

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: August 04, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **DRB19-0462**  
**6961-6985 Abbott Avenue, 300-326 71<sup>st</sup> Street, and 6972 Harding Avenue**

An application has been filed requesting Design Review Approval for the construction of a new multistory mixed-use residential and retail development, including one or more waivers and one or more variances from the street class frontage requirements and to retain non-conforming setbacks, to replace surface parking lots and to retain two existing multistory buildings.

#### **RECOMMENDATION:**

Continue to a future meeting date

Denial of both waivers

Continue variances #1-5, #10 and #11

Denial of variances #6, #7, #8, #9, #14, #12, #13, #14 and #15.

NOTE: Variances #16-23 have been withdrawn.

#### **LEGAL DESCRIPTION:**

See attached Exhibit 'A'

#### **BACKGROUND:**

On November 14, 2018, the City Commission adopted the North Beach Town Center—Central Core Land Development Regulations. The ordinance established a **TC-C, Town Center – Central Core** zoning district with a FAR of 3.5, and replaced the TC-1, TC-2, TC-3, and TC-3(c) districts within the boundaries of the area established by the FAR referendum. The TC-C is a balanced approach intended to spur sustainable development to revitalize North Beach.

Since the approval of the ordinance, there have been two (2) developments approved by the Design Review Board (DRB) and four (4) more are proposed at this time. This is the fourth project developed under the new regulations that has aggregated multiple lots within an entire block.

This item was continued at the July 07, 2020 DRB meeting at the request of the applicant.

#### **SITE DATA:**

Zoning:	TCC Town Center--Central Core
Future Land Use:	TCC Town Center--Central Core
Parking District:	8
Lot Size:	48,995 SF (1.13 acres)
Proposed FAR:	171,477 SF / 3.49
Maximum FAR:	171,482.5 / 3.5
Gross SF:	171,468 SF   13,424 + 56,715 = 70,139 existing   101,329 new

Retail: 1,745 SF new construction  
Units: 118 units  
Density: 131 under prior FLUM, 110 proposed  
Height:  
    Proposed: 149'-2" measured from BFE +5', or 13' NGVD | 14-story  
    Maximum: 125'-0" base | 200'-0" for lots >45,000 through public benefits program  
    Highest Projection: 162'-2"  
CMB Grade: 4.92' (varies) NGVD  
Base Flood Elevation: 8' NGVD  
First Floor Clearance: 28'-0" measured from CMB Grade, 15'-0" from BFE +5', or 13' NGVD  
Required Parking: 168 required spaces | 218 provided  
    Parking requirement:  
    Residential: 117 units x 1/2 space for those units bet 550 and 850SF=35, 58.5, 59 required spaces.  
    Residential: 1 units x .75 space for 851SF-1250SF = .75, 1 required spaces.  
    Total Required: 60 spaces residential, 108 spaces office (City National, per agreement)  
    No retail parking requirement  
Required Loading: Total loading: 4 required spaces | 4 provided  
    Existing 6 Story Office: NA  
    Existing/New Office to Retail (Change Of Use): A. 1 Spaces  
    Residential: Over 100 Units But Not More Than 200 Units: 3 spaces.  
    New Retail: < 2000 : 0  
    Total Loading: 4 spaces  
Bicycle Parking  
    Required Short term: 4c + 11r = 15 required short  
    Required Long term: 2c + 110r = 112 required long

**SURROUNDING PROPERTIES:**

East: Two-story commercial and five-story 32-unit residential  
North: One-story service station, one-story office and pylon  
South: P84 City surface parking lot, two-story 14-unit residential building  
West: Surface bank parking lots | Proposed fifteen-story mixed building (DRB19-0424\*)

\*future pending DRB applications

**EXISTING BUILDINGS:**

- **Gidney Building - 'Architecturally Significant'**. Designed by Henry Hohaus and constructed in 1948. A third-floor addition, designed by Edwin Reeder, was built in 1954.
- **City National Bank Building - 'Nonconforming'**. Designed by Arnold Mathis, this six-story office building was constructed in 1971.

**THE PROJECT:**

The applicant has submitted plans entitled "6985 Abbott Avenue: Final Submittal" as prepared by **cube3, LLC** dated signed and sealed June 04, 2020. The applicant is proposing a new 14-story, 149'-2" high building with 118 residential units, including one or more waivers and multiple variances. A breakdown of the project's development plan is delineated hereto:

Ground Floor: ±1,794 SF retail component configured along Abbott Avenue  
2,197 SF residential lobby configured along Abbott Avenue and BOH  
One, one-way 12'-0" wide driveway egress onto Byron Avenue. Waiver needed.  
One, one-way 22'-0" wide driveway access from Abbott Avenue  
4 internalized ground floor loading spaces accessed from Abbott Avenue  
Gidney building identified as "retail use"  
City National Building identified as "commercial use"  
8 surface parking spaces

Level 2: 39 parking spaces and bicycle parking  
Gidney building identified as "retail use"  
City National Building identified as "commercial use"

Level 3: 58 parking spaces and bicycle parking  
Gidney building identified as "retail use"  
City National Building identified as "commercial use"

Level 4: 58 parking spaces and bicycle parking  
City National Building identified as "commercial use"

Level 5: 54 parking spaces and bicycle parking (Total 209 in garage)  
City National Building identified as "commercial use"

Level 6: 14 residential units (1br and 2br) ranging in size 550 SF – 772 SF

Levels 7-13: 14 residential units (1br and 2br) ranging in size 550 SF – 772 SF

Level 14: 6 residential units (1br and 2br) ranging in size 555 SF – 899 SF  
Amenity deck and pool

Rooftop Level: Mechanical equipment

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

1. *Sec 142-745(a)(12)(c)* **LOADING:** Along all frontages where loading is permitted, it shall be designed as follows, in addition to the requirements for driveways: Driveways for parking and loading shall be combined, unless waived by the Design Review Board.
2. *Sec. 142-745(f)(3)* **DRIVEWAYS:** Driveways and vehicle access to off-street parking and loading shall be prohibited unless it is the only means of egress to the site or if the only other means of egress is from a Class A street. Permitted drive-ways on Class B frontages shall be limited by the following:
  - b. The prohibition on driveways may be waived by the Design Review Board on blocks that are over 260 feet in length; however, such driveways shall be limited to 12 feet in width.

