

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: January 07, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB19-0469  
**816 84<sup>th</sup> Street**

An application has been filed requesting Design Review Approval for the construction of a new residential development to replace an existing one-story residential building, including one or more waivers and a variance to reduce the width of an interior drive for perpendicular parking.

#### **RECOMMENDATION:**

Approval with conditions

Denial of the variance

#### **LEGAL DESCRIPTION:**

Lot 4 of Block 7, of "Biscayne Beach Subdivision", according to Plat thereof as recorded in Plat Book 44, Page 67, of the Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

Zoning: RM-1  
Future Land Use: RM-1  
Lot Size: 5,625 SF  
Proposed FAR: 7,025 SF/ 1.25\*  
Permitted FAR: 7,031 SF/ 1.25

\*As represented by the applicant

Height:  
Proposed: 45'-6" / 3-Story  
Maximum: 55'-0" / 5-Story  
Highest Projection: 45'-6"

Existing Use: Residential  
Proposed Use: Residential  
Residential Units: 4 Units  
Required Parking: 0 Spaces  
Provided Parking: 8 Spaces

Grade: +4.37' NGVD  
Flood: +8.00' NGVD  
Difference: 3.63' NGVD  
Adjusted Grade: +6.87' NGVD  
30" Above: +9.37' NGVD  
Proposed Garage Elev. Clearance: **10'-0"**  
Required Garage Elev. Clearance: **12'-0"**  
Finished Floor Elevation: +20'-8" NGVD

#### **Surrounding Properties:**

East: 1-story, 2-unit 1948 Residential Building  
North: 1-story 1952 Residential Building  
South: 1-story 1949 Duplex Building  
West: 1-story 2-unit 1947 Residential Building

#### **THE PROJECT:**

The applicant has submitted plans entitled "Beach Point Homes", as prepared by **Predomus** dated 11/12/2019.

The applicant is proposing to construct a new four-unit residential development to replace an existing one-story residential building, including waivers and a variance to reduce the width of an interior drive for perpendicular parking.

The applicant is requesting the following waiver(s):

1. A minimum height of twelve (12) feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable, may waive this height requirement by up to two (2) feet, in accordance with the design review or certificate of appropriateness criteria, as applicable. **The applicant is providing a clearance of 11'-2" from BFE+ 1'-0" freeboard.**
2. All floors of a building containing parking spaces shall incorporate residential uses at the first level along all façades facing a street, sidewalk or waterway, per Section 142-156(b). **The applicant is not providing a residential use at the first level along the façade facing the street along the 50'-0" wide lot.** For properties less than 60 feet in width, the total amount of residential space at the first level along a street side shall be determined by the Design Review Board.

The applicant is requesting the following variance(s):

1. A variance to reduce 4'-0" from the minimum required width of 22'-0" for an interior drive aisle with perpendicular parking spaces in order to provide seven (7) parking spaces with a drive aisle of 18'-0" in width.
  - Variance requested from:

**Sec. 130-63. – Interior aisles.**

90° parking – 22 feet, with columns parallel to the interior drive on each side of the required drive, setback an additional one foot six inches, measured from the edge of the required interior drive to the face of the column.

This type of variance has been commonly requested in the past for new projects with 50-foot wide lots where onsite parking was required. The City Code was modified to allow the construction of apartment buildings with no required parking in properties located in the RM-1 district with a lot width less than 65'-0". In addition, the most recent amendment to the Code allows a two-way driveway to be reduced from 22'-0" to 18'-0" for apartment buildings with less than 25 units. As such, the project with four (4) apartments does not have a parking requirement. However, the applicant is proposing seven (7) parking spaces at the ground level located perpendicular to an 18'-0" drive aisle that does not comply with the required 22'-0" space to back up and exit. In addition, the location of the air conditioning equipment and trash area adjacent to the drive furthers the lack of compliance with the minimum width required. Staff would also note that the Code allows parking spaces with 16'-0" in length instead of the standard 18'-0" for 50-foot wide lots, as proposed. Staff finds that the variance is self-imposed, and design driven; therefore, it does not satisfy the minimum criteria for the granting of the variance. Further, the presence of the parking at the ground level requires a minimum of 12'-0" in height to the underneath of the floor above, which the project does not provide and requires a waiver. The parking component of the project is the applicant's choice, not a Code requirement. As such, staff recommends denial of the variance requested.

