

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: October 02, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB19-0407

7125-7145 Carlyle Avenue, 7100-7144 Byron Avenue and 527 71st Street

DRB19-0407, 7125-7145 Carlyle Avenue, 7100-7144 Byron Avenue and 527 71st Street.

An application has been filed requesting Design Review Approval for the construction of a new multistory mixed-use residential and retail development, including one or more waivers and variances to exceed the maximum allowable encroachment in required yards, to exceed the maximum building height, and to reduce the required setbacks, to replace seven one- and two-story existing buildings. This project is proposed to take place in two (2) phases as a phased development project.

RECOMMENDATION:

Approval with conditions

Approval of the variances #1-#4

Withdrawal of variance #5

LEGAL DESCRIPTION: See attached "Exhibit A"

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.

Throughout a year long process of public engagement, the City Commission approved detailed development standards for the Town Center neighborhood, including increased height, increased density with diverse residential options (co-living) and relaxed parking requirements that continue to encourage thoughtful and engaging mixed use development for this area.

This is the second project developed under the new regulations, the first one that has aggregated multiple lots within an entire block. This item was continued at the September 16, 2019 DRB meeting at the request of the applicant. A brief presentation introducing the project was shown to the Board.

SITE DATA:

Zoning:	TCC Town Center--Central Core
Future Land Use:	TCC Town Center--Central Core
Parking District:	8
Lot Size:	±75,147 SF

Phase I: ±43,440 SF
Phase II: ±31,707 SF
Proposed FAR: 261,997 SF / 3.48
Phase I FAR: 239,997 SF
Phase II FAR: 22,000 SF
Maximum FAR: 263,015 SF / 3.5
Gross SF: 275,732 SF (incl. outdoor amenities)
Amenity SF: 58,776 SF (20% = 55,146)
Retail/Restaurant: ±12,500 SF
Units: 270 (co living)
Height:
 Proposed: **220'-0"** measured from BFE +5', 13' NGVD
 Maximum: 220'-0" with waiver
 DRB WAIVER +20'
Highest Projection: 259'-0"
CMB Grade: 5.25' NGVD
Base Floor Elevation: 8' NGVD
First Floor Clearance: 17'-3" measured from BFE +5', 13' NGVD
Required Parking: **86 required residential spaces | 258 provided**
 Unit: 270 residential co living units
 121 units <550 = 0
 103 units x ½ space for those units bet 550 and 850=51.5
 46 units x ¾ space for those units bet 851 and 1250=34.5
 No retail parking requirement
Required Loading: Total loading: **7 required spaces | 6 provided**
 c. Over 2,000 but not over 10,000: One space @ each bay = 3 loading spaces.
 r. Over 100 units but not more than 200 units: 3 spaces + 1 = 4 loading spaces.
Required Bicycle Short term: 4c +27r = **31 required | 32 provided**
Required Bicycle Long term: 6c + 270r = **276 required | 293 provided**

EXISTING BUILDINGS:

525 71st Street One-story US Post Office
7125 Carlyle Avenue Two-story 12-unit residential
7135 Carlyle Avenue Two-story 8-unit residential
7145 Carlyle Avenue Two-story 11-unit residential
7144 Byron Avenue Two-story 8-unit residential
7134 Byron Avenue Two-story 8-unit residential
7118 Byron Avenue One-story Child care facility/office

SURROUNDING PROPERTIES:

East: Surface parking, one and two story buildings
North: North Shore Park and Youth Center / Tennis Center
South: Byron Carlyle Theatre
West: Surface parking, one and two story buildings

THE PROJECT:

The applicant has submitted revised plans entitled "72nd and Park" as prepared by **Arquitectonica**, dated signed and sealed August 05, 2019.

The applicant is proposing a new 21-story, 220'-0" high building with 270 co-living residential

units above a ground floor retail component, including one or more waivers and variances to exceed the maximum projection into the front setback below and elevation of 15'-0" from BFE +5', and to exceed the maximum encroachment on the front and side setbacks for habitable use located above 55'-0.