### **VARIANCE REQUESTS**

The applicant is requesting multiple variances predominantly associated with the retention of both existing buildings on 71<sup>st</sup> Street to comply with the adopted TCC zoning regulations. Pursuant to Sec. 142-746, non-conforming buildings that are incorporated into a unified development site for the purposes of shifting FAR from available development resources must be made conforming to the requirements of the TCC, unless the building is determined to be 'architecturally significant'. This is to prevent older, lower scale buildings within the Town Center Core from relocating available FAR to other lots within a unified development site and remaining unimproved.

Miami Beach is known for its rich architectural heritage and dedication to historic preservation. Notwithstanding the goal for redevelopment, there is an acknowledgement of the older historic and significant buildings of varying styles throughout the city—including within the boundaries of the TCC. Therefore, in order to accommodate these signature structures, the TCC district provides for building constructed prior to 1965 and determined to be 'architecturally significant', the ability to retain the existing floor area ratio, height, setbacks and parking credits, provided the building remain substantially intact and the significant elements are preserved and restored without being individually designated as 'historic structures or sites'.

In this application, the 1.13-acre site has 245'-0" of linear frontage along 71<sup>st</sup> Street, and



contains two existing buildings:

1. The three-story Gidney Building located on the western corner of the site at 71<sup>st</sup> Street and Abbott Avenue; and
2. The six-story City National Bank building located on the eastern corner of 71<sup>st</sup> Street and Harding Avenue.

Both buildings are nonconforming with regard to the frontage requirements of the TCC district, as well as the increased setbacks

necessary to accommodate the "pedestrian pathway", a vital component of the vision of an active pedestrian friendly retail corridor of a Class A street typology. The Gidney building, originally the North Shore Bank, was built in 1948 and designed by Henry Hohauser in the art-deco style. Hohauser is one of the most prolific architects in South Florida and considered as one of the most beloved in Miami Beach history, well-regarded and celebrated for his art deco and modern architectural stylings.

The plans submitted by the applicant for the existing buildings are generally vague. Specifically, the floor plans identify each level ambiguously as "commercial" with no details, redevelopment or improvement plans. Additionally, neither 'before and after' nor 'existing and proposed' elevations or floor plans have been provided. Regardless, the Gidney Building qualifies as 'architecturally significant' and the drawings appear to demonstrate that all of the code required thresholds to retain the existing building have been met. As such, no variances are being requested for the retention of the 1948 'architecturally significant' structure as it pertains to the frontage and setback requirements of the TCC.



The City National Bank building to the west, however, which was built in 1971, is not eligible for consideration under Sec. 142-746 as the ordinance allows for the exception of nonconforming structures for buildings constructed prior to 1965. While it could be argued that this six-story block-like structure with uniform punctured openings and precast concrete panels contains classic elements for consideration

of its architectural merit and sophistication in the brutalism architectural style, it cannot be considered due to the year of construction. As such, in order to retain the City National building and incorporate it into the development site, the following variances are being requested to retain the structure:

1. A variance to reduce up to 10'-0" from the minimum required setback of 10'-0" for the pedestal structure as measured from Grade to 55'-0" (from BFE+5') along a class A frontage in order to retain an existing building located at the corner of 71<sup>st</sup> Street and Harding Avenue with a setback ranging from 5'-0" to zero (0'-0").
2. A variance to reduce up to 25'-0" from the minimum required setback of 25'-0" for the tower structure as measured from 55'-0" (from BFE+5') to maximum height along a class A frontage in order to retain an existing building located at the corner of 71<sup>st</sup> Street and Harding Avenue with a setback ranging from 5'-0" to zero (0'-0").
3. A variance to reduce up to 10'-0" from the minimum required setback of 10'-0" for the pedestal and tower structure along a class C frontage in order to retain an existing building located at the corner of 71<sup>st</sup> Street and Harding Avenue with a setback ranging from 2'-4" to zero (0'-0").

- Variances requested from:

**Sec. 142-744. - Setbacks and Encroachments**

Setbacks and Allowable Encroachments into Setbacks shall be as per Table A below. For the purposes of new construction in this zoning district, heights shall be measured from the City of Miami Beach Freeboard of five (5) feet, unless otherwise noted:

Class A	71st Street	Grade to 55 feet	10 feet
	71 <sup>st</sup> Street	55 feet to max height	25 feet
Class C	Harding Ave	Grade to max height	10 feet

Variances #1 thru #3 are related to the retention of the multi-story building located at the corner of 71<sup>st</sup> Street and Harding Avenue. The six story structure does not comply with the new setback requirements within the TCC district and the requested setback variances are required in order to retain the existing building setbacks. The six-story bank office building at 300 71<sup>st</sup> Street was built in 1971 and designed with a setback ranging from 5'-0" to zero at the corner along 71<sup>st</sup> Street and Harding Avenue. Staff is generally supportive of this proposal and recommends architectural modifications to the building, specifically at the ground floor level in order to improve its transparency and activation at the street level and be more in line with the goals of a walkable town center. There is great opportunity to develop the building in accordance with active retail uses such as a vibrant retail/restaurant use to engage the street and promote pedestrian activity on the 71<sup>st</sup> Street corridor at this premium corner location. Additionally, the retention/redevelopment of the surface parking lot associated with the bank building would be antithetical to development within the TCC. In addition to the conflict of the retention of the 300 71<sup>st</sup> Street building, ground floor improvements should be made that endeavor the intent of the ordinance. As such, staff would not be opposed to the approval of these variances conditioned to further modifications to the project.

4. A variance to reduce by 10'-0" the required 10'-0" wide "Clear Pedestrian Path" along

71<sup>st</sup> Street (Class A).