**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, as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also DO NOT indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, as noted above:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

**COMPLIANCE WITH ZONING CODE**A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. **Section 142-155(3)(f)(A):** A minimum height of twelve (12) feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable may waive this height requirement by up to two (2) feet, in accordance with the design review or certificate of appropriateness criteria, as applicable. **The design requires Design Review Board approval to waive 2'-0" of the clearance height.**

2. Section 142-156(b)(1): All floors of a building containing parking spaces shall incorporate residential uses at the first level along all façades facing a street, sidewalk or waterway.
3. Section 142-156(b)(3): For properties less than 60 feet in width, the Design Review Board shall determine the total amount of residential space at the first level along a street.

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

#### **CONSISTENCY WITH 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **multi-family residential** use appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

#### **ACCESSIBILITY COMPLIANCE**

Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building Construction). These and all accessibility matters shall require final review and verification by the Building Department prior to the issuance of a Building Permit.

#### **CONCURRENCY DETERMINATION:**

In accordance with Chapter 122 of the Code of the City of Miami Beach, the Transportation and Concurrency Management Division has conducted a preliminary concurrency evaluation and determined that the project does not meet the City's concurrency requirements and level-of-service standards. However, the City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division will make the determination of the project's fair-share mitigation cost.

A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.

#### **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.  
**Satisfied**

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 proposed project requires one variance and three 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 proposed project requires one variance and three 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 material finish of exterior can be enhanced.**
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 proposed project requires one variance and three 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 proposed project requires one variance and three 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; a lighting plan has not been submitted**
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.  
**Satisfied**
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.  
**Satisfied**
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).  
**Satisfied**
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.  
**Not 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.  
**Not Satisfied; the proposed project requires one variance and three design waivers from the Board, specifically to eliminate the residential use requirement at the first level along the street.**
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.  
**Not Applicable**

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.  
**Not Applicable**
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.  
**Not Satisfied; see below.**

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

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

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

**Satisfied**

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

**Not Applicable**

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

**Not Applicable**

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

**Not Satisfied**

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

**Not Satisfied**

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

**Not Satisfied**

**STAFF ANALYSIS:**

**DESIGN REVIEW**

The subject site is an interior parcel with an existing one-story, multi-family building located within the Biscayne Beach Subdivision of North Beach. The applicant is proposing to construct on the subject property a new (3) three story, (4) four unit residential multi-family building with ground floor parking. The immediate surrounding area consists of predominantly one-story MiMo buildings constructed in the 1940's and 1950s, with some two-story multi-family residential buildings at the eastern end of the block and across the street from the subject property. The project proposes three design waivers and one variance.

The narrow, 50' lot has arranged four townhouse-like units along the eastern interior side of the property. The ground floor is occupied by parking and mechanical equipment with a formal entrance to the garage from the street. Units are accessed by a central staircase that leads up from the garage to the second level where it splits into two staircases, terminating at common outdoor foyers. Each unit is composed of three floors with the communal areas on the first floor, the master bedroom on the second floor and two additional bedrooms on the third and last floor. The four units have been designed with approximately 1,726 SF of enclosed area.

The proposed residential building is sited on a standard RM-1 zoned 5,600 SF lot. Rectilinear in massing, the main façade of the home faces the east interior side. The majority of the massing facing the east interior side is further setback with open balconies that are screened with vertical architectural fins finished in aluminum. The elevation facing the street is articulated by a bookend stucco frame that contains projecting balconies and scattered fenestration. The first floor of the units has been elevated to 20'-8" in order to allow for a parking garage on the ground floor that is screened from the street with a stucco wall and is accented with a decorative entrance door of horizontal aluminum slats and a



large eyebrow. Renderings show the wall to be clad in ledgerstone and staff recommends that such materiality be incorporated into the design to provide a contrast of materials, as well as to enhance the principal street facing wall. Overall, staff is supportive of the design.