A breakdown of the project's development plan is delineated hereto:

Ground Floor: ±12,500 SF retail

2,080 SF residential lobby

9 surface parking spaces internalized within the accesses/loading berths

6 internalized loading spaces

Two-way 22'-0" wide driveway (parking garage ingress and egress) from Carlyle Avenue

One-way 14'-0" wide driveway (service egress) onto Carlyle Avenue

Two-way 22'-0" wide driveway (service ingress and egress) from Byron Avenue

Mezzanine Level: 63 spaces

Levels 2-4: 17 units ranging in size 455 SF – 800 SF
63 spaces

Level 5: 9 units ranging in size 455 SF – 630 SF
Outdoor amenity deck 25,110 SF

Two amenity areas 3,095 SF + 2,940 SF

Level 6: 15 units ranging in size 400 SF – 1,040 SF
Amenity area 1,410 SF

Levels 7-22: 13 units ranging in size 455 SF – 1,205 SF

Rooftop Level: Roof terrace 4,889 SF of outdoor occupiable space, planters, MEP

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

1. **Sec. 142-745(a)(12) Loading:** Where loading is permitted, it shall be designed as follows, in addition to the requirements for driveways: Driveways for parking and loading shall be combined, unless waived by the Design Review Board.
2. **Sec. 142-743(b)(2)(c) Height:** For lots that are greater than 50,000 SF and located north of 71st Street, the Design Review Board, in accordance with the design review criteria in chapter 118, article VI of these land development regulations, may waive the maximum height of 200 feet, in order to authorize up to an additional 20 feet of height, not to exceed 220 feet, based upon the merit of the design.

The applicant is requesting the following variance(s):

1. A variance to exceed by 65% (6'-6") the maximum 25% (2'-6") projection allowed in required yards in order to construct an eyebrow with a projection of up to 90% (9'-0") into the required yards on the east and west sides of the property (within 15'-0" in height as measured from 13.0' NGVD (BFE+5'-0")).
2. A variance to exceed by 75% (3'-9") the maximum 25% (1'-3") projection allowed in required yards in order to construct an eyebrow that is 10'-0" in width with a projection of 100% (5'-0") into the required yards on the north side of the property (within 15'-0" in height as measured from 13.0' NGVD (BFE+5'-0")).

- Variances 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, unless otherwise noted.

(5) Ornamental features.

- *Supplementary section:*

Sec. 142-745. Street Frontage, design, and operations requirements.

(a) {Applicability.} The following regulations shall apply to all frontages:

(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:

c. 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 finished floor elevation set at 6.05' NGVD and a ground floor clearance of 26'-4" from the average CMB Grade of 3.94' NGVD. This greater clearance at the ground floor is intended to provide a more resilient building standard which will allow greater adaptability for the ground floor components of mixed-use buildings in the future. The ground floor height is 16'-3" when measured from BFE +5'=13.0' NGVD. 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", 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. This code requires this shade structure to be located between a height of 15.0' to 25.0' (as measured from BFE+5'= 13.0'NGVD) along all frontages. However, due to the existing low sidewalk elevation, which is approximately 3.94' NGVD surrounding the entire property, the architect has added an additional eyebrow to help break up the appearance of the taller ground floor and to increase shading along the pedestrian path. This eyebrow is subject to a maximum 25% projection into the required yard, which would not cover the 10'-0" wide required pedestrian path, unless approved with a variance.

For the purposes of new construction in this zoning district, heights are measured from the maximum 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. Staff is supportive of this variance request as the eyebrow would benefit the pedestrian experience along the property and the low grade and the future finish floor at BFE + 5' for the site creates difficulties that result in a

taller ground floor.

Staff would also note that portions of the pedestrian path on Carlyle Avenue and Byron Avenue at the north side is proposed outside the property lines and outside the proposed lower eyebrow part of the variance requested. Staff recommends that the pedestrian path be redesigned closer to the building within the eyebrow proposed and that the bike racks on both frontages be relocated closer to the street. This configuration would also allow for a safer pedestrian experience along the property, away from the street line. Having portions of the pedestrian path away from the retail or restaurant frontage may negatively affect the visibility and business operation.

The lower floors of a building's exterior walls and elevations are critical in relation to the human scale and walkability. Staff is working on modifications to this portion of the regulations in order to allow lower shade structures when they are not an integral structural component of the building. In addition, there is a proposal pending before the Planning Board on September 24, 2019 that will modify and address common variances for allowable encroachments for non-structural shade devices located within the ground floor component. Until then, staff is supportive of the variance as proposed conditioned to modifications to the proposed pedestrian path as noted above.

3. A variance to reduce by 4'-5" the minimum setback of 5'-0" in order to construct accessible amenity pool deck and accessible roof deck with parapet including a rooftop trellis with a setback of up to 0'-7" from the north property line facing 72nd Street.

