by staff.
- B. 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.
- C. If required, the applicant shall obtain a revocable permit from the Public Works Department for the existing parking paving within the public right-of-way, subject to approval of the City Commission, prior to the issuance of a building permit. Prior to the issuance of a building permit for any work approved by the Design Review Board, as it relates to the subject development project, the applicant shall enter into and record a Maintenance Agreement and Restrictive Covenant running with the land, in a form approved by the Miami Beach City Attorney, and approved by the Planning Director and Public Works Director, confirming the applicant's agreement to design, permit, construct and maintain the proposed parking paving, in perpetuity, and confirming public access to such parking, in accordance with the conditions herein. The restrictive covenant shall be recorded in the public records, at the expense of the applicant.
- D. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.

- E. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction
- F. 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.
- G. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- 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 "Design Review Board Final Submittal 6970 Collins Avenue", as prepared by **Antoniazzi Architecture** dated, signed and sealed 07-08-19, and as approved by the Design Review Board, as determined by staff.

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 \_\_\_\_\_ ( )