

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: November 05, 2019

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB19-0444
445 East DiLido Drive

DRB19-0444, 445 East DiLido Drive. An application has been filed requesting Design Review Approval for the construction of a new two-story residence to replace an existing one-story architecturally significant pre-1942 residence including one or more waivers and variances to exceed the maximum allowable lot coverage and unit size.

RECOMMENDATION:

Denial of variance requests

Continue to a future date.

LEGAL DESCRIPTION:

Lot 3 and 8 foot wide strip contiguous to same in Bay adjacent to Block 4 of DiLido Island, according to Plat thereof as recorded in Plat Book 8, Page 36 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 10,694SF (60x181)
Lot Coverage:
Existing: ± 2,379 / 22.6%
Proposed: ± **3,541 SF / 33.1%***
Maximum: 3,208 SF / 30%

***VARIANCE REQ'D**

Unit size:

Existing: ± 2,587 / 24.6%
Proposed: ± 5,529 SF / **51.7%***
Maximum: 5,347 SF / 50%

***VARIANCE REQ'D**

2nd Floor Volume to 1st: **77%***

***DRB WAIVER**

Height:

Permitted: 24'-0" flat roof
27'-0" sloped roof
Proposed: **28'-0" flat roof***
31'-0" sloped roof*

***DRB WAIVER**

Grade: +3.59' NGVD

Flood: +9.00' NGVD

Difference: 4.41'

Adjusted Grade: +6.295' NGVD

30" (+2.5') Above Grade: +6.09' NGVD

First Floor Elevation: +10.00' NGVD

Side Yard Elevations Min: 6.56' Max: 6.56'

Read Yard Elevations Min: 6.56' Max: 10'

EXISTING PROPERTY:

Year: 1930

Architect: John and Coulton Skinner

First Floor Elevation: 7.21' NGVD

Vacant: No

Demolition: Full

SURROUNDING PROPERTIES:

East: Biscayne Bay

North: Two story 2016 residence

South: One story 1968 residence

West: One-story 1951 residence

THE PROJECT:

The applicant has submitted plans entitled "Casa Mas" as designed by **Dooarchitecture** signed, sealed, and dated September 9, 2019

The applicant is proposing to construct a new two-story residence on a waterfront parcel on the eastern side of DiLido Island.

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

1. The height of the portions of the flat roof of the proposed structure is 28'-0" and the portions of the sloped roof of the proposed structure is 31'-0" in accordance with Section 142-105(b) 4'; 28'/31' as measured from BFE +1, or 10' NGVD.
2. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c). 77% proposed.
3. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d). Elevation height of south courtyard. Elevation height and material of north courtyard.

The applicant is requesting the following variance(s):

1. A variance to exceed by 3.1% (333 s.f.) the maximum allowed lot coverage of 30% (3,208 s.f.) for a two-story single family home property in order to construct a new two-story residence with a lot coverage of 33.1.% (3,541 s.f.).
2. A variance to exceed by 1.3% (141 s.f.) the maximum allowed unit size of 50% (5,347 s.f.) for a two-story home in order to construct a new two-story residence with a unit size of 51.3% (5,488 s.f.).

- Variances 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:

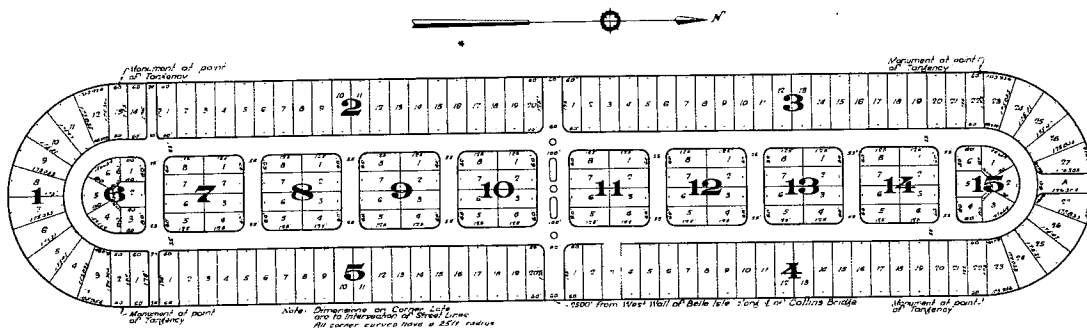
*(1) Lot area, lot width, lot coverage, unit size, and building height requirements. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows: Zoning District: RS-1, Maximum Lot Coverage for a 2-story Home (% of lot area): 30%.
Maximum Unit Size (% of lot area): 50%.*

