

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: DRB19-0456
250 South Hibiscus Drive

DRB19-0456, 250 South Hibiscus Drive. An application has been filed requesting Design Review Approval for the construction of a new two-story residence to replace an existing two-story architecturally significant pre-1942 residence including one or more waivers and an understory area and a variance to exceed the maximum width for driveways and to reduce the required front yard open space.

RECOMMENDATION:

Approval with conditions
Denial of the variances

LEGAL DESCRIPTION:

Lot 3 of 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.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 10,827 SF (60x181)
Lot Coverage:
Existing: ±2,795 SF / 25.8%
Proposed: 3,086 SF / 28.5%
Maximum: 3,248 SF / 30%
Unit size:
Existing: ±3,325 SF / 30.7%
Proposed: 5,333 SF / 49.3%
Maximum: 5,413 SF / 50%
2nd Floor to 1st: 2224 | 2995 74.2%*
***DRB WAIVER**

Height:
Proposed: 28'-0" flat roof from BFE +5*
***DRB WAIVER**
Maximum: 24'-0" flat roof

Grade: +6.135' NGVD
Base Flood Elevation: +10.00' NGVD
Difference: +3.865' NGVD

Adjusted Grade: +8.0675' NGVD
+30" above Grade: 8.635' NGVD
First Floor Elevation: +15.00' NGVD
(BFE+5'fb)
Side Yard Elevations Min: 6.56' Max: 8.635'
Rear Yard Elevations Min: 6.56' Max: 15'

EXISTING PROPERTY:

Year: 1938
Architect: No record
First Floor Elevation: 6.18' NGVD
Vacant: No
Demolition: Total

SURROUNDING PROPERTIES:

North: One-story 1951 residence
South: Biscayne Bay
West: Two-story 2014 residence
East: Two-story 2012 residence

THE PROJECT:

The applicant has submitted plans entitled "250 South Hibiscus Design Review Board Final Submittal", as designed by **DOMO Architecture + Design**, signed, sealed, and dated September 09, 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): 74.2%.
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 15 NGVD

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

3. 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 9'-0" the maximum allowable driveway width of 9'-0" for a property with a lot width of 60'-0" in order to provide two (2) driveways with a combined width of 18'-0" for a new single-family home.
 2. A variance to reduce by 4.8% (57.6 SF) the minimum landscape open space required of 70% (840 SF) within the required front yard of 20'-0" from the front property line in order to provide 65.2% (782.4 SF) of open space for the construction of a new two-story residence.
- 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:

(4) Unit Size requirements

(e) Subject to the review and approval of the Design Review Board 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 (9) 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.

As sea level rise and building resiliency and adaptability are increasing design concerns for new construction within the city, the Code provides for the outdoor activation of an “understory” area—the covered ground plane resulting from an elevated residence—with a clearance higher than 7'-6” as measured from the lowest slab element of the first floor in order to encourage property owners to construct new residences that incorporate higher freeboard elevations without infilling the land or relying on berms or extensive sitework. In this case, the maximum building height allowed is measured from BFE+ 5' elevation. Moreover, the following additional regulations were adopted in order to ensure a resilient design in regards to pavement and hardscape in the front yard. Among other requirements, the maximum width of all driveways at the property line shall not exceed 15% of the lot width. In this case, 9'-0” is the maximum width for driveways and the applicant is proposing two (2) driveways of 9'-0” each resulting in a total driveway width of 18'-0”, part of variance #1. Another specific requirement that applies is that the front 20'-0” from the front property line shall be 70% landscaped or pervious surface. The project also does not comply with this requirement due to the additional driveway which reduces the open space required from 70% to 65.2% and result in the variance request #2. These additional “green” regulations were added to increase the pervious green space in the front yard and ensure that vehicular storage is to be provided within the understory envelope and not in the front yard seen in traditional residential design.

The two variances requested are fundamentally related, as the additional paving for the driveway width (variance #1) results in the decrease in open space (variance #2). These variances are design driven and do not result from any practical difficulties or demonstration of hardship. Based on the site conditions, where grade elevation is 6.13' NGVD, base flood elevation is 10.0' NGVD, which allows the finish floor to be at 15.0' NGVD and the maximum building height could reach up to 28' with Board approval, the understory area can be designed free of any variances; as such, staff finds that the variances requested do not satisfy the criteria for approval and recommends denial of the variance requests.

