

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: DRB19-0445
420 South Hibiscus Drive

An application has been filed requesting Design Review Approval for the construction of a new two-story single-family residence to replace an existing two-story architecturally significant pre-1942 residence including one or more waivers, and an understory area, and variances to exceed the maximum area for a skylight and to exceed the maximum height allowed for an elevator.

RECOMMENDATION:

Approval with conditions.

Approval of variance #1.

Denial of variance #2.

LEGAL DESCRIPTION:

Lots 24 & 25, Block 1, of Hibiscus Island, according to the Plat thereof, as recorded in Plat Book 8, at Page 75, of the Public Records of Miami-Dade County, Florida.

Parcel II:

Together with that portion of 29 foot strip of land conveyed by the Trustees of the Internal Improvement Fund to Biscayne Bay Islands Company, by deed dated September 14, 1932, recorded in Deed Book 1501, page 479, of the Public Records of Miami-Dade County, Florida, lying southwesterly and contiguous to the southwest boundary lines of said Lots 24 & 25, Block 1, of Hibiscus Island, according to the Plat thereof, as recorded in Plat Book 8, at Page 75, of the Public Records of Miami-Dade County, Florida, and lying between the northwesterly line of Lot 25, Block 1, extended southwesterly into Biscayne Bay and a line running parallel to and 1 foot northwesterly from the southeasterly line of Lot 24, Block 1, Hibiscus Island, extended southwesterly into Biscayne Bay.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 19,687 SF
Lot Coverage:
Existing: +/-6,906 SF / 35%
Proposed: 5,905.5 SF / 29.9%
Maximum: 5,906.1 SF / 30%
Unit size:
Existing: +/-5,495 SF / 27.9%

Proposed: 9,725.6 SF / 49%

Maximum: 9,843.5 SF / 50%

2nd Floor to 1st: 5574/4620 | 83%*

***DRB WAIVER**

Height:

Proposed: 28'-0" flat roof from BFE +5*

***DRB WAIVER**

Maximum: 24'-0" flat roof

Grade: **+5.66' NGVD**

Base Flood Elevation: +10.00' NGVD

Difference: +4.34' NGVD
Adjusted Grade: +7.83' NGVD
First Floor Elevation: +17.00' NGVD
(BFE+5fb+2')
Side Yard Elevations Min: 6.56' Max: 8.16'
Read Yard Elevations Min: 6.56' Max: 15'

Vacant: No
Demolition: Total

EXISTING PROPERTY:

Year: 1937
Architect: August Geiger

SURROUNDING PROPERTIES:

North: One-story 1947 residence
South: Biscayne Waterway
West: Two-story 2016 residence
East: Two-story 1924/2007 residence

THE PROJECT:

The applicant has submitted plans entitled "420 South Hibiscus Design Review Board Final Submittal", as designed by **DOMO Architecture + Design**, signed, sealed, and dated August 02, 2019.

The applicant is requesting Design Review Approval for the construction of a new two-story residence to replace an existing two-story pre-1942 architecturally significant residence.

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

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c): 83.2%.
2. The height of the proposed structure is 28'-0" in accordance with Section 142-105(b) 4'; 28' as measured from BFE +5, or 13 NGVD
3. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).

The applicant is requesting constructing the residence above allowable 'understory' spaces instead of infilling with berms and tiered site work, subject to the following:

1. Understory area shall be subject to the review and approval of the Design Review Board in accordance with Section 142-105(b)(4)(e).

The applicant is requesting the following variance(s):

1. A variance to exceed by 3'-0" the maximum height allowed of 10'-0" feet above the roofline in order to construct an elevator bulkhead up to 13'-0" above the roofline.
 - Variance requested from:

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

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

(7) Height exceptions. The height regulation exceptions contained in section 142-1161 shall not apply to the RS-1, RS-2, RS-3 and RS-4 zoning districts. The following exceptions shall apply, and unless otherwise specified in terms of height and location, shall not exceed 10'-0" above the roofline of the structure.

f. Elevator bulkheads shall be located as close to the center of the roof as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations.

