

VIA ELECTRONIC SUBMITTAL

May 7, 2020

James G. Murphy, Chief of Urban Design
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: DRB20-0555 – Modification of DRB File No. DRB19-0445 to include Variance
Request for Property Located at 420 South Hibiscus Drive, Miami Beach, Florida

Dear James:

This law firm represents 420 S Hibiscus Drive SFH LLC (the “Applicant”), the owner of the property located at 420 South Hibiscus Drive (the “Property”) in the City of Miami Beach (the “City”). The Applicant’s goal is to build a beautifully designed single-family home (the “Proposed Home”) on the Property in accordance with the approval of DRB19-0445 by the Design Review Board (“DRB”) on December 23, 2019 (the “DRB Order”). Now nearing the end of the building permit process for the Proposed Home, the Applicant and the City have determined that a variance concerning the elevation of portions of the required rear yard, as expressly shown in the plans associated with the DRB Order, was not included in the requests at that time. Please allow this letter to serve as the letter of intent in connection with modifying the DRB Order to include the variance with no changes to the previously approved plans.

Property Description. The Miami-Dade County Property Appraiser’s Office identifies the Property with Folio No. 02-3232-006-0210. See Exhibit A, Property Appraiser Detailed Report. The Property is an irregular-shaped waterfront lot, comprised of approximately 19,687 square feet. The unique shape of the lot has existed since the Property was originally platted in 1936. See Exhibit B, Hibiscus Island Plat recorded in the Miami-Dade County Official Public Records at Book 8, Page 75. Located on Hibiscus Island in the RS-3, Single Family Residential Zoning District, the Property is surrounded with similar single-family homes. This residential area consists of two-story homes with pools, large yards, lush landscaping, and mature trees. The home located to the northeast of the Property is a newly built, modern single-family home. The Property contains an existing two-story, single-family home originally built in 1937.

Prior Approval. The DRB approved the Proposed Home in accordance with plans entitled “420 South Hibiscus Design Review Board Final Submittal”, as designed by DOMO Architecture + Design, signed, sealed and dated November 12, 2019, (the “Approved DRB Plans”). See Exhibit C, DRB Order. A significant design feature of the Proposed Home is an understory that masterfully links the front, side, and rear yards of the Proposed Home and permits the flow of air and light in accordance with Section 142-105(b)(4)(e) of the Code of the City of Miami Beach (the “Code”). Throughout the design review process and multiple DRB hearings, the Applicant specifically redesigned the understory in accordance with express comments from City staff and the DRB to meet the intents and purpose of the Code with respect to the proposed understory. Notably, for the last hearing, the Applicant reconfigured the pool and pool deck to raise the rear yard to accommodate two large areas of the understory beneath to open up towards the waterway, making the understory open from front to back. The Approved DRB Plans clearly show portions of the required rear yard elevated at 16 feet NGVD so that the two understory sections can be included at height of 7’-8”, where 7’6” is the minimum permitted height of the understory pursuant to Section 142-105(d)(1). The DRB Order and Approved DRB Plans represent the culmination of the design review process under which the City formally recognized that the design of the Proposed Home, and the understory in particular, satisfied the intents and purpose of the Code.

Following approval of the Proposed Home by the DRB, the Applicant applied to the City Building Department for Permit Number BR1903799 to construct the Proposed Home in accordance with the DRB Order and the Approved DRB Plans (the “Building Permit”). The plans submitted in connection with the Building Permit that detail the required rear yard of the Proposed Home match the Approved DRB Plans and include elements such as the pool and pool deck elevated at 16 feet NGVD. Pursuant to Section 142-105(b)(8)(c)(4)(A) of the Code, the maximum elevation of required rear yards must not exceed the base flood elevation plus freeboard. As applied to the Property, base flood elevation plus freeboard is 15 feet NGVD. Therefore, absent a variance, the portions of the rear yard elevated at 16 feet NGVD are nonconforming with respect to the Code.