5. A variance to reduce by 10'-0" the required 10'-0" wide "Clear Pedestrian Path" along Harding Avenue (Class C).

- Variances requested from:

**Sec. 142-745. –Street Frontage, Design, and Operations Requirements.**

*(a). The following regulations shall apply to all frontages:*

**(3) Clear Pedestrian Path.** *A minimum 10 foot wide "Clear Pedestrian Path," free from obstructions, including but not limited outdoor cafes, sidewalk cafes, landscaping, signage, utilities, and lighting, shall be maintained along all frontages.*

*a. The Clear Pedestrian Path may only utilize public sidewalk and setback areas.*

The front of the property along 71<sup>st</sup> Street has a setback that ranges from approximately 5'-0" to zero at the corner. However, the survey shows a concrete sidewalk with approximately 10'-0" in width that could be incorporated as part of the required 10'-0" pedestrian path. Although the presence of some elements such as traffic lights may reduce the path in some areas, the majority of the front can facilitate the 10'-0" pedestrian path. The portion of the building along Harding Avenue does not have a sidewalk wide enough to provide for the full 10'-0" along the building to be retained and a variance is requested. Staff finds that the existing conditions of the property and the retention of the building with non-conforming setbacks create the practical difficulties that result in the request for these two variances. Staff is supportive of the retention of the building (with conditions) and is supportive of variances #4 and #5 conditioned upon a substantial portion of the front on 71<sup>st</sup> Street providing a pedestrian path, as wide as possible. Staff would also recommend that the applicant explore the incorporation of a colonnade or similar covered area to promote pedestrian activation of the ground floor space.

6. A variance to reduce the minimum required habitable space with 20'-0" in depth along 85% of the length of the façade at setback line along a class C frontage (Harding Avenue) in order to provide a portion of the façade with landscape.
7. A variance to reduce the minimum required habitable space along 85% of the length of the façade at setback line along a class C frontage (Harding Avenue) in order to provide a portion of the façade with landscape.
8. A variance to reduce by 35'-0" the minimum height of a façade in order to not provide a building along 85% of the façade fronting on Harding Avenue (Class C).
9. A variance to eliminate the visibility requirement for ground floor parking along Harding Avenue.

- Variances requested from:

**Sec. 142-745. –Street Frontage, Design, and Operations Requirements.**

*a. The following regulations shall apply to all frontages:*

**(g) Class C.** *In addition to other requirements in the City Code, Class C frontages shall be developed as follows:*

*(1) Facades shall have a minimum height of 35 feet.*



- (2) Buildings shall have a minimum of one (1) floor located along a minimum of 85 percent of the length of the setback line pursuant to the following regulations:
- b. Except where required for driveways and utility infrastructure, the ground floor shall contain habitable space for residential, hotel, or commercial uses with a minimum depth of 20 feet from the building façade for the minimum required length along the setback line.
  - c. Ground floor and surface parking shall be setback a minimum of 20 feet from the building façade and shall be concealed from view from the Clear Pedestrian Path.

The façade facing Harding Avenue must contain habitable space along 85% of the building façade with a minimum depth of 20'-0" for Class C frontages. Based on the length of the property, the subtraction of the existing setback and excluding the 22'-0" driveway, a linear requirement of 105'-9" of habitable space shall be provided with 20'-0" in depth. The design provides only 96'-0" of liner along this street, as landscape is proposed along both sides of the driveway.

Staff has serious design concerns with the retention of the surface parking area and has maintained this position throughout the development review of the project. The proposed development involves the construction of a new four level parking structure along Abbott Avenue containing 209 spaces. The required parking for the project is 168 spaces. The existing lot measures 50'-0" x 125'-0" and the parking area will be repurposed to contain 8 perpendicular spaces and an exposed outdoor loading space. Additionally, it has been determined through a zoning verification letter that while most of the vacant portions of the aggregated site contain surface parking for the existing bank (49 in total) under the current code it has a parking requirement of 68 spaces. These spaces are proposed to be allocated within the new four level parking garage, which has been designed to accommodate 209 vehicles as well as most of the required on site bicycle parking.

Surface parking is incongruous with a walkable, urban mixed-use project. Staff has very serious concerns with the applicant's proposal to retain this surface lot as it prevents the retail activation of the City National building. Additionally, the surface lot impedes the project from being able to fully integrate, engage and provide activation for the town center, as it creates a physical barrier in the form of a suburban strip mall parking lot. The City, through the adoption of the TCC, has re-prioritized its transportation modality hierarchy, specifically to highlight pedestrian movement and walkability, as well as promote non-vehicular forms of transportation through its continued reduction of parking requirements. The retention of a surface parking lot at the edge of a new development on 71<sup>st</sup> Street, which includes a new four level parking facility as part of the project and is abutting a city surface parking facility (P84 lot), is completely unnecessary, absolutely counter to the town center development efforts, and demonstrates a general disregard to the ordinance. This facet of the proposed site plan is also grossly misguided and detrimental to the architectural success of the project as a whole. Staff finds that the variances requested lack of practical difficulties or hardship and will create a negative impact in the surrounding area. As such, staff **STRONGLY** recommends **denial** of variances # 6, #7, #8, and #9.

10. A variance to eliminate the shade structure required that projects for a minimum depth of five (5) feet along 71<sup>st</sup> Street (Class A) in order to retain an existing nonconforming six-story building.

11. A variance to eliminate the shade structure required that projects for a minimum depth of five (5) feet along Harding Avenue (Class C) in order to retain an existing nonconforming six-story building.