The project includes one 13'-0" high elevator to service a 10,000 SF house. The bulkhead is located close to 90'-0" feet from the street front and 77'-0" from the rear waterway and is visually recessive within the perimeter of the roof. The additional 3'-0" in height requested is based on the size and type of elevator associated with the project, which is more in line with a commercially sized elevator bulkhead, and is not atypical to associate with a residential property of this size on a lot that contains nearly 20,000 SF of lot area. Staff has no objections to this request as the increase in height is not detrimental to the surrounding properties and is hidden from view by being centrally located within the floorplan. Staff finds that the expansive residence and the limited flexibility for residential elevators creates the practical difficulties for the variance requested.

2. A variance to exceed by 1.28% (77 SF) the maximum allowable area for a skylight/atrium of 10% (595 SF) of the roof area (5,950 SF) in order to construct an glass atrium at 672 SF.

- Variance requested from:

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

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

(7) Height exceptions. The height regulation exceptions contained in section 142-1161 shall not apply to the RS-1, RS-2, RS-3 and RS-4 zoning districts. The following exceptions shall apply, and unless otherwise specified in terms of height and location, shall not exceed ten feet above the roofline of the structure. In general, height exceptions that have not been developed integral to the design intent of a structure shall be located in a manner to have a minimal visual impact on predominant neighborhood view corridors as viewed from public rights-of-way and waterways.

g. Skylights, not to exceed five feet above the main roofline, and provided that the area of skylight(s) does not exceed ten percent of the total roof area of the roof in which it is placed.

The project includes one glass roof atrium, approximately 26'-0" x 26'-0" (676 SF) centrally located above the main, double height, living parlor room. The design of the home with its transparent glass atrium will reduce the perceived mass of the home when viewed from the water and will not impact neighboring properties as the skylight/atrium in question is centrally located within the home. Skylights are permitted to extend 5'-0" above the main roof. The design herein proposes a slightly larger atrium in area, but 1'-4" lower than allowed, at 3'-8". The 967 SF active habitable roof deck engages the atrium. Staff finds that this is an additional design feature, not necessary to make a reasonable use of the single family property. Although, the additional area requested does not have a negative impact on the adjacent properties, the variance request does not satisfy the practical difficulties or hardship criteria of the Code. As such, staff does not support the variance.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variance #2, as noted above 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 with the exception of variance #2, as noted above:

- 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:

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

(4) Unit size requirements.

e. Subject to the review and approval of the design review board or historic preservation board, as applicable, the following may apply to the understory area(s):

6. The maximum width of all driveways at the property line shall not exceed 15 percent of the lot width, and in no instance shall be less than nine feet in width and greater than 18 feet in width.
 7. At least 70 percent of the required front yard and street side yard areas shall consist of sodded or landscaped pervious open space. For purposes of this section, the required front yard shall be measured from the front setback of the principal structure to the front property line and the required street side yard shall be measured from the street side setback of the principal structure to the street side property line. All allowable exterior walkways and driveways within the front and street side yards shall consist of pavers set in sand or other semi-pervious material. The use of concrete, asphalt or similar material within the required front or street side yards shall be prohibited.
 8. A continuous soffit shall be lowered a minimum of two feet from the lowest slab of the first level above the understory area in order to screen from view all lighting, sprinkler, piping, plumbing, electrical conduits, and all other building services, unless concealed by other architectural method(s).
 10. Understory edge. All allowable decking, gravel, pavers, non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments located in the understory area shall be setback a minimum of five feet from each side of the underneath of the slab of the first habitable floor above, with the exception of driveways and walkways leading to the property, and access walkways and/or steps or ramps for the front and side area. The front and side understory edge shall be designed to accommodate on-site water capture from adjacent surfaces and expanded landscaping opportunities from the side yards.
2. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. **The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line.** The square footage of the additional open space shall not be less than one percent of the lot area. The open space provided along a side elevation in accordance with this subsection, whether required or not, shall not be included in the lot coverage calculation provided that the combined depth of the open space, as measured from the required side setback line(s), is less than 30 percent of the maximum developable building width of the property, as measured from the interior setback lines, and the total open space provided does not exceed five percent of the lot area. Any portions of the interior side yard open space in excess of five percent of the lot area shall be included in the total lot coverage calculation. The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and at least 75 percent of the required interior open space area shall be sodded or landscaped previous open space. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from the minimum requirements of this provision may be granted only through design review board approval in accordance with the applicable design review criteria.
3. Section 142-105(b)(1) *Lot area, lot width, lot coverage, unit size, and building height*