Variance Request. Despite the irregular lot shape, the Proposed Home substantially complies with the single-family home regulations, including lot coverage, unit size, and setbacks. The rear yard elevation variance for an additional 1 foot is minor, and does not contradict the intent and purposes of the Code. Quite to the contrary, it ensures that the understory embraces the Code. In order to solidify the intent of the DRB Order to approve of the Proposed Home as designed and shown in the Approved DRB Plans, and due to the Property’s confining characteristics, the Applicant respectfully requests the following:

1. A variance of Code Section 142-105(b)(8)(c)(4)(A), to permit portions of the required rear yard to be elevated at 16' NGVD when 15' is allowed.

Satisfaction of Hardship Criteria. The Applicant's request satisfies all hardship criteria as follows:

- (1) 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;**

The large, irregularly-shaped lot, with non-parallel side property lines and curved frontage create a challenge in laying out the home in a manner that satisfies the requirements of the Code, including with respect to the understory and required rear yard. These conditions are special conditions peculiar to this unique Property. Despite the challenges, the Applicant thoughtfully engaged in the design review process and proffered a design that City Staff and the DRB agreed satisfied the intents and purpose of the Code. Through an inadvertent oversight, the required rear yard was approved at an elevation of 16' NGVD without the required Variance. To remedy this oversight and address the special conditions unique to the Property, the Applicant seeks a Variance to permit portions of the pool and pool deck to be elevated at 16' feet NGVD.

Notably, the minor exceedance of the maximum rear yard elevation ensures compliance with the purpose of the understory regulations, which is intended to ensure adequate flow of air and light to the semi-enclosed spaces beneath habitable spaces of homes. Further, waterfront homes in the RS-3 zoning district are encouraged to incorporate greater rear yard elevations to increase resilience to flooding and sea level rise. The only portion of the rear yard that exceeds the 15' maximum rear yard elevation is a portion of the pool and pool deck, which are all located close to the home and increase the resilience and sustainability of the Proposed Home consistent with the intent of the Code and is sensitive to the neighboring property.

- (2) The special conditions and circumstances do not result from the action of the applicant;**

The special conditions and circumstances of the Property do not result from the action of the Applicant. The Property was originally platted in 1923 with non-parallel property lines and frontage along the transitional curve between South Hibiscus Drive and North Hibiscus Drive. The Applicant seeks to preserve the design exactly as shown in the Approved DRB Plans, which provide for a modern home that is sensitive to the neighbors and resilient to flooding and sea level rise.

(3) Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;

The Code allows other similarly situated property owners to seek similar variances to accommodate development and allow for the construction of certain features, especially on irregular lots. The design and placement of this home complies with the purpose and intent of the Code, as well as conforms to the variety of lots and homes in the neighborhood as memorialized by the DRB Order. Therefore, granting of this minor exceedance of the required rear yard elevation does not confer any special privilege on the Applicant.

(4) Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;

The Proposed Home as already approved substantially complies with the land development regulations with regards to unit size, lot coverage, and understory requirements for homes in the RS-3 zoning district, and no change is being sought here. A literal interpretation of the provisions of these land development regulations would force the Applicant to eliminate the understory openings to the required rear yard, which would contradict the mandate of the DRB in accordance with the DRB Order and the Approved DRB Plans, as well as the purposes and intent of the understory regulations and discourage a resilient design. The slight deviation from the land development regulations is necessary to construct a viable home, with certain amenities for its residents, and an understory that compliments the free-flowing design of the Proposed Home. Accordingly, not approving the variance request would work an unnecessary and undue hardship on the Applicant.

(5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

Through various redesigns, it became clear that the understory openings to the rear yard were the most reasonable method of ensuring that the understory is sufficiently open to the elements. The understory opening of 7' 8" to the rear yard improves the connectivity of the Proposed Home and allows for waterfront views from almost any location within the understory and became possible by raising portions of the pool and pool deck by only an additional foot. Notably to accommodate these opening, portions of the pool that were previously usable areas essentially had to be converted into water features adjacent to the pool.

The design of the required rear yard elevated at 16' NGVD is therefore the minimum necessary to make reasonable use of the land and comply with understory requirements and DRB comment as reflected and approved by the DRB Order. This minor exceedance was part of the design review process that represents a collaboration between the Applicant, City staff, and the DRB, and is necessary to provide a resilient home with a design that features an open understory to the rear yard and waterway.