The subject property is a RS-3 zoned waterfront parcel on the eastern side of DiLido Island. The site remains with its original platted historic configuration and dimensions measuring 60'-0" wide and 178'-0" deep, with a lot area of 10,694 SF. The applicant is requesting variances to exceed the maximum lot coverage and unit size allowed in order to build on a larger residence on what would otherwise be permitted on the site. As it pertains to lot coverage, the expansive south side courtyard exceeds the limitation for lot coverage exemption. Therefore the excess area that exceeds the maximum depth within the courtyard (13.5') of the property, counts towards the overall lot coverage which results in an overall lot coverage that is over the maximum 30%. Staff must note that yet even without

this "extra" 215 SF courtyard space, the proposed lot coverage SF would still be over 30%. Design is already over lot coverage at 31% without the variance request.

As it pertains to unit size, the design features cantilevered second floor areas exceed the already oversized ground floor footprint and yields a residence that is nearly 2% (200 SF) greater than what is permitted by code on the property.

Based on the standard sized RS-3 lot area and the fact that this is a new construction on a typical sized waterfront parcel on DiLido Island, staff has concluded that there are no practical difficulties or hardship related to the variances requested. Staff is also very concerned with the applicant's requests, as it could set a precedent for the proliferation of oversized homes on standard sized RS-3 zoned parcels.



Staff does not support the variances for lot coverage and unit size related to the proposed design and strongly recommends denial of variances #1 and #2.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that **do not** 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 **do not** 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.

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. 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 77% with a 33% lot coverage which will require a waiver from the DRB.**
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:
 - a. 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.
 - b. 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.
 - c. **The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and**
 - d. **At least 75 percent of the required interior open space area shall be sodded**

or landscaped with pervious 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. The second floor covered terrace off the master bedroom exceeding 10'-0" from building walls at rear counts towards second floor unit size. +/- 154 SF
5. The maximum projection for balcony and roof overhang in the rear yard is 6'-0". Projection of these elements is not identified on plans.
6. Yard elevations do not comply with the minimum height required by the Code.
7. **Z1.01 UNIT SIZE.** The second floor covered terrace off the master bedroom exceeding 10'-0" from building walls at rear counts towards second floor unit size. +/- 195 SF Project likely over unit size with these area inclusions.
8. **Z1.02 LOT COVERAGE.** Lot coverage: +/- 33% (3541 proposed 3208 permitted). NOT SUPPORTIVE, even without 215 SF courtyard space, enclosed lot coverage SF is still over 30%. Design is already over lot coverage at 31%.

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.
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.

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 two variances and four design waivers from the Board.

4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.

Not Satisfied; the applicant is requesting two variances and four design waivers from the Board. Additionally, e. Add contrasting material to bulk stucco, keystone other quality stone along front of residence.

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.

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.

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.

Satisfied

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and

reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

Not Satisfied

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

Satisfied

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

Satisfied

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

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

13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

Satisfied

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

Satisfied

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

Not Applicable

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

Satisfied

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

Not Applicable

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify

or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.

Not Applicable

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

Not Satisfied; see below

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Satisfied
A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Satisfied
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

Not Applicable

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

- (10) In all new projects, water retention systems shall be provided.

Not Satisfied

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

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 eastern side of DiLido Island that will replace an existing architecturally significant pre-1942 one-story residence. The proposed design seeks two design waivers and one variance as part of this application. The first floor elevation of the new residence is proposed at base flood elevation (8' NGVD) plus a minimum free board of two feet (+10' NGVD).