requirements. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows: **RS-3 May be increased up to 28 feet for flat roofs and 31 feet for sloped roofs when approved by the DRB or HPB, in accordance with the applicable design review or appropriateness criteria.**

4. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a 2nd Floor Volume to 1st of 83% with a 29% lot coverage, which will require a waiver from the DRB.**
5. **A-1.1 and L2.0** show conflicting hardscape in the required front yard. **NOT ALLOWED.** Relocate guest gardens outside of required front yard.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the applicant is requesting two variances and four design waivers from the Board and review of the understory area.
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 two variances and four design waivers from the Board and review of the understory area.
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 one design waiver from the Board and review of the understory area.
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 two variances and four design waivers from the Board and review of the understory area.

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 two variances and four design waivers from the Board and review of the understory area.
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 two variances and four design waivers from the Board and review of the understory area.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied

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 applicant is proposing to construct a new two-story residence on a waterfront parcel on the southwest tip of Hibiscus Island that will replace an existing pre-1942 architecturally significant two-story residence. The proposal includes a request for four design waivers and two variances as well as the review of the understory portion of the design.

Within the City, RS-3 zoned single-family properties can be designed with homes that have an overall height of 24'-0" for flat roof structures that may be increased up to 4 additional feet through the design review board process. Where or how the architect chooses to allocate and distribute this additional height is at the discretion of the designer and the owner. The residence is a quasi-pilotis style home that addresses the issue of sea level rise by elevating the home to 17'-0" above CMB Grade, rather than tiering the site and utilizing copious amounts of fill, the design features an elevated main plain.

Since the understory ordinance was adopted in July of 2018, there has been a discernible increase in elevated homes that are being configured with finished first floor elevations at or above the maximum freeboard amount due to sea level concerns, flooding and mitigation, and the raising of City roads. As a result, architects and designers have been tasked with the need to provide tangible transition spaces in order to access the main level of a home.

The proposed residence is designed in a contemporary style. The predominately two-story home is elevated, with an understory detailed with utilitarian spaces, such as parking and storage, as well as decks framed by landscaped lawns and gardens that lead seaward to a water feature, with a cascade from the infinity pool above. The communal plate of the home rests on the 1st floor, above the understory, and cleverly links a one-story guest quarters at the front of the property and the two-story massing facing the bay with an outdoor water garden that serves as an entrance "foyer" with a grand staircase, sunken seating and a fire pit. The programmatic layout out of the home flanks a central axis that commences at the front gate and culminates at a double height glass atrium overlooking an infinity pool and Biscayne Bay. The home is well-detailed on its primary facades with stone cladding, accented by bronze aluminum window walls and architectural screens. The subtly ornate home even features an escalator from the understory level directly into the grand atrium.

The first fully-enclosed, habitable floor of the residence is designed at an elevation of 17'-0" NGVD, approximately 6'-0" above the minimum building standard requirement of +11'-0" NGVD (BFE + 1' Fb). And 2'-0" higher than the maximum freeboard allowance of +5.00' over Base Flood (+15.00'). The design intention is to create a larger, non-air-conditioned space below the main slab that serves as a usable outdoor recreational amenity and program feature for the residents. The Code, however, restricts the maximum floor to ceiling height of this under slab area to 7'-6".