- (6) The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and**

The residence will be in harmony with the surrounding properties, and aims to further the intent and purpose of the land development regulations. The design of the understory purposefully considers the need for open air circulation with ample openings to the front, rear, and side yards that provide unparalleled connectivity throughout the Property. Understories are becoming common throughout the City, thus each property requires individual consideration with respect to the technical requirements for understories such as height and minimum elevation, and the intent and purpose of the Code, which encourage resilient designs that preserve connectivity and openness. Permitting the minor exceedance of the rear yard elevation was specifically required as part of the design review of the Proposed Home. Notably, the lowest portions of the required rear yard are elevated to 7.26' NGVD, well above the 6.56' minimum rear yard elevation applicable to the Property.

- (7) 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 planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board of adjustment voting on the applicant's request.**

The variance request is consistent with the City's Comprehensive Plan and does not reduce the levels of service as set forth in the plan.

Practical Difficulty. The irregular-shaped lot with non-parallel lot lines and curved frontage condition as platted are all practical difficulties inhibiting the Applicant from meeting all the land development regulations. The minimum height permitted for the understory, with which the Applicant complies, creates a challenge in preserving the configuration of the pool and pool deck that was already approved by the DRB. Permitting a 1' foot exceedance of the maximum rear yard elevation as approved through the DRB Order and expressly shown in the Approved DRB Plans ensures that the understory of the Proposed Home, which was already deemed by City Staff and the DRB

to comply with the intent of the Code, remain open to the waterfront rear yard. The understory provided in the Approved DRB Plans is significantly more open than previous iterations that were disfavored by staff and the DRB. The Applicant's proposal therefore satisfies the intent and purposes of the Code to provide a home that is compatible with the neighborhood.

Sea Level Rise and Resiliency Criteria. The new home advances the sea level rise and resiliency criteria in Section 133-50(a) of the City Code, as follows:

1. A recycling or salvage plan for partial or total demolition shall be provided.

A recycling and salvage plan for demolition of the existing home will be provided at permitting.

2. Windows that are proposed to be replaced shall be hurricane proof impact windows.

Hurricane proof impact windows will be provided.

3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

The Applicant will provide, where feasible, passive cooling systems.

4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

The landscaping will be Florida friendly and resilient.

5. Whether 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, including a study of land elevation and elevation of surrounding properties were considered.

The Applicant is proactively addressing sea level rise projections by raising portions of the rear yard to 16' NGVD and raising the first floor of the home to 16.50' NGVD.

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.

The raised first-floor and rear yard ensure that the home is adaptable to the raising of public rights-of-ways and adjacent land and in the future.

7. Where feasible and appropriate. All critical mechanical and electrical systems are located above base flood elevation.

All mechanical and electrical systems will be located above base flood elevation.

8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

The proposed home is entirely new construction located well-above base flood elevation.

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.

No enclosed habitable space is located below base floor elevation. The understory is wet-flood proofed.

10. Where feasible and appropriate, water retention systems shall be provided.

Where feasible, water retention systems will be provided.

11. Cool pavement materials or porous pavement materials shall be utilized.

Cool pavement materials or porous pavement materials will be utilized where possible.

12. The design of each project shall minimize the potential for heat island effects on-site.

The proposed design provides wide, grassed open spaces, and non-air-conditioned shaded living spaces to strategically minimize the potential for heat island effects on site.

Further, the understory is in harmony with the Code by allowing the free flow of air and sunlight as a result of the two large understory openings to the rear yard beneath the pool and pool deck. Indeed, the precise reason the understory openings were provided beneath the pool and pool deck was to address the City Staff's and the DRB's comments regarding the design of the understory.

Conclusion. Granting the requested Variance will confirm the DRB's prior action when approving the Approved DRB Plans, which have not changed, for a beautifully-designed, modern single-family home with an understory that is in harmony with the Code by allowed the free flow of air and light under the entire home, including the rear

James G. Murphy, Chief of Urban Design
May 4, 2020
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yard beneath the pool and pool deck. The Applicant's goal remains to provide a home that respects the specific conditions of the Property and is consistent with the intents and purposes of the Code by providing a resilient design featuring varied architectural articulations that minimize impacts on neighboring properties. We look forward to your favorable review of the application. If you have any questions or comments in the interim, please give me a call at 305-377-6236.