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, in addition to the requested variances:

1. 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.**
2. For two-story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a 2nd Floor Volume to 1st of 74% with a 29% lot coverage, which will require a waiver from the DRB.**
3. **A-1.1** Minimize Ground floor terrace (south) to comply with Understory edge....with the exception...access walkways and/or steps or ramps for the front and side area.
4. **A-1.2** Powder room sinks at first level within north and south sides of residence are not allowable encroachments into required yards.
5. Architect encouraged pull back full balcony projection of 5' into front yard to prevent overwhelming the front streetscape.(A-7.0 and A-7.1)

6. Ground floor (understory) front wall must be architecturally detailed. Architect encouraged to puncture wall in random geometric openings to allow from light and air while still maintaining privacy. With the exception of the structural components, walls should be more transparent.
7. Maximum height of walls in required side yard is 7' from Grade 6.135.
8. Grading of the front yard shall be revised. As per section 54-48(1) for residential construction. When constructed under the main home the associated driveway shall be sloped upward from the public right-of-way to a minimum elevation of adjusted grade. as defined in Section 114.1, and then may slope downward to a lower garage elevation.

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 two 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 two 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 two 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 two design waivers from the Board.

5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; the applicant is requesting two variances and two 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 two 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 two 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 southern side of Hibiscus Island. The proposed design seeks two design waivers and two variances; and the review of the activation of the understory portion of the design as part of this application. The first floor elevation of the new residence is proposed at base flood elevation (10' NGVD) plus a free board of five feet (+15' NGVD).

The proposed residence is designed in a contemporary style. The two-story home is elevated in a pilotis-style with an understory detailed with articulated utilitarian spaces, such as parking and storage, and outdoor living spaces such as a sunken lounge, outdoor dining area and pool looking over Biscayne Bay. A centrally located staircase rises through the building providing access to the home's first floor that is comprised of communal living spaces, the second floor that houses the sleeping quarters, and the roof deck on the top level of the home. The home exhibits a warm material pallet of wood-like aluminum panels and slats contrasted with natural stone and painted stucco exterior finishes that drape pronounced roof soffits and geometric volumes.

The residence is comprised of two building volumes, a central two-story main building set back within the developable lot beyond a single-story guest house and an elevated entry garden. The two-story volume of the home takes on an "h" shape plan, with gardens notched within each respective side yard, and is topped with a rooftop terrace. The one-story rectilinear volume of the guest house is separated from the main residence by an outdoor garden and sits along the 20' front property line with a stucco framed balcony that cantilevers into the front yard. As proposed, the balcony complies with the allowable front yard encroachment thresholds. However, staff finds that the allowable projection, coupled with the elevated nature of the home, amplifies the residence's impact on the site and recommends that the entire envelope of the guest house be set back to at least the 20' setback.

The first requested 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. However, in the RS-3 zoning district, the DRB may approve a building height of up to 28'-0" for flat roofs. The architect is seeking 28'-0" for the entirety of the "h"-shaped two-story volume from BFE +5'-0". The intent of the waiver is for lots in the RS-3 districts that resemble lot sizes in the RS-1 and RS-2 zoning districts. The subject site contains 10,827 SF, where the minimum lot area for such districts is 10,000 SF. While the bulk of the height is requested for the building volume that is setback 64' from the property line, staff has concerns with the height waiver due to the size of the lot, which is just over the RS-3 minimum threshold, the elevated nature of the home, and the full 4' height request for the entire two-story portion of the residence. Furthermore, staff finds that the request, in conjunction with the waiver request to exceed the second floor's volume, will impose on the surrounding neighbors. Staff is amenable to support the waiver if the height of the two-story volume were varied; with the waiver request for only the rear (west) portion of the two-story volume and at an elevation no greater than 26'-0"; and with the front (east) portion at the maximum allowed elevation of 24'-0". Additionally, staff maintains the recommendation of siting the guest house structure further back within the site, so that the full balcony projection of 5' is removed from the front yard to prevent overwhelming the front streetscape. With the proposed modifications, staff is supportive of this requested waiver.