A variance to reduce by 5'-0" the minimum setback of 10'-0" in order to construct accessible amenity pool deck and accessible roof deck with parapet including a rooftop trellis with a setback of up to 5'-0" from the west property line facing Carlyle Avenue.

- Variance requested from:

Sec. 142-744. - Setbacks and Encroachments.

Setbacks and allowable encroachments into setbacks shall be as per table A below. For the purposes of new construction in this zoning district, heights shall be measured from the City of Miami Beach Freeboard of five feet, unless otherwise noted.

Table A

Street Class: A, Property line abutting: 72nd street, Minimum setback from property line: 20 feet from back of curb line; curb line location shall be at the time of permitting; however, it shall be no less than five (5) feet from the property line.

Similar to the above analysis, the requested encroachment variances are located at the accessible amenity pool deck (at level 5) and roof level (at level 21) of the building facing 72nd Street and Carlyle. As accessible common decks, amenity decks or roof decks, and edge parapets are currently not considered allowable habitable encroachments into the 5'-0" setback, as proposed, a setback variance is requested. The proposed variance would allow the natural extension of these open air features, in line with the balcony encroachments on

the other floors below and above these public deck areas, and will complete the design integrity of the building and create a strong form of articulation along the northern edge of the development. This would not preclude allowable encroachments within required yards, as defined in section 142-1132. In order to maintain a consistent design for all levels, staff is supportive of the variance.

The TCC ordinance allows certain allowable habitable encroachments into required setbacks for distances determined by street class and height. Specifically, the LDRs allow habitable spaces as of right to encroach 5'-0" into the setback on 72nd Street and 7'-0" on Carlyle Avenue and Byron Avenue. These consist of shade structures, balconies or parking decks. Since amenity roof decks are not listed as habitable encroachments within the new ordinance, the projection of this floor into the required yard is subject to the limitations in Section 142-1132(o) projections, which is 25% of the required setback. Based on this section, once the upper common levels of the structure are reached, at the podium amenity level or uppermost rooftop level, certain architectural and support features of the building cannot be located within the setback and must be recessed from the elevation faces of the building. The requested encroachment variances are located at 50' in height for the 5th floor pool deck. The approval of these variances will allow the natural extension of these open air features, in line with the balcony encroachments on the floors above and below, that will complete the design integrity of the building and create a strong form of articulation along the northern and western edges of the development. Staff is working towards correcting this portion of the regulation to allow for amenity decks to be identified as "allowable habitable encroachments". There is a proposal pending before the Planning Board on September 24, 2019 that will modify and address common variances that will be expanding and defining the definition of 'Habitable Encroachments' to include balconies, bay windows, pool decks, roof top decks, and amenity decks and will allow such elements to encroach into required setbacks above a height of 15 feet up to the applicable distance indicated for allowable habitable encroachments in **Table A** of Section 142-744 of the TCC LDRs. This shall not preclude allowable encroachments within required yards, as defined in section 142-1132. In order to maintain a consistent design for all levels, staff is supportive of the variance.

The parapet as part of the roof deck is not an allowable encroachment into the required yard. The accessible roof deck is not considered living space, which would also be allowed as an encroachment, in the new TCC regulations. As such, the parapet would have to be setback into the property to comply with the setback regulations.

4. A variance to reduce by 5'-8" the minimum setback of 10'-0" in order to construct accessible roof deck with parapet including a rooftop trellis with a setback of up to 4'-4" from the west side property line facing Carlyle Avenue.

- Variance requested from:

Sec. 142-744. - Setbacks and Encroachments.

Setbacks and allowable encroachments into setbacks shall be as per table A below. For the purposes of new construction in this zoning district, heights shall be measured from the City of Miami Beach Freeboard of five feet, unless otherwise noted.

Table A

Street Class: C, Property line abutting: Byron Avenue, Carlyle Avenue, and Harding Avenue, Minimum setback from property line:

Similar to the above analysis, the requested encroachment variance is located at the roof level of the building facing Carlyle Avenue. As the accessible roof decks and parapet are not allowed above the maximum height a variance from the building setback is required. The approval of this variance will allow the natural extension of these open air features, in line with the balcony encroachments on the floors below that will complete the design integrity of the building and create a strong form of articulation along the northern and western edges of the development. There is a proposal pending before the Planning Board on September 24, 2019 that will modify and address common variances that will be expanding and defining the definition of 'Habitable Encroachments' to include balconies, bay windows, pool decks, roof top decks, and amenity decks and will allow such elements to encroach into required setbacks above a height of 15 feet up to the applicable distance indicated for allowable habitable encroachments in **Table A** of Section 142-744 of the TCC LDRs. This shall not preclude allowable encroachments within required yards, as defined in section 142-1132. In order to maintain a consistent design for all levels, staff is supportive of the variance.