Sincerely,



Matthew Amster

Attachments

cc: Michael W. Larkin, Esq.
Nicholas J. Rodriguez, Esq.



OFFICE OF THE PROPERTY APPRAISER

Summary Report

EXHIBIT
A

Generated On : 1/28/2019

Property Information	
Folio:	02-3232-006-0210
Property Address:	420 S HIBISCUS DR Miami Beach, FL 33139-5136
Owner	MARTINI REALTY LLC C/O M MANAGEMENT
Mailing Address	215 COLES ST JERSEY CITY, NJ 07310 USA
PA Primary Zone	0800 SGL FAMILY - 1701-1900 SQ
Primary Land Use	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
Beds / Baths / Half	6 / 5 / 0
Floors	2
Living Units	1
Actual Area	Sq.Ft
Living Area	Sq.Ft
Adjusted Area	5,492 Sq.Ft
Lot Size	19,687 Sq.Ft
Year Built	1937



Assessment Information			
Year	2018	2017	2016
Land Value	\$6,299,840	\$7,997,844	\$6,398,275
Building Value	\$637,663	\$643,394	\$649,124
XF Value	\$40,976	\$41,342	\$41,708
Market Value	\$6,978,479	\$8,682,580	\$7,089,107
Assessed Value	\$6,978,479	\$6,388,819	\$5,808,018

Benefits Information				
Benefit	Type	2018	2017	2016
Non-Homestead Cap	Assessment Reduction		\$2,293,761	\$1,281,089
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description	
HIBISCUS ISLAND PB 8-75	
LOT 24 LESS E1FT & STRIP IN BAY	
ADJ & LOT 25 BLK 1	
LOT SIZE 19687 SQ FT	
OR 18653-0548 06 1999 1	

Taxable Value Information			
	2018	2017	2016
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$6,978,479	\$6,388,819	\$5,808,018
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$6,978,479	\$8,682,580	\$7,089,107
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$6,978,479	\$6,388,819	\$5,808,018
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$6,978,479	\$6,388,819	\$5,808,018