The final design waiver pertains to the second floor to first floor ratio of the home. Since the proposed home has a lot coverage of 28.5%, any second floor massing is restricted to 70%

of the first floor, unless a waiver is approved by the DRB. As designed, the second floor of the proposed home contains approximately 74% of the volume of the first floor. When reviewing the second-floor volume rule, staff believes that the request is commensurate with the elevated design. The two-story massing of the home is set back from the front property line 64'-0" and incorporates open recesses along the north and south (interior) elevations to break up the massing. As proposed, staff finds that the second floor volume request will not impose of the surrounding neighbors, provided that the one-story guest house located at the front portion of the site is pushed further back from the property line and that the two-story home incorporates stepped roof heights to ensure that the request mitigates any impact the second floor volume may impose on surrounding neighbors. Finally, the ground floor (understory) front wall must be architecturally detailed. The architect is encouraged to puncture the wall in random geometric openings to allow light and air while still maintaining privacy. With the exception of the structural components all of the walls should be more transparent, which is the intent of the understory area to create a "porous" level underneath the first habitable floor. With the proposed modifications, staff is supportive of the requested waiver.

The architect has produced an elegantly designed, contemporary home, with an understory that it is visually hidden from the street and provides clear-through vistas to the water. Overall, staff is supportive of the design, and associated waivers, and recommends approval based on the modifications identified herein.

VARIANCE ANALYSIS:

As noted in the 'Project' section of the report, staff is not supportive of the variances requested as they are related to the specific design of the home and not to practical difficulties or to make a reasonable use of the property. There are no special circumstances that would impede the architect to design a structure that complies with all regulations. As such, staff recommends denial of the variances.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the design inclusive of the waivers and **denial** of variances #1 and #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.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 05, 2019

FILE NO: DRB19-0456

PROPERTY: **250 South Hibiscus Drive**

APPLICANT: Jody Glidden

LEGAL: Lot 3 of 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

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story residence to replace an existing two-story architecturally significant pre-1942 residence including one or more waivers and an understory area and a variance to exceed the maximum width for driveways and to reduce the required front yard open space.

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 250 South Hibiscus 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; the maximum height of the rear (west) portion of the two-story volume shall be 26'-

- 0" when measured from BFE + 5'-0" freeboard and the front (east) portion of the residence shall be limited to 24'-0" when measured from BFE + 5'-0" freeboard.
- b. The 70% limitation for the second floor volume **shall be** waived as proposed.
 - c. The architect shall relocate the front guest structure 5'-0" further back from the setback line, in order for the full balcony projection of 5'-0" to be removed from the front yard to prevent overwhelming the front streetscape.
 - d. The architect shall refine the ground floor (understory) front wall in order for the element to be architecturally detailed with punctured openings, voids, or elimination of portions of the wall to allow for light and air while still maintaining privacy—with the exception of the structural components, all of the walls should be more transparent, which is the intent of the understory area to create a "porous" level underneath the first habitable floor, 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 maximum height of walls/fences in required side yards is 7' from CMB grade.
 - f. **A-1.1** Minimize Ground floor terrace (south) to comply with Understory edge....with the exception...access walkways and/or steps or ramps for the front and side area.
 - g. **A-1.2** Powder room sinks at first level within north and south sides of residence are not allowable encroachments into required yards.
 - h. The final design details and color selection of the aluminum slat exterior cladding in a proposed wood finish 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.
 - i. 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.
 - j. 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.
 - k. 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 variances were **denied** by the Board:

- 1. A variance to exceed by 9'-0" the maximum allowable driveway width of 9'-0" for a property with a lot width of 60'-0" in order to provide two (2) driveways with a combined width of 18'-0" for a new single-family home.

2. A variance to reduce by 4.8% (57.6 s.f.) the minimum landscape open space required of 70% (840 s.f.) within the front 20'-0" from the front property line in order to provide 65.2% (782.4 sf.) of open space for the construction of a new single-family residence.
- 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 "250 South Hibiscus Design Review Board Final Submittal", as designed by **DOMO Architecture + Design** 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.