- Variances requested from:

**Sec. 142-745. –Street Frontage, Design, and Operations Requirements.**

*(a) The following regulations shall apply to all frontages:*

- (8) Commercial, Hotel, and Access to Upper Level Frontages.** *In addition to other requirements for specific frontage types and other requirements in the City Code, frontages for commercial, hotel, and access to upper level frontage shall be developed as follows:*

- c. A shade structure that projects for a minimum depth of five (5) feet into the setback beyond the building facade, shall be provided at a height between 15 feet and 25 feet. Said shade structure may consist of an eyebrow or similar structure. Additionally, an allowable habitable encroachment such as balconies or parking deck may take the place of the shade structure. Notwithstanding the foregoing, if the shade structure is not an integral structural component of the building, it may be located at a height between 15 feet measured from grade and 25 feet measured from the required City of Miami Beach Freeboard.*

The existing building does not have a projecting shade structure facing 71<sup>st</sup> Street and Harding Avenue. However, since this element does not necessarily need to be part of the structure, staff would recommend that the applicant explore the addition of some shade elements along both frontages that may or may not extend the 5'-0" required, or the redesign of the façade at the ground level to provide for a colonnade or similar element that would allow portions of covered areas for pedestrians. Staff is supportive of the variances requested to eliminate the shade structure for the existing building for a limited portion of both facades. Staff does believe that there is an opportunity to incorporate some form of architectural screening in order to provide shade along the 71<sup>st</sup> Street façade as part of the recommended improvements to the ground floor. With modifications to the facades, staff is supportive of variances #10 and #11.

12. A variance to reduce the required minimum of 70 percent clear glass windows with views into the habitable space along 71<sup>st</sup> Street (Class A) in order to retain an existing nonconforming six-story building.

13. A variance to reduce the required minimum of 70 percent clear glass windows with views into the habitable space along Harding Avenue (Class C) in order to retain an existing nonconforming six-story building.

- Variance requested from:

**Sec. 142-745. –Street Frontage, Design, and Operations Requirements.**

*(a) The following regulations shall apply to all frontages:*

- (9) Commercial, Hotel, and Access to Upper Level Frontages.** *In addition to other requirements for specific frontage types and other requirements in the City Code, frontages for commercial, hotel, and access to upper level frontage shall*

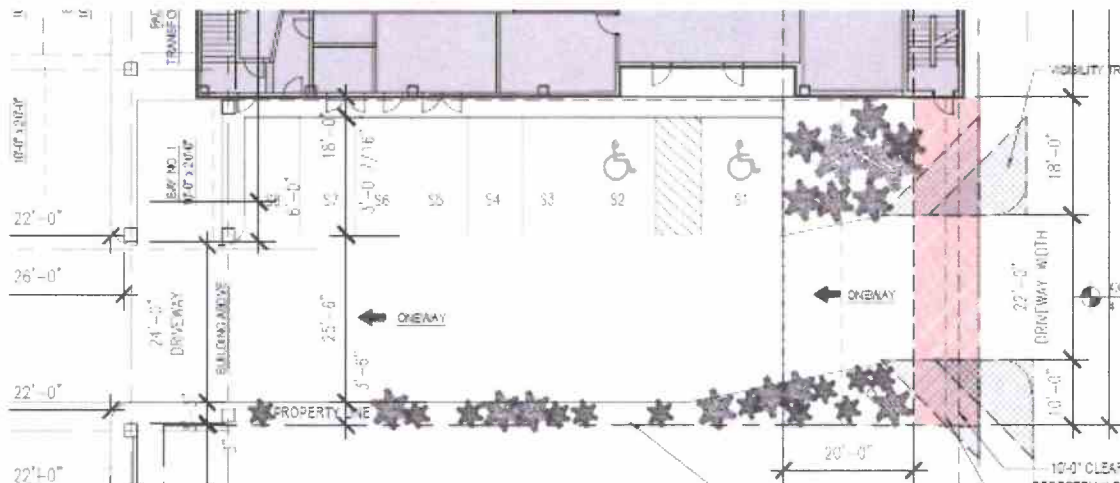


be developed as follows:

d. Such frontages shall contain a minimum of 70 percent clear glass windows with views into the habitable space.

Although the plans submitted by the applicant for the existing buildings are generally undetailed, the floor plans identify each level ambiguously as “commercial”. In order to retain the existing building and benefit from the variances supported by staff, it is recommended that the architect redesign the ground floor component of the City National Bank building to incorporate a more active use that will better engage the street and sidewalk along the 71<sup>st</sup> Street corridor. In this regard, the applicant could explore an operable nano-wall or similar storefront system, as well as the creation of a covered colonnade. The structure should be designed so that the corner is architecturally ‘opened up’ and made into an indoor-outdoor space that responds to a town center corner.

As noted above, the applicant is proposing to retain the existing surface parking area to the south affiliated with the six-story office building, which staff is opposed to. The 50’-0” wide portion of the site along Harding Avenue contains an existing surface parking area for 10 cars and rear entrance to the bank building. The proposal reconfigures the area with a new 22’-0” wide one-way driveway leading from Harding Avenue into the vehicular entrance to the new building 125’-0” back from the property line, as well as restriping the area for 8 surface parking spaces and 1 loading space perpendicular to the rear entrance.



This is the single most egregious and uninspired aspect of the project, as a surface parking lot is wholly antithetical to the goal and intent of the TCC district. The retention of this area as parking and the multiple variances associated with it is a self-imposed hardship and does not satisfy the criteria for the granting of the variances. As such, staff is not supportive of variances #12 and #13, unless modifications to the project are proposed; until then, staff recommends denial of variances #12 and #13.

14. A variance to eliminate the requirement to screen the parking facilities from public rights-of-way and clear Pedestrian Path facing Abbott Avenue and Harding Avenue.

- Variance requested from:

**Sec. 142-745. –Street Frontage, Design, and Operations Requirements.**

**(a) The following regulations shall apply to all frontages:**

**(9) Off-Street Parking Facilities.** *In addition to requirements for specific frontage types and other requirements in the City Code, off-street parking facilities shall be built as follows:*

- a. *Parking facilities shall be entirely screened from view from public rights of way and Clear Pedestrian Paths. Parking garages shall be architecturally screened or lined with habitable space.*

The project proposes a parking area, valet pick up and loading parking and operation substantially visible from both street sides on Abbott and Harding Avenue. This is a design issue that is not consistent with the intent of the TCC district. In addition, this proposal also requires a waiver to not combine both vehicular and loading driveways, in addition to the variance to provide a driveway on a class B frontage where a class C frontage exist and other variances related to the habitable space, shade structure and glazing area required. In addition, the project does not indicate any closure, gate or doors to the loading areas when they are not in use, as required. Again, the project, as proposed is requesting multiple variances associated with the design, which are self-imposed. Although there may be some challenges associated with the shape of the lot and the retention of both buildings, based on the available open area of the site, the number of variances could be reduced or the negative impacts better mitigated. Accordingly, staff recommends denial of variance #14.