The first design waiver pertains to the height of the residence. The architect is seeking 28'-0" for the new two-story residence from BFE +7'-0". The intent of the waiver is for lots in the RS-3 districts that closely resemble lot sizes in the RS-1 and RS-2 zoning districts. The subject site contains 19,687 SF, which is nearly 100% more of the lot area required for RS-3 lots (10,000 SF), and in fact exceeds by 2,000SF the minimum lot area size of RS-2 lots, which is 18,000SF. The site can, as a matter of right, achieve 28'-0". Staff is supportive of the requested 4'-0' height increase predominantly due to the basic lot size comparison, but also due to the configuration of the one-story guest suite at the front setback and the two-story main residence being setback 80'-0" from the front radius property line. Staff is supportive of the design waiver for height.

The applicant is also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length (north and south). The house has been carefully designed to contain a lot of movement along the side elevations as the rectilinear design conforms to the pie-shaped parcel. The design plans feature a zagged, serrated layout that does not create a sheer vertical wall abutting the neighboring two-story residences. The Code requires that the additional open space be regular in shape, open to the sky from grade, and at least eight feet in depth, as measured perpendicular from the minimum required side setback line it fails to contemplate pie shaped designs. Additionally, the abutting property to the north contains a contemporary two-structure residence approved under the previous single-family regulations, on May 07, 2013, pursuant to DRB File No. 22964. As designed, the proposed open space does not meet the Code's requirements but does endeavor the intent of the regulation by breaking up long expanses of uninterrupted two-story volumes. Staff is supportive of the side open space waiver along both sides (north and south).

The final design waiver pertains to the second floor to first floor ratio. Per the City's Code, when the lot coverage exceeds 25%, the second floor is restricted in massing to 70% of the first floor, unless a waiver is granted by the Design Review Board. As proposed, the home has a second floor to first floor ratio of 83%. When reviewing the second-floor volume rule, staff believes that the request is commensurate with the design that features a large one-story structure proposed towards the front of the property. Additionally, the architect has respected the street scale through an increased setback of approximately 80'-0" for the exterior wall of the second floor, which greatly lessens its impact on the street. Finally, the architect has provided the required open recesses along the north side elevation to break up the massing and does not request a waiver of any of the open space required components thereof. As such, staff is supportive of this requested waiver.

Overall, staff is supportive of the overall design and its unique architectural solution, and recommends approval of the design as proposed with the following modifications:

- a. Rotate garage to be loaded from front, not interior side
- b. Minimize driveways in side yards (see compliance with zoning code).
- c. Side walls at the understory level of the front guest suite cottages shall be designed with openings a minimum of 50 percent on each side.

Staff is confident all of these proposed changes can be reviewed and approved administratively, and as such, recommends approval of the modifications. It should also be noted that the proposed residence does an outstanding job of incorporating the recently adopted Understory Ordinance, including the requested waiver and the use of the understory area.

VARIANCE REVIEW

The applicant is requesting a variance to exceed the maximum height for an elevator in a single family district. A property of this size would require a commercial elevator to have the ability to freely and safely move larger objects, furniture and large scale artwork, in the 10,000 SF home. The commercial elevator code does not make a distinction in residential or commercial use. It does require additional height at the roof and depth of the ground floor clearance for the cab. The elevator is configured centrally within the floor plan and is setback from the street and from the water. Further, at a 10'x10' size, the 3'-0" height

increase at these distances will have zero effect on the overall appearance or impact to the surrounding area. Staff is supportive of variance request, understanding the difficulties in reference to the classification of elevators of commercial vs residential based on its size and the need to provide a higher elevator on the property. However, regarding the variance to exceed the maximum area allowed for a skylight, although it is not proposed to the maximum height allowed, the additional area requested does not satisfy the practical difficulties criteria and staff does not recommend approval. As such, staff supports approval of the variance #1 and recommend denial of the variance #2.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the design inclusive of all of the waivers and variance #1 and **denial** of request #2, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria. However, should the Board find that the variance(s) requested 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, staff recommends that any approval be subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned criteria above.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: October 02, 2019

FILE NO: DRB18-0445

PROPERTY: **420 South Hibiscus Drive**

APPLICANT: Moishe Mana

LEGAL DESCRIPTION: See attached Exhibit A

IN RE: The Application for Design Review Approval for the construction of a new two-story single-family residence to replace an existing two-story architecturally significant pre-1942 residence including one or more waivers, and an understory area, and variances to exceed the maximum area for a skylight and to exceed the maximum height allowed for an elevator.