5. ~~A variance to exceed by three feet (3'-0") the maximum height of 200'-0" (220'-0") for a residential tower in order to construct the structure up to 203'-0" (223'-0") within the TCC district. Variance withdrawn.~~

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, with the exception of variance #5.

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, with the exception of variance #5, 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. **Sec. 142-745(a)(12) Loading:** Where loading is permitted, it shall be designed as follows, in addition to the requirements for driveways: Driveways for parking and loading shall be combined, unless waived by the Design Review Board.
2. **Sec. 142-743(b)(2)(c) Height:** For lots that are greater than 50,000 SF and located north of 71st Street, the Design Review Board, in accordance with the design review criteria in chapter 118, article VI of these land development regulations, may waive the maximum height of 200 feet, in order to authorize up to an additional 20 feet of height, not to exceed 220 feet, based upon the merit of the design.
3. Pool amenity deck, railing and roof terrace are 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.
4. Co-Living Units – 375 SF with a minimum of 20 percent of the gross floor area of the building consisting of amenity space on the same site. Amenity space includes the following types of uses, whether indoor or outdoor, including roof decks: restaurants; bars; cafes; kitchens; club rooms; business center; retail; screening rooms; fitness center; spas; gyms; pools; pool decks; and other similar uses whether operated by the condo or another operator. Bars and restaurants shall count no more than 50 percent of the total co-living amenity space requirements. These amenities may be combined with the amenities for Micro-Hotels, provided residents and hotel guests have access. No variances are permitted from these provisions.
5. **Sec. 142-1161(a)(3) Decks,** not to exceed three feet above the main roofline and not exceeding a combined deck area of 50 percent of the enclosed floor area immediately one floor below.
6. **Sec.142-1161(a)(16) Bathrooms** required by the Florida Building Code, not to exceed the minimum size dimensions required under the Building Code, provided such bathrooms are not visible when viewed at eye level (five feet, six inches from grade) from the opposite side of the adjacent right-of-way; for corner properties. Such bathrooms shall also not be visible when viewed at eye level (five feet, six

inches from grade) from the diagonal corner at the opposite side of the right-of-way and from the opposite side of the side street right-of-way.

7. Clear Pedestrian Path. A minimum 10 foot wide "Clear Pedestrian Path," free from obstructions, including but not limited outdoor cafes, sidewalk cafes, landscaping, signage, utilities, etc.
8. The eyebrow encroaching into the front setback below 15'-0" cannot exceed 25% (2'-6") into the front setback. Variance requested.
9. Clarify location and type of required bicycle (long vs short term) parking on plans.
10. A shade structure that projects for a minimum depth of five (5) feet 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 shade structure encroaching into the right-of-way will require a revocable right-of-way permit through the Public Works department and approved by City Commission.

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 four variances and two 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 four variances and two 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 four variances and two 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.

Not Satisfied; the applicant is requesting four variances and two waivers 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 four variances and two 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 four variances and two 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; 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 four variances and two 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.

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, entire block development located within the boundaries of the TC-C, Town Center – Central Core District, directly south of the North Shore Park and Youth Center green space. The applicant is proposing a new 21-story, 220'-0" high building with 270 co-living residential units above a ground floor retail component, including one or more waivers and several variances. The block is bound by two Class A streets (72nd Street and 71st Street) and two Class C streets (Byron Avenue and Carlyle Avenue). Each class street designation has various design requirements for transparency, depth and habitable space in order to fulfill the vision of a walkable and vibrant town center by creating active ground floor retail and restaurant components, with added emphasis on the pedestrian experience. Minimum street tree canopy and lighting standards as well as architectural shading element guidelines have also been established by street frontage class, which require the new buildings to provide additional comfort and shade to the pedestrians to compliment an active streetscape for an enjoyable and comfortable, walkable neighborhood.