15. A variance to allow a driveway on a class B frontage (Abbott Avenue) when there is a class C frontage (Harding Avenue) on the property in order to provide two separate driveways.

- Variance requested from:

**Sec. 142-745(f) Class B Frontage**

*In addition to other requirements in the City Code, Class B frontages shall be developed as follows*

- (2) *Driveways and vehicle access to off-street parking and loading shall be prohibited unless it is the only means of egress to the site or if the only other means of egress is from a Class A street. Permitted drive-ways on Class B frontages shall be limited by the following:*

- (a) *The prohibition on driveways may be waived by the Design Review Board on blocks that are over 260 feet in length; however, such driveways shall be limited to 12 feet in width.*

On properties where frontages exceed 260'-0" in length, the DRB could waive the requirement to provide a driveway on a Class B frontage when a class C frontage is available. The following three roadways are classified as Class B frontages within the TCC: Abbott Avenue, Dickens Avenue and 69<sup>th</sup> Street. However, in this instance, since the subject block frontage does not contain 260'-0" in length (the Abbott Avenue frontage is 251'-0). As such, the DRB cannot waive the requirement and a variance is being requested. In this case, staff is not supportive of the waiver to have two separate driveways on the property, as noted on the design analysis of this report. The proposed driveway is not related to the retention of the buildings on site and is design driven. The variance request fails to establish any practical difficulty or hardship and staff recommends denial of variance # 15.

The following variance requests, which were applicable to the architecturally significant Gidney Building, are no longer necessary, as the building may retain all of its existing nonconformances as they pertain to the LDRs. Accordingly, variance requests #16-23 have been withdrawn.

16. A variance to reduce the required minimum of 70 percent clear glass windows with views into the habitable space along 71<sup>st</sup> Street (Class A) in order to retain an existing nonconforming three-story building.
  17. A variance to reduce the required minimum of 70 percent clear glass windows with views into the habitable space along Abbott Avenue (Class B) in order to retain an existing nonconforming three-story building.
- Variance(s) requested from:

**Sec. 142-745. –Street Frontage, Design, and Operations Requirements.**

*(a) The following regulations shall apply to all frontages:*

*(9) **Commercial, Hotel, and Access to Upper Level Frontages.** In addition to other requirements for specific frontage types and other requirements in the City Code, frontages for commercial, hotel, and access to upper level frontage shall be developed as follows:*

*b. Such frontages shall contain a minimum of 70 percent clear glass windows with views into the habitable space.*

18. A variance to not provide a clear pedestrian path free from obstructions along limited portions of 71<sup>st</sup> Street (Class A) frontage.
19. A variance to not provide a clear pedestrian path free from obstructions along limited portions of Abbott Avenue (Class B) frontage.

- Variance requested from:

**Sec. 142-745. Street Frontage, design, and operations requirements.**

*(a) The following regulations shall apply to all frontages:*

*(3) **Clear Pedestrian Path.** A minimum 10 foot wide “Clear Pedestrian Path,” free from obstructions, including but not limited outdoor cafes, sidewalk cafes, landscaping, signage, utilities, and lighting, shall be maintained along all frontages.*

20. A variance to not provide a shade structure over the required pedestrian path along 71<sup>st</sup> Street (Class A).
21. A variance to not provide a shade structure over the required pedestrian path along Abbott Avenue (Class B).

- Variance requested from:

**Sec. 142-745. Street Frontage, design, and operations requirements.**

*(a) The following regulations shall apply to all frontages:*

(8) *Commercial, Hotel, and Access to Upper Level Frontages.* In addition to other requirements for specific frontage types and other requirements in the City Code, frontages for commercial, hotel, and access to upper level frontage shall be developed as follows:

c. A shade structure that projects for a minimum depth of five (5) feet (from BFE +5') into the setback beyond the building facade, shall be provided at a height between 15 feet and 25 feet. Said shade structure may consist of an eyebrow or similar structure. Additionally, an allowable habitable encroachment such as balconies or parking deck may take the place of the shade structure. Notwithstanding the foregoing, if the shade structure is not an integral structural component of the building, it may be located at a height between 15 feet measured from CMB Grade and 25 feet measured from the required City of Miami Beach Freeboard.

22. A variance to reduce up to 10'-0" from the minimum required setback of 10'-0" for the pedestal structure as measured from Grade to 55'-0" (from BFE+5') along a class A frontage in order to retain an existing building located at the corner of 71<sup>st</sup> Street and Abbott Avenue with a setback ranging of zero (0'-0").
23. A variance to reduce up to 10'-0" from the minimum required setback of 10'-0" for the pedestal structure as measured from Grade to 55'-0" (from BFE+5') along a class B frontage in order to retain an existing building located at the corner of 71<sup>st</sup> Street and Abbott Avenue with a setback ranging of zero (0'-0").

#### **PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variances #6, #7, #8, #9, #14, #12, #13, #14 and #15.

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, with the exception of variances #6, #7, #8, #9, #14, #12, #13, #14 and #15 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 variance(s):

- **Sec 142-745(a)(12)(c) LOADING:** Along all frontages where loading is permitted, it shall be designed as follows, in addition to the requirements for driveways: Driveways for parking and loading shall be combined, unless waived by the Design Review Board.
- **Sec 142-745(a)(12)(d) LOADING:** Loading areas shall be closed when not in use.
- **Sec 142-745(f)(3) DRIVEWAYS:** Driveways and vehicle access to off-street parking and loading shall be prohibited unless it is the only means of egress to the site or if the only other means of egress is from a Class A street. Permitted drive-ways on Class B frontages shall be limited by the following: (a)The prohibition on driveways may be waived by the Design Review Board on blocks that are over 260 feet in length; however, such driveways shall be limited to 12 feet in width.
- **Clear Pedestrian Path.** A minimum 10 foot wide "Clear Pedestrian Path," free from obstructions, including but not limited outdoor cafes, sidewalk cafes, landscaping, signage, utilities, etc.
- **Identify intended compliance with Section 142-747 North Beach Public Benefits Fund.** Fee per unit public fund benefit. Contribution to public benefits fund. A contribution to the public benefits fund, in the amount identified in appendix A shall be required for each square foot of floor area located above the 125 feet. Provide information and details of how the project will satisfy this requirement.
- The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- Project shall comply with Urban Heat Island Ordinance, roofing.
- Clarify location and type of required bicycle (long vs short term) parking on plans.