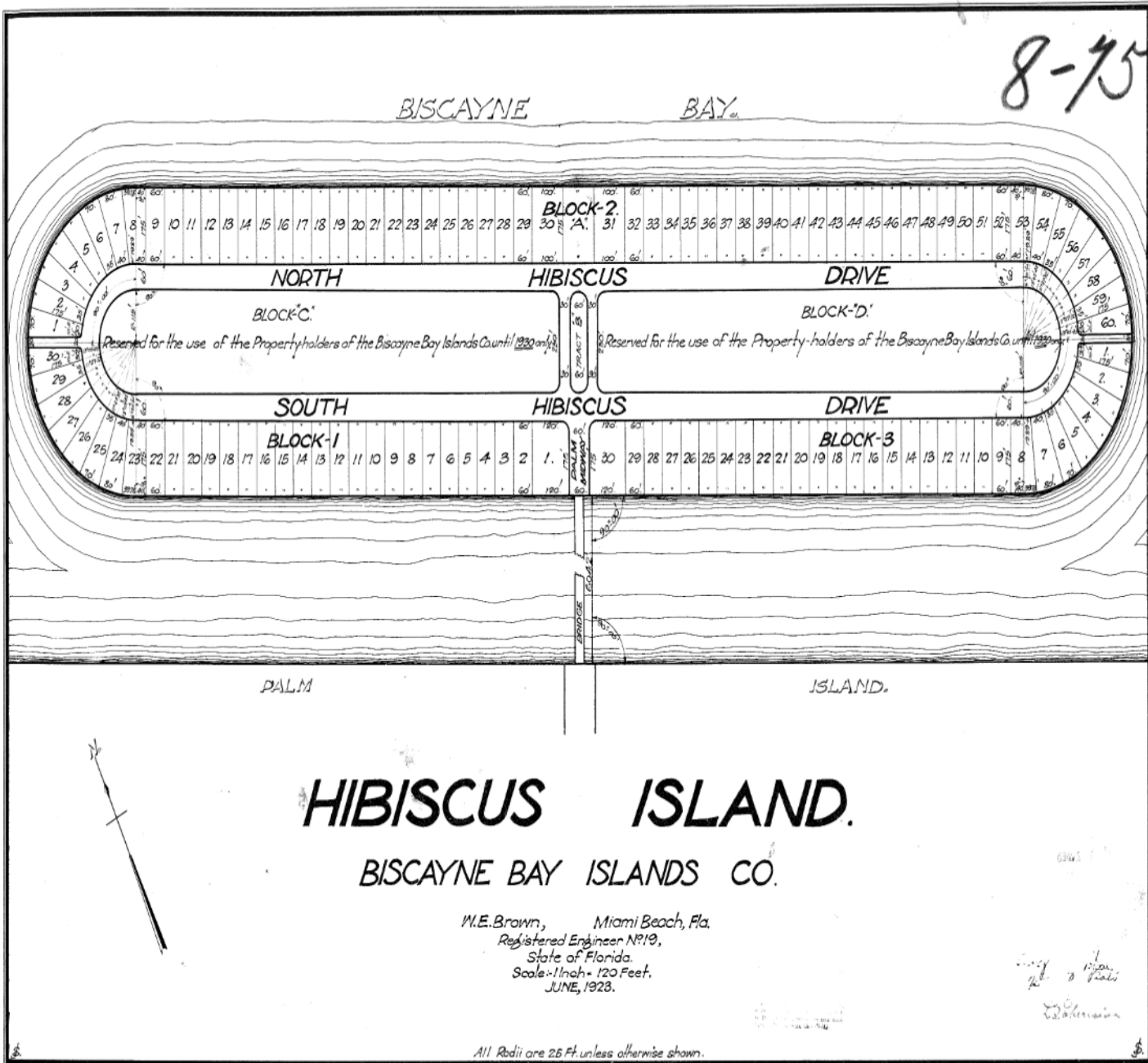
Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
10/22/2015	\$100	29828-2505	Corrective, tax or QCD; min consideration
04/03/2013	\$5,175,100	28565-4796	Qual by exam of deed
11/01/2005	\$950,000	24360-0772	Other disqualified
06/01/1999	\$2,375,000	18653-0548	Sales which are qualified

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:

**EXHIBIT
B**

8-75



KNOW ALL MEN BY THESE PRESENTS:-

That the Biscayne Bay Islands Co. have caused to be made the attached Plat of property to be known as 'HIBISCUS ISLAND', the same being a subdivision of parts of the South-Half of Section 32, Township 53 South, Range 42 East 1/2 Sec. 30-53-42, North-Half of Section 5, Township 54 South, Range 42 East 1/2 Sec. 5-54-42 and the West-Half of North-West Quarter of Section 4, Township 54 South, Range 42 East 1/2 Sec. 4-54-42.

The Streets shown hereon and designated as 'North Hibiscus Drive', 'Palm Midway', 'South Hibiscus Drive' and other streets not designated by name, are hereby dedicated to the perpetual use of the Public, for proper purposes, reserving to ourselves, our successors and assigns, the reversion and reversions thereof whenever designated by law and reserving further the riparian rights in submerged lands adjacent and appurtenant to the foot of all streets, and further reserving to ourselves, our successors and assigns, the right to approve the connecting of 'HIBISCUS ISLAND' with any island, or the mainland, by any causeway, bridge or roadway and should 'HIBISCUS ISLAND' be connected with any island, or the mainland through any lot or through the foot of any streets, without the consent of the Biscayne Bay Islands Co., the title to said lot, street or streets, shall immediately revert to the Biscayne Bay Islands Co.

Executed in the Presence of:-

By Thomas M. Miller President.
Attest W.E. Brown Assistant Secretary.

STATE OF FLORIDA
COUNTY OF DADE SS.