The design features a four-story parking pedestal lined with residential units along the north, west and east sides, within the northern portion of the block, with its primary façade facing 72nd Street, and North Shore Park and Youth Center green space. The ground floor of the pedestal is comprised of retail, which fronts 72nd Street and spills around the block of Byron Avenue, and a residential lobby. The ground floor, detailed in floor to ceiling glass walls, and a wood accented entry lobby, is recessed from the remainder of the pedestal that projects beyond as a stucco grid of balcony edges and dividers that, with a staggered rhythm, provides movement. Service spaces, such as loading and vehicular drop-off, are internalized within the ground floor, and the parking ramp, which accesses the building's four levels of parking (one of which is a mezzanine), is located off of Carlyle Avenue. From levels two (2) to four (4), the parking is recessed into the project, screened behind a residential liner the runs the entire length of the block facing 72nd Street and corners both Byron and Carlyle Avenues. The fifth level is composed of units and amenities, including an open-air outdoor deck and garden with a lap pool. The rectilinear shape of the tower commences at this level and rises 18 stories. The massing of the tower takes form with balcony widths that, finished in white stucco, provide horizontal movement. The tower's elevations are further enhanced with fluctuating balconies at levels 6, 12 and 18. The 21-story structure terminates at rooftop landscaped with plants and trees and that is shaded by a large, metal trellis structure.

Consistent with modern trends in the housing industry, the applicant is proposing a co-living residential tower. In order to develop more housing options, these types of units have been introduced into the regulations for the TCC. A co-living unit provides for smaller unit square footages than what has been traditionally required; however, additional, new required common amenity areas are mandated which provide opportunities for social interaction, similar to a “dormitory” lifestyle with greater common areas that all residential tenants may utilize. In this proposal, of the 270 units, 121 are of a more compact, smaller nature. The total gross square footage of the project contains 275,732 SF, which includes outdoor amenity areas but not the parking facility. Both indoor and outdoor amenities have been provided totaling approximately 58,776 SF which is consistent with the minimum requirements.

In order to provide a safe pedestrian environment, driveways are prohibited along 72nd and 71st Street, unless it is the only means of vehicular access to the site. Driveways and loading are permitted on Class C frontages; however, their width is limited and they must be incorporated into the façade of the building. Additionally, loading must be set back to limit its visibility from the public realm. Several driveway design characteristics typically cause safety and access problems for pedestrians, including excessively wide and/or sloped driveways, driveways with large turning radii, and multiple adjacent driveways, all of which lead to hazardous walking conditions in the built environment from the pedestrian perspective. In order to minimize vehicular breaks in the sidewalk to accommodate driveways, additional design guidelines implemented by the ordinance include minimum separation standards in order to prevent excessively wide curb cuts minimize conflicts with pedestrians. Along Byron Avenue the development contains one two-way 22'-0" wide driveway that accesses the internalized loading berths. In order to effectuate movement and minimize maneuverability conflict, a one-way 14'-0" wide driveway exits onto Carlyle Avenue and allows for right-turns only onto the street. Along this street frontage, the project also proposes an additional two-way 22'-0" wide driveway from Carlyle Avenue that leads to the upper level parking facilities for the residential units. These two curb cuts are separated by the required separation distance of 30'-0", but the TCC regulations further stipulate that all driveways, both for parking and loading, be combined, unless waived by the Design Review Board. In this instance, staff is supportive of the waiver, since the driveways proposed do not proliferate an expansive breadth for vehicle curb cuts and have successfully been incorporated into the façade of the building and designed with the minimal widths for safe traffic flow and maneuverability. The two-way driveway along Carlyle configures a speed ramp to the upper parking levels that provides streamlined residential vehicular circulation and ensures that commercial and loading vehicles do not interfere with residential access. All of the required loading is enclosed within the building and lined with the required habitable areas for each Street Class designation. Staff supports the waiver to separate the loading and parking driveways.

HEIGHT

The applicant is requesting an additional 20'-0" of height from the DRB which would bring the maximum building height up to of 220'-0" from BFE +5, or 13' NGVD. The TCC requires participation in the Public Benefits Program (Sec. 142-747) for all floor area located above 125 feet up to the maximum building height. Additionally, through additional participation in the Public Benefits Program lots that are 20,000 square feet (SF) or greater may seek additional height above the maximum building height. The subject block contains roughly ±75,147 SF of lot area, or 1.7 acres. Properties greater than 50,000 square feet and located