- All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
- Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- All overhead utility lines and poles adjacent to the subject property shall be placed underground. Applicant to engage FPL, block development south of site (6900 block Byron, DRB19-0424) also being redeveloped and will have to underground poles and lines.
- **FAR.** FAR drawings shall be revised. Interior corridor between amenity and mechanical rooms count in FAR. The terraces shall be substantially open above to not count in FAR. As the existing buildings dimensioned floor plans and FAR diagrams are not provided, staff is unable to verify the maximum FAR proposed. However, based on the deficiency of the FAR diagrams provided, it appears that the project exceeds the maximum FAR allowed. Floor plans of the existing buildings shall indicate the proposed use of the buildings.
- Note that size of loading spaces shall match the size of the delivery and trash pickups vehicles.
- The location of the bicycle parking on the northwest side of the parking is not accessible when vehicles are parked on spaces #11,16, 67, 75,126, 134, 185, 193. Remove one parking space on each floor or redesign.
- **Sec. 142-746. - Nonconforming Structures within Unified Development Sites**
  - a. Buildings within the TC-C district that are nonconforming with the regulations of this division and incorporated into a unified development site as part of a land use board approval shall be made conforming with the development regulations of this division.
  - b. Notwithstanding the requirements of subsection (a) above, if said nonconforming building has a tenant with a lease that prevents the structure from being made conforming as part of the land use board approval, then the following shall apply:
    - 1. A phased development permit, pursuant to section 118-259, shall be applied for as part of the land use board approval process. The phased development approval shall require the nonconforming building to be redeveloped into a conforming building. The phasing time limit shall be the minimum necessary to allow for the completion of the lease.
    - 2. A certified copy of the lease shall be provided as part of the Land Use Board application.
  - c. Notwithstanding the requirements of subsection (b) above, buildings constructed prior to 1965 and determined to be architecturally significant by the planning director, or designee, may retain the existing floor area ratio, height, setbacks and parking credits, if the following portions of the building remain substantially



intact and are retained, preserved and restored:

1. At least 75 percent of the front and street side facades, exclusive of window openings;
2. At least 50 percent of all upper level floor plates; and
3. At least 50 percent of the interior side walls, exclusive of window openings.

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 2040 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **residential / mixed use** is **consistent** with the Future Land Use Map of the Comprehensive Plan.

#### **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 waivers and multiple variances 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 waivers and multiple variances 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 waivers and multiple variances 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 waivers and multiple variances 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 waivers and multiple variances 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 ground floor site plan is not fully designed. See staff analysis.**
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.  
**Not Satisfied; the ground floor site plan is not fully designed. See staff analysis.**
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.  
**Not Satisfied; the ground floor site plan is not fully designed. Further, one singular access is recommended off of Harding Avenue (C Street) that combines driveway, loading and delivery access. The plan should not feature an additional driveway onto Byron (B Street) to accommodate a pass through option.**
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).

**Not Satisfied; the applicant is requesting three waivers and three variances 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.  
**Not Satisfied; details of the parking structure have not been sufficiently detailed.**
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 applicant is requesting two waivers and multiple variances from the Board.**
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.  
**Satisfied**
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.**

**Consistent-** The applicant has indicated that a recycling and salvage plan will be provided at permitting.

- (2) **Windows that are proposed to be replaced shall be hurricane proof impact windows.**

**Consistent-** The applicant has indicated that hurricane proof impact windows will be provided.

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

**Consistent-** The applicant has indicated that passive cooling systems will be provided where feasible and appropriate.

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

**Consistent-** Resilient landscaping will be provided.

- (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.**

**Partially Consistent-** The applicant has indicated that sea level rise projections were considered.

- (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.**

**Consistent-** The ground floor of the development will be adaptable to the raising of public rights-of-way and adjacent land.

- (7) **Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.**

**Consistent-** Electrical and mechanical systems will be located above base flood elevation. Any mechanical and electrical systems located below base floor elevation will be floodproofed in accordance with Florida Building Code requirements.

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

**Not Applicable-** The subject site currently consists of surface parking lots.

- (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.**

**Consistent-** When habitable space is located below base flood elevation, wet or dry flood proofing systems will be provided.

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

**Partially Consistent-** According to the applicant's letter of intent, the design architect will study various water retention systems for the Project.

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

**Consistent-** The applicant has indicated that such materials will be utilized.

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

**Not Consistent-** The applicant has provided no information regarding any efforts to minimize heat island effects.

**ANALYSIS:**

**DESIGN REVIEW**

On May 5, 2020 the applicant participated in a virtual Design Review Board meeting via the ZOOM platform for discussion purposes and to familiarize the Board, the public and the applicant with concerns and recommendations for this Town Center project. The plans submitted and the following analysis do not reflect any program modifications or demonstrate any architectural and design changes recommended by the DRB and staff. To recap, the following discussion points were made by various DRB members:

- Parking lot a problem needs further consideration – make it a pocket park, building, enclosure;
- Eliminate drive through nature of two driveways within building onto Abbott Avenue;
- Rethink bank at City national;
- Redesign/Finessing of garage screen;
- Design of tower building is too busy, angles are necessary;
- And multiple Planning concerns outlined within this report.

Additionally, a revised traffic study, as requested by the Transportation Department on numerous occasions, has yet to be submitted for the project.

**Overall Site**

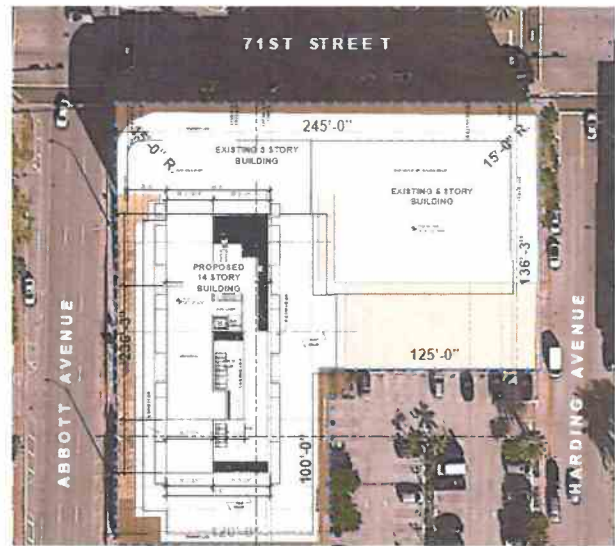
The subject site is a 1.13-acre unified development located within the boundaries of the TC-C, Town Center – Central Core District. The applicant is proposing a new 14-story, 149'-2" high building with 118 residential units above a ground floor retail component. The site is generally bound by 71<sup>st</sup> Street to the north, Abbott Avenue to the west, and Harding Avenue to the east. Except for the parcels fronting 71<sup>st</sup> Street, the rest of the site is vacant and unimproved, including a surface parking area ancillary to the bank.

The site encompasses the northernmost portion of a block fronting 71<sup>st</sup> Street, with unequal linear frontages along Abbott Avenue and Harding Avenue. The development project is comprised of several isolated components including a new, fourteen-story mixed-use

building proposed to be located behind the two-existing commercial/office buildings fronting 71<sup>st</sup> Street that are both proposed to remain, as well as an existing surface parking lot. The entire subject property consists of eight parcels, five along Abbott Avenue and three along Harding Avenue. All of the substantial improvements and new construction are allocated to the four parcels along Abbott Avenue. Out of the 48,995 SF site, the proposed new construction occupies nearly half at 24,000SF. The retained Gidney and City National encompass 18,745 SF and the surface parking lot contains 6,250 SF of lot area.

### Exterior Elevations and Floor Levels

The primary façade of the new construction is along Abbott Avenue. The ground floor contains a residential lobby, valet access, amenity space, and one retail space with the back-of-house and utility rooms located internally. A one-way drive divides the façade at the ground level in a drive-through layout that is accessed from the proposed surface parking lot on Harding Avenue. The Harding Avenue frontage cuts through the site through to Abbott Avenue, which is a one-way southbound thoroughfare. The surface parking and drive through access is covered with a landscaped trellis to screen the parking, loading and access driveway.



Four levels of parking occupy the entire footprint of the pedestal floors. The 118-unit



residential tower begins on the sixth floor as a rectilinear volume that rises nine stories up to the 14<sup>th</sup> floor. In totality, there are eight residential levels with a double loaded corridor, with the top floor of units facing west and an open amenity deck with pool facing east.

A five-story parking pedestal facing Abbott Avenue features a ground floor elevation with 28'-0" high floor to ceiling glass, for a spacious retail and lobby component, recessed below four stories of architectural screening at the parking levels. The lower levels of the garage are screened with concrete/stucco 'dynamic'



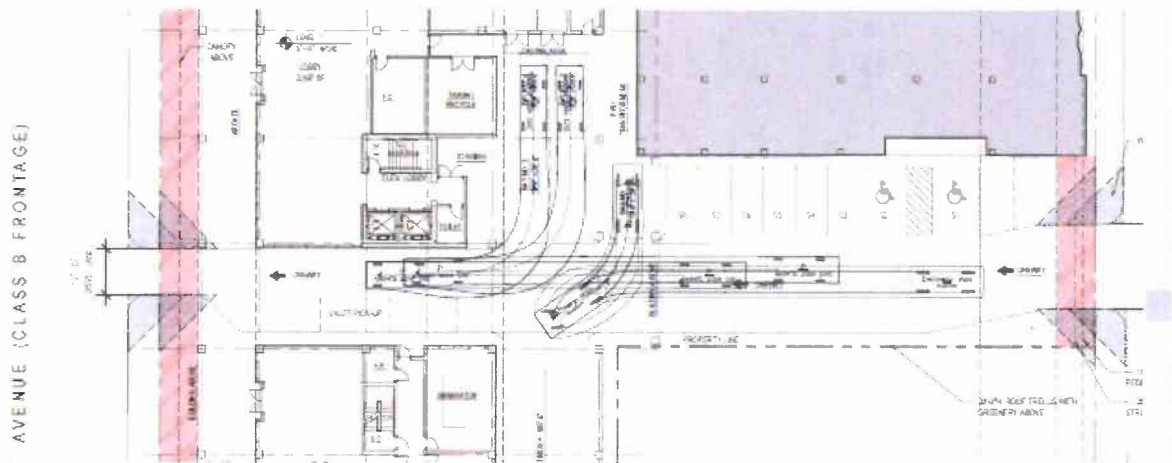
apertures, or rectangular stucco frames with walls tapering inward to recessed openings of varying shapes creating a dynamic wall plane. This lower level aligns with the elevation height of the neighboring Gidney building. The screening along the upper levels of the garage exhibits a diminutive pattern of the dynamic openings executed with concrete breezeblocks.

The tower contains floor to ceiling glass along its expansive east and west elevations, and feature projecting glass balconies that stagger at every other floor and extend past the tower's vertical walls. The cantilevering of the balconies coupled with their staggered rhythm, lends the glass façades movement and interest. In contrast, the slender, north and south elevations are predominately finished in white stucco with vertical ribbons of fenestration and compliment the prominent elevations. The project extends to Harding Avenue, with the site south of the City National Bank proposed as a vehicular entrance and a surface parking lot.

As proposed, a landscaped trellis covering has been introduced to reduce the visual impact of the parking lot. However, as indicated in the variance analysis of this report, the proposed surface parking lot coupled with an undefined scope for the existing City National Building results in a gross lack of activation for the Harding Avenue frontage, which is antithetical to the development of the TC-C district. Staff is **STRONGLY OPPOSED** to the applicant's proposal to retain the surface parking lot and recommends that the applicant further explore how to utilize this area. Any surface parking areas should be located behind a structure in order to allow for activation along Harding Avenue. Staff also has concerns with the lack of adequate programming and design for the adjacent ground floor of the City National Building. Staff recommends that the redevelopment of the City National Building incorporate the opening of the ground floor and activating it with an appropriate use in order to engage the 71<sup>st</sup> Street corridor. The gross lack of activation and design along the sidewalk level of Harding Avenue and 71<sup>st</sup> Street seriously compromises the larger development project. As such, staff is recommending that the application be continued so that a more complete overall project can be presented to the DRB.

### **Driveways and Loading**

The applicant is seeking a waiver to allow a driveway on Abbott Avenue (a Class B street) when Harding Avenue (a Class C street) frontage permits a combined driveway. It is not uncommon for development projects that contain two north-south bound streets to request a waiver of the development restrictions from permitting a driveway onto Class B street frontages. The following three roadways are classified as Class B frontages within the TC-C: Abbott Avenue, Dickens Avenue and 69<sup>th</sup> Street. The subject site is part of combined Blocks E and 12 which spans from 69<sup>th</sup> Street to 71<sup>st</sup> Street and were historically platted without a 70<sup>th</sup> Street crossing right-of-way. The total length of this super block measures 601'-4" in length. However, in this instance, since the subject block contains frontage that does not contain 260'-0" in length, and while the DRB can waive the requirement, staff is not supportive of the waiver request. The Abbott Avenue frontage is 251'-0" of linear frontage including the existing Gidney building site.



As previously mentioned, staff is strongly opposed to the proposed ground floor site plan, as it includes the retention of the existing surface parking area. To allow the waiver to add a driveway onto the Class B street (Abbott Avenue) would be an endorsement of the undeveloped site plan as it pertains to vehicular maneuverability. The proposed site plan repurposes the existing surface parking area behind CNB building and restripes it for parking, adds an outside loading space and acts as a drive through access to the building.

As it pertains to the waiver to separate driveways from loading, they are inter-related. In this instance, the separate driveways are not necessary for the efficient vehicular operation of the loading and parking needs of the development. A singular 22'-0" wide, two-way drive could be proposed as the sole, vehicular entry point into the structure along Harding Avenue (Class C). This driveway could to the dedicated parking for the residential and retail component on levels two through four in much the same manner, but not require the additional waiver to penetrate the ground floor façade and exit onto Abbott Avenue. As such, staff is not supportive of the ground floor configuration and separate from the main driveway of the project off Harding Avenue and onto Abbott Avenue (waiver #1 and waiver #2) and recommends denial of both waivers.

### Parking

The site is located within Parking District No. 8 which has reduced parking requirements for residential and no parking for retail uses. Additionally, the applicant's proposal incorporates 68 required parking spaces for the City National Bank building in the 209 space four level parking garage. Of these 100 spaces are required parking for the residential units. Staff is not supportive of the retention of the surface parking area off Harding Avenue.

### Height

The applicant is proposing a 14-story structure measuring 149'-2" to the top of the main roofline of the tower from BFE +5, or 13' NGVD. The TC-C requires participation in the Public Benefits Program (Sec. 142-747) for all floor area located above 125 feet up to the maximum building height. The fees are established in Appendix A of the City Code and is currently \$3 per square foot located above 125 feet; the fee is paid prior to obtaining a building permit. The combined site contains 48,995 SF of lot area, which enables the development to achieve up to 200'-0" in height through public benefits program. The applicant intends to utilize the public benefits for the portions of the Project above 125' in height pursuant to Section 142-747(g)(1)—expedited development option.

### **Overall Design**

Staff is generally supportive of the design of the new building, as well as the contemporary design language that incorporates variations in surface materials and changes in plane. However, collectively, there are too many elements of the overall project design that are simply inferior (the retention of the surface parking lot), lacking in detail and underdeveloped. As proposed, significant design information relating to development of the existing buildings is absent, and staff has serious concerns with a number of the site design elements of the project. These concerns include, but are not limited to, the programming of the existing buildings and the lack of activation on Harding Avenue, resulting in the “tunnel” design of a vehicular drive through the block.

In order to better integrate the new development within the established context of the immediate area, staff recommends the following modifications:

1. The ground floors of the existing buildings should be developed in accordance with active uses. Further details are needed and the improvement to the buildings shall address the scope and intent of the TC-C regulations.
2. The “tunnel” design along Harding Avenue needs to be completely re-thought and redesigned. All vehicles should enter AND exit from Harding Avenue and the driveway gap in the façade of the new construction should be eliminated so that there is a continuous urban edge along Abbott Avenue that correlates with the continuous urban edge of the development on the west side of Abbott Avenue.
3. The proposed surface parking area to the south of the existing City National building needs to be eliminated and replaced with active building area.
4. The project architect shall identify ways to open up the ground floor of the City National Bank building in order to accommodate active uses such as retail and restaurant, and better engage the street and sidewalk along the 71<sup>st</sup> Street corridor.
5. All rooftop and parking shall be screened from view from surrounding buildings through the use of solar carports or landscaping.
6. Additional design details of the parking garage screening elements are needed. Specifically, the project architect shall further refine all featureless walls to incorporate a more articulated architectural treatment to the ‘blank featureless wall’ elevations (A4.4 and A4.6).

Based on the foregoing analysis, and due to the substantial changes and refinements needed, staff recommends continuance of the application to a future meeting date.

### **VARIANCE REVIEW**

As identified under the ‘Project’ and ‘Variance’ description of the analysis, staff is supportive of some of the requested variances that are predominantly associated with the retention of both existing buildings on 