The proposed residence is designed in a contemporary style. The architecture is comprised of several irregularly shaped volumes that are stacked atop and beside one another, each with varying roofs and angled planes. The residence is predominately clad in white concrete panels, which along the front (west) façade exhibit patterns of perforated openings, allowing the spillage of natural light to infiltrate the residence. On the south (side) elevation, the home features an amorphous shaped courtyard that is swathed in glass and contrasts with the concrete paneled exterior skin of the home. The north (side) façade continues the stoic, featureless concrete walls, which staff finds overly barren and recommends the inclusion of fenestration. While along the south (rear) elevation the design introduces a fully transparent façade of glass framed by a concrete band. The multitude of roof types and varying slopes contrasted with stark materiality, lends to a visually interesting home comprised of well-curated sculptural forms.

The first design waiver pertains to the height of the residence. The maximum building height in the RS-3 zoning district is 24'-0" for flat roofed structures and 27'-0" for sloped roofs. However, in the RS-3 zoning district the DRB may approve a building height of up an additional 4'-0": for both roof typologies (28'-0" for flat and 31' for sloped). The architect has designed an extremely sculptural residence with a multitude of roof types and varying slopes. Staff is appreciative of the artistic architecture and while the contrasting roofs do break up the massing of the house, a height of 28'-0" and 31'-0" for the new two-story residence, as measured from BFE +1'-0", would overwhelm the 60'-0" wide, 10,694SF lot. The architect has not increased the side setbacks in order to demonstrate a method to offset the volume of the residence. The subject site contains a lot area which only meets the minimum lot area required for RS-3 lots (10,000 SF). The waiver is intended for larger lots in

the RS-3 districts that more closely resemble lot sizes in the RS-1 (30,000 SF) and RS-2 (18,000 SF) zoning districts. As the project site meets the minimal lot area sized for the RS-3 zoning district, staff **does not** support the requested height increase.

The second design waiver pertains to the second floor to first floor ratio of the home. Since the proposed home has a lot coverage of above 25%, any second floor massing is restricted to 70% of the first floor, unless a waiver is sought by the DRB. In this proposal, the applicant is seeking a lot coverage of over 33%. And while the second floor is reduced from the massing of the first floor, staff cannot support a waiver request that is coupled with variance requests for lot coverage and unit size excesses. With a lot coverage of 33% and a unit size of 52%, and waiver requests for height and the increase second floor volume, the result is quite simply an oversized residence on a standard sized lot. Staff recommends the lot coverage be reduced to less than 25% or in the alternative that the second floor be limited to 70% of the first floor. Staff therefore **does not** support the waiver.

The remaining design waivers relates to both side open space requirements for two-story elevations that exceed 60'-0" in length. As previously mentioned, the proposed home features open spaces along each interior side, that are primarily programmed to blend indoor and outdoor programmed space and to break up the home's two-story massing. The north outdoor garden area is designed as an 11'-8" wide by 10'-0" deep recess at the ground level that is lower than the first finished floor of the residence with an elevation of approximately 6.56' NGVD (adjusted grade) and configured with landscaping and a water feature. The space has a cantilevered second floor that reduces the open space in depth and in width and thereby renders the open space not compliant with all of the regulations. Specifically, the additional open space is no longer open to the sky from grade, and while dimensions have not been provided, may not be one percent of the lot area. Additionally, the materiality of the space, as a water garden, does not comply with the required 75% pervious landscape. The open space proposed attempts to address the intent of the ordinance by breaking up the two-story elevation. The abutting property to the north is a newer two story residence approved November 01, 2011 pursuant to DRB2285. In reviewing the building permit plans for the property, B1101799, it does not seem that the approval of the open space waiver will negatively impact this neighbor. Staff **does** support the wavier of the north side open space but recommends additional refinement of the elevations as they pertain to fenestration and architectural interest.

The south elevation has a two story elevation that extends 23'-4" and then breaks with an expansive 28'-1" wide open space and continued elevation that runs 45'-2". As proposed, the deep recess has been surrounded on three sides by an amorphous building edge that provides a faceted glass curtain wall to the interior. The provided open space is also configured with a depth that is greater than 30 percent of the maximum developable building width of the property and that excess square footage has been included in the overall lot coverage calculations. It must be noted that even if this 215 SF courtyard area was deducted from the lot coverage. The proposal would still be over the maximum lot coverage by 100SF. The proposed garden elevation of the open space is elevated to be flush with the interior finished floor, +10.00' NGVD. Therefore the south side open space does not comply with all of the open space regulations, as the elevation (height) of the open space provided cannot exceed the maximum permitted elevation height of the required side yard, or 6.56' NGVD. The wide expansive open space will offer much relief to the massing on the abutting one-story property to the south. Staff finds that the extent of open spaces provided, coupled with the integration of architectural detailing, mitigates any impact on neighbors, and as

such **does** support the design wavier along the south side.