north of 71st Street may exceed the maximum height of 200 feet, up to an additional 20'-0" in height, when granted by the DRB "based upon the merit of the design". According to the applicant's letter of intent, the project will meet the Sec. 142-747 requirement by virtue of the 'Expedited Development Construction'. If the applicant fails to meet the development timeline, then a monetary contribution to the public benefits fund or other method will need to be addressed. As previously mentioned, Phase I of the project contains three street frontages. In order to prevent a continuous wall and potential shading of the North Shore green space north of 72nd Street, additional tower side setbacks have been provided. As a Class A street frontage, the additional height will not impact additional structures on this block as this is the only tower located on this entire City block, creating open views for the neighborhood and reducing the overall massing footprint. Plans indicate that the additional height will be utilized to provide more expansive floor to ceiling heights, not additional floors, to further participate in the highly competitive residential market. At the lower levels, the architect has created interesting façade features such as changing balcony dividers and a brise soleil along the parking levels, evocative of the MiMo architecture that is so prevalent within North Beach. Additionally, dynamic balconies that fluctuate at levels 6, 12 and 18, and provide architectural depth and movement to the elevation, as well as break up the 21-story massing are proposed. Staff is supportive of the waiver for the full 20'-0" of additional height.

PHASED DEVELOPMENT REVIEW

The subject property consists of all the platted lots (Lots 1-12) within Block 5 of the Normandy Beach South Plat/Subdivision. The block site is currently improved with the following uses and existing structures: (i) a postal office and surface parking lot on the southern portion of the Property (527 71 Street and 7100-7108 Byron Avenue); (ii) child care facilities, office and residential space (7118-7144 Byron Avenue); and (iii) 2-story multifamily structures (7125-7145 Carlyle Avenue). There are existing utility easements and facilities located on the block that the applicant will relocate as part of the construction permitting of the development and will work with the City and respective utility companies to resolve before construction permitting.

Due to the size of the subject property and the expansive nature of the project, as well as challenges with the current lease holder of the southern property, the applicant seeks a phased development permit, pursuant to Section 142-746 and 118-259 of the Code, to complete the renovations in two (2) phases.

Lot Size:	±75,147 SF of entire site
	Phase I: ±43,440 SF
	Phase II: ±31,707 SF
Proposed FAR:	261,997 SF / 3.48
	Phase I FAR: 239,997 SF
	Phase II FAR: 22,000 SF

Phase I - North sites and residential tower project (7125 Carlyle Avenue, 7135 Carlyle Avenue, 7145 Carlyle Avenue, 7144 Byron Avenue, 7134 Byron Avenue, 7118 Byron Avenue). Phase I consists of all proposed development for the residential tower as defined and depicted in the submitted plans. The project site includes the replacement of all one- and two-story existing buildings, except for the existing one-story post office. The phased development approval requires the nonconforming building to be redeveloped into a

conforming building. The phasing time limit shall be the minimum necessary to allow for the completion of the lease.

Phase II – South Site & US Post Office (525 71st Street). The southern portion of the subject block currently contains an existing one-story MiMo-designed building built in 1961 by H. E. Brown currently occupied by the United States Postal office, subject to a lease between the applicant and the federal government. The post office is a major neighborhood feature contributing to the success of the North Beach community. According to the applicant, the Post Office has not indicated a relocation plan as of this filing and therefore is not intended to be relocated as part of this application. In the event the Federal Government terminates its lease and relocates, the applicant will submit an application for Phase II to the Design Review Board. The applicant has allocated approximately 22,000 SF of FAR to redevelopment the site in accordance with the TCC frontage requirements of Class A street (71st Street) design guidelines.

VARIANCE REVIEW

As identified under the 'Project' description of the analysis, all four variances are consistent with proposed legislative adjustments to the recently adopted TCC zoning regulations and are fundamentally linked to the block development for the TCC zoned site. Staff recommends approval of the variances.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the requested variances #1--#4 be approved, and the design inclusive of the waivers 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.

"Exhibit A"

Parcel 1:

Lots 4, 5, 6, 7 and 8, of Block 5 of NORMANDY BEACH SOUTH, according to the Plat thereof, as recorded in Plat Book 21, at Page 54, Public Records of Miami-Dade County, Florida.

Parcel 2:

Lots 1, 2, 9, 10, 11 and 12, of Block 5, of NORMANDY BEACH SOUTH, according to the Plat thereof, as recorded in Plat Book 21, at Page 54, Public Records of Miami-Dade County, Florida.