ORDER

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 4, 5, 6, 9, 12, and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 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 home at 420 South Hibiscus Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed (north and south) side open space requirements **shall be** waived as proposed.

- b. The proposed 4'-0" increase in height **shall be** permitted as proposed; the maximum height of the two story structure shall be 26'-0" when measured from BFE + 5'-0" freeboard.
 - c. The required 70% limitation for the second floor volume **shall be** waived as proposed and shall not be increased at time of permitting, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. The proposed (north and south) side open space requirements **shall be** waived as proposed.
 - e. The proposed understory area shall comply with section 142-105(4)e., as noted in the compliance with zoning portion of the staff report.
 - f. Side walls at the understory level of the front guest suite cottages shall be designed with openings a minimum of 50 percent on each side.
 - g. The architect shall rotate the garage area within the understory level to be loaded from front, not interior side.
 - h. The heights of fences shall be measured from Grade.
 - i. The final design details and color selection of the "stone cladding" proposed at both portions of the façades 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.
 - j. The final design details and color selection of the "aluminum decorative wood cladding" proposed at both portions of the façades shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - k. The final design details and color selection of the "aluminum decorative screen" proposed at portions of the façades 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.
 - l. 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.
 - m. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing,

location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and shall incorporate the following:

- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
- b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Prior to any site demolition work, a tree protection fence following the City standard shall be installed for trees scheduled to remain subject to the review and approval of the City Urban Forester.
- d. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
- e. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- f. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- g. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- h. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- i. Any proposed new street trees shall be of a planting species consistent or similar with existing street trees in the immediate area or consistent with

any master street tree plan for the area, subject to the review and approval of the City Urban Forester.

- j. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- k. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- l. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- m. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- n. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right-of-way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- o. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

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

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s) 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 3'-0" the maximum height allowed of 10'-0" feet above the roofline in order to construct an elevator bulkhead up to 13'-0" above the roofline.

The following variance was **denied** by the Board:

2. A variance to exceed by 1.28% (77SF) the maximum allowable area for a skylight/atrium of 10% (595 SF) of the roof area (5,950 SF) in order to construct an glass atrium at 672 SF).
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variance #2, as noted above 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 with the exception of variance #2, as noted above:

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 #1 and **Denies** variance request #2, 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. The proposed skylight shall be reduced in area, to be no greater than the maximum allowable area for a skylight/atrium of 10%.

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 an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- C. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- D. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- E. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- F. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.

- G. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- J. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "420 South Hibiscus Design Review Board Final Submittal", as designed by **DOMO Architecture + Design**, signed, sealed, and dated August 02, 2019, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

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

Filed with the Clerk of the Design Review Board on _____ ()

Exhibit A

Lots 24 & 25, Block 1, of Hibiscus Island, according to the Plat thereof, as recorded in Plat Book 8, at Page 75, of the Public Records of Miami-Dade County, Florida.

Parcel II:

Together with that portion of 29 foot strip of land conveyed by the Trustees of the Internal Improvement Fund to Biscayne Bay Islands Company, by deed dated September 14, 1932, recorded in Deed Book 1501, page 479, of the Public Records of Miami-Dade County, Florida, lying southwesterly and contiguous to the southwest boundary lines of said Lots 24 & 25, Block 1, of Hibiscus Island, according to the Plat thereof, as recorded in Plat Book 8, at Page 75, of the Public Records of Miami-Dade County, Florida, and lying between the northwesterly line of Lot 25, Block 1, extended southwesterly into Biscayne Bay and a line running parallel to and 1 foot northwesterly from the southeasterly line of Lot 24, Block 1, Hibiscus Island, extended southwesterly into Biscayne Bay