The first design waiver that the applicant is requesting pertains to the clearance of the garage from the base flood elevation plus minimum freeboard to the underside of the first floor slab, where the code requires a minimum of 12'-0" height clearance. As noted, the first habitable floor of the building is designed at 20'-8" NGVD, which translates to a garage clearance height of 11'-2" above 9' NGVD in order to provide parking with a slab clearance that may accommodate elevation changes to the ground floor with future raising of roadways. The Design Review Board may waive this height requirement by up to 2'-0". Given the nuanced, modest design that is well under the maximum allowable building height staff is supportive of the waiver for 10" of clearance.

The second and third waivers are inherently linked as they pertain to the expression of principal facades of the ground floor when building contain parking spaces. The former of these waivers requires that the first level façade facing a street incorporate residential use and the latter requires the Design Review Board to determine the extent if that façade is to be residential. The ground floor facing the street and lining the parking has not been designed with incorporated residential liner within the façade. Typically, this would be reviewed and analyzed as a variance request which is not often supported by staff. Given the narrow width of the lot and minimum dimension of drive aisle widths, coupled with required side setbacks, a 50'-0" wide lot is left with 35'-0" of developable façade length minus the 12'-0" wide driveway and 18'-0" drive aisle. The Code responds to these zoning incidents and provides a relief for properties less than 60'-0" in width, the total amount of residential space at the first level along a street side shall be determined by the Design Review Board. In this instance, the design of the ground floor façade is articulated with a decorative entrance door, staff finds that the design lends to the appearance of residential use on the first level. Staff's recommendation of cladding of the ground floor wall facing the street in rusticated ledgerstone would further enhance the residential nature of the façade. Overall, staff is supportive of the waivers relating to the residential use along the first level façade.

## **VARIANCE REVIEW**

In the past, it was common for new residential multifamily projects with a lot width of 50'-0" to seek variances related to conflicts between the lot width and requirements for setbacks and clearance associated with parking. However, the configuration of the parking proposed is not conforming with the required back up space due to the location and number of the parking spaces, in addition to the design of the ground floor. Alternative, the parking spaces could be reduced in number and relocate the trash room and the ac to the available parking space, or the air conditioning equipment and trash room could be relocated to the space adjacent to the center stairs, or the AC also could be located on the roof. Staff believes that there are more than one way to provide some parking spaces and comply with the Code requirements. Further, parking is not a required component of the project and therefore, by eliminating the parking, the variance is not required. Alternatively, the number of proposed spaces could be reduced, and the first level plan modified, to better address the back up space shortcomings of the current plan. In summary, staff recommends denial of the variance.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the requested variance be denied, and the design inclusive of the waivers be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise, and Practical Difficulty and Hardship criteria, as applicable.

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

MEETING DATE: January 07, 2020

FILE NO: DRB19-0469

PROPERTY: **816 84<sup>th</sup> Street**

APPLICANT: Helixa, LLC.

LEGAL: Lot 4 of Block 7 of Biscayne Beach Subdivision, according to Plat thereof as recorded in Plat Book 44, Page 67 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 residential development to replace an existing one-story residential building, including one or more waivers and a variance to reduce the width of a driveway for perpendicular parking.

**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 addition at 816 84<sup>th</sup> Street shall be submitted, at a minimum, such drawings shall incorporate the following:
    - a. 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.

- b. 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.

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

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s) which were either approved by the Board with modifications, or denied:

The following variance was denied by the Board:

- 1. A variance to reduce 4'-0" from the minimum required width of 22'-0" for an interior drive aisle with perpendicular parking spaces in order to provide seven (7) parking spaces with a drive aisle of 18'-0" in width.

- B. The applicants have 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 applicants have submitted plans and documents with the application that 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** variance requests #1 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 "Final Submittal – 11/12/2019", as prepared by **pREDomus P.A.** dated November 12, 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

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

Approved As To Form:

City Attorney's Office: \_\_\_\_\_ (                      )

Filed with the Clerk of the Design Review Board on \_\_\_\_\_ (                      )