Parcel 3:

Lot 3 of Block 5 of NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, at Page 54, of the Public Records of Miami-Dade County, Florida.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: October 02, 2019

FILE NO: DRB19-0407

PROPERTY: **7125-7145 Carlyle Avenue, 7100-7144 Byron Avenue and 527 71st Street**

APPLICANT: KGTC LLC

LEGAL: See attached "Exhibit A"

IN RE: An application has been filed requesting Design Review Approval for the construction of a new multistory mixed-use residential and retail development, including one or more waivers and variances to exceed the maximum allowable encroachment in required yards, to exceed the maximum building height, and to reduce the required setbacks, to replace seven one- and two-story existing buildings. This project is proposed to take place in two (2) phases as a phased development project

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. The Phased Development plan shall be approved as proposed. The project site includes the replacement of all one- and two-story existing buildings, except for the existing one-story post office. The phased development approval requires the nonconforming building to be redeveloped into a conforming building. In the event

the Federal Government terminates its lease and relocates, the applicant will submit an application for Phase II to the Design Review Board.

2. Revised elevation, site plan, and floor plan drawings for the proposed new development at 7145 Carlyle shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. 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.
 - b. All exterior walkways and drives shall consist of decorative pavers, set in sand or other semi-pervious material, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
 - 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. The final design details of the exterior materials and finishes depicted on sheet A3-06 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.
 - e. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
 - 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. 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.
3. 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) which were either approved by the Board with modifications, or denied:

The following variance was approved by the Board:

1. A variance to exceed by 65% (6'-6") the maximum 25% (2'-6") projection allowed in required yards in order to construct an eyebrow with a projection of up to 90% (9'-0") into the required yards on the east and west sides of the property (within 15'-0" in height as measured from 13.0' NGVD (BFE+5'-0")).
2. A variance to exceed by 75% (3'-9") the maximum 25% (1'-3") projection allowed in required yards in order to construct an eyebrow that is 10'-0" in width, with a projection of up to 100% (5'-0") into the required yards on the north side of the property (within 15'-0" in height as measured from 13.0' NGVD (BFE+5'-0")).
3. A variance to reduce by 4'-5" the minimum setback of 5'-0" in order to construct accessible amenity pool deck and accessible roof deck with parapet including a rooftop trellis with a setback of up to 0'-7" from the north property line facing 72nd Street.

A variance to reduce by 5'-0" the minimum setback of 10'-0" in order to construct accessible amenity pool deck and accessible roof deck with parapet including a rooftop trellis with a setback of up to 5'-0" from the west property line facing Carlyle Avenue.

4. A variance to reduce by 5'-8" the minimum setback of 10'-0" in order to construct accessible roof deck with parapet including a rooftop trellis with a setback of up to 4'-4" from the west side property line facing Carlyle Avenue.

The following variance was withdrawn by the applicant:

1. A variance to exceed by three feet (3'-0") the maximum height of 200'-0" (220'-0") for a residential tower in order to construct the structure up to 203'-0" (223'-0") within the TCC district.
- A. 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.

- B. 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.

2. If required, the applicant shall obtain a revocable permit from the Public Works Department for the proposed improvements within the public right-of-way, subject to approval of the City Commission, prior to the issuance of a building permit.
3. The required 10'-0" pedestrian path along Byron Avenue and Carlyle Avenue shall be relocated to be as close to the building as possible away from the street line, subject to review and approval of staff.

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. The applicant intends on satisfying the Public Benefits requirement by virtue of the 'Expedited Development Construction' option detailed in Section Á2-7a7G) of the LDRs. In the event Applicant is unable to satisfy the expedited development timeline, Applicant will be required to contribute to the public benefits fund or satisfy one of the other public benefit options detailed in Section 142-747 of the LDRs,
- C. An easement to the city providing for perpetual public access shall be provided for portions of the Clear Pedestrian Path that fall within the setback area.
- D. 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.
- E. 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.
- F. 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.

- G. 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.
- H. The Public School Concurrency Proportionate Share Mitigation Development Agreement shall be fully executed by all parties and the monetary proportionate share mitigation be paid in full. Furthermore, the applicant must obtain the "Finding" from the School Board prior to the issuance and recordation of the Design Review Final Order.
- I. 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
- J. 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.
- K. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- L. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- M. 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.
- N. 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.
- O. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- P. 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 "72nd and Park" as prepared by **Arquitectonica**, dated signed and sealed August 05, 2019, 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.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIR

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

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 _____ ()