Before me, a Notary Public, personally appeared L.T. Highleyman and Alfred Betts, President and Assistant Secretary respectively of the Biscayne Bay Islands Company, a Corporation, and known to me to be the above-named officials, in the presence of me first duly sworn, say:- That the instrument of dedication and Plat was executed by them as the aforesaid officials of said Corporation, passed on the 12th day of June, A.D. 1923 and as the free act and deed of said Corporation.

WITNESS my hand and official seal at Miami, Florida, this 12th day of June, A.D. 1923.

W.E. Brown
Notary Public.

My Commission Expires:- Dec 12-1923

This is to certify that the attached Plat was made in conformity with a survey of the property recently made by me and is accurate and correct to the best of knowledge and belief.

Examined and approved for record. W.E. Brown
Registered Engineer No. 19, State of Florida.

This Plat was approved by Res. No. 408 of the City Council of Miami Beach, Florida this 12th day of June, A.D. 1923.

Attest:- W.E. Brown
City Clerk.

O.K.:- W.E. Brown
City Engineer.

Alfred Betts
President City Council (Pro Tem)

EXHIBIT C

CFN: 20200021053 BOOK 31767 PAGE 4507
 DATE: 01/09/2020 02:55:35 PM
 HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: December 13, 2019

FILE NO: DRB19-0445

PROPERTY: 420 South Hibiscus Drive

APPLICANT: 420 S Hibiscus Drive SFH LLC

LEGAL: See attached Exhibit A

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

ORDER

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

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 4, 5, 6, 9, 12, and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 10, 11 and 12 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 420 South Hibiscus Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed (north and south) side open space requirements shall be waived as proposed.



- b. The proposed 3'-0" increase in height shall be permitted as proposed; the maximum height of the two story structure shall be 27'-0" when measured from BFE + 5'-0" freeboard.
 - c. The required 70% limitation for the second floor volume shall be waived as proposed and shall not be increased at time of permitting, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. The understory area must comply with section 142-105(4)e, as noted in the compliance with zoning portion of the staff report.
 - e. The proposed future driveway shall be approved provided the driveway complies with underlying zoning regulations.
 - f. The final design details and color selection of the "stone cladding" proposed at both portions of the façades shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - g. The final design details and color selection of the "aluminum decorative wood cladding" proposed at both portions of the façades shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - h. The final design details and color selection of the "aluminum decorative screen" proposed at portions of the façades shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - i. 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.
 - j. 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. The architect shall revise the proposed landscaping within the required rear yard and install all coconut palms or other species or small plantings selected to screen the relocated architectural elements on both sides and small plantings at the southwest and northwest corners to allow for light



infiltration, in order for the view corridor from adjacent properties to the north and the south to remain unobscured, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

- b. The architect shall revise the proposed landscaping along the proposed motorcourt and raised garden plane and install tropical palms with evergreen brazilian beauty leaf trees or similar species in order to provide total screening to block views from autocourt and raised garden plane into adjacent properties to the north and south, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- c. The architect shall include butterfly friendly plantings, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- d. 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.
- e. 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.
- f. 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.
- g. 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.
- h. 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.
- i. 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.



- j. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- k. 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.
- l. 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.
- m. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- n. 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.
- o. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- p. 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.
- q. 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.
- r. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

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

II. Variance(s)



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

The following variance was approved by the Board:

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

The following variance was withdrawn by the applicant:

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

- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code as noted above:

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

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

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

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

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

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

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

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

- C. The Board hereby **Approves** the variance request #1 and 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. Where one or more parcels are unified for a single development, the property owner shall execute and record an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- C. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- D. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- E. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- F. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.

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

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

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



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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 23 day of December, 2019.

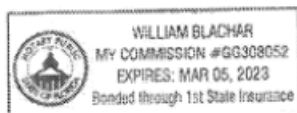
DESIGN REVIEW BOARD
 THE CITY OF MIAMI BEACH, FLORIDA


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 24th day of December, 2019 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: March 5th, 2023

Approved As To Form: Nickallegis (12/20/2019)
 City Attorney's Office:

Filed with the Clerk of the Design Review Board on Jessia Gully (12/24/19)

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Exhibit A

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

Parcel II:

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