Overall, the applicant has produced an attractive architectural design with rich finishes and complex elements; however, when sited on the 10,000 SF lot, the combined parts, including the requested waivers, overwhelms the site and the streetscape. The design has been configured at BFE plus maximum freeboard, sited at the minimum required setbacks at the front and both sides, and maximized in terms of habitable square footage. Staff believes that the architect should continue to refine the design and reduce some of the componants to become more sensitive to the neighborhood's overall context and still retain the residential architecture that distinguishes itself from neighboring structures.

In summary, staff commends the architect on a unique architectural design but recommends further refinement of the design of the residence and reduction of some of its architectural components in order to create a design that is more sensitive to the neighborhood's overall context, with a more balanced massing on the site, and still retain the residential architecture that distinguishes itself from neighboring structures. Staff strongly recommends a design that results in the withdrawal of all variance requests, and the second floor ratio waiver and height waiver requests. Staff recommends that the design of the replacement home be continued with the design direction provided herein, and/or directions from the Board.

VARIANCE ANALYSIS:

As identified under the 'Project' section of the recommendation, the proposed home can be redesigned to comply with the lot coverage and unit size limitations. Therefore, staff has concluded that the variance requests do not satisfy the Practical Difficulty and Hardship Criteria and recommends that the proposed new residence be redesigned to eliminate all variances.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **continued to the January 07, 2020 DRB meeting**, to address the inconsistencies with the aforementioned Design Review criteria, Sea Level rise, and Practical Difficulty and Hardship criteria, as applicable. In the event the Board approve the project, staff would recommend compliance with the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise and Practical Difficulty and Hardship criteria, as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 05, 2019

FILE NO: DRB19-0444

PROPERTY: **445 East Di Lido Drive**

APPLICANT: Alexis Lleonart

LEGAL: Lot 3 and 8 foot wide strip contiguous to same in Bay adjacent to Block 4 of DiLido Island, according to Plat thereof as recorded in Plat Book 8, Page 36 of the Public Records of Miami-Dade County, Florida

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story residence to replace an existing one-story architecturally significant pre-1942 residence including one or more waivers and variances to exceed the maximum allowable lot coverage and unit size.

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 445 East Di Lido Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed 4'-0" increase in height **shall not be** permitted as proposed along the central rooftop area; the maximum height of the two-story structure

shall be 24'-0" for flat roofs and 27'-0" for sloped roofs when measured from BFE + freeboard.

- b. The proposed (north and south) side open space requirements **shall be** waived as proposed.
 - c. The 70% limitation for the second floor volume **shall not** be waived as proposed; the architect shall either reduce the massing of the second floor to comply with the percentage allowance or reduce the footprint to less than 25% lot coverage.
 - d. The front (west) façade exhibit shall include window patterns of perforated openings, 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 architect shall incorporate additional fenestration or other method of architectural interest along the proposed north elevation in order to break up the stark elevations, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - 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. 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.

- I. 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 variances were **denied** by the Board:

- 1. A variance to exceed by 3.1% (333 s.f.) the maximum allowed lot coverage of 30% (3,208 s.f.) for a two-story single family home property in order to construct a new two-story residence with a lot coverage of 33.1.% (3,541 s.f.).
 - 2. A variance to exceed by 1.3% (141 s.f.) the maximum allowed unit size of 50% (5,347 s.f.) for a two-story home in order to construct a new two-story residence with a unit size of 51.3% (5,488 s.f.).
- B. The applicant has submitted plans and documents with the application that **DO NOT** 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 **DO**

NOT indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

C. The Board hereby **Denies** the variance requests and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein,

unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

- B. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- C. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- D. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- I. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Casa Mas" as designed by Dooarchitecture signed, sealed, and dated September 9, 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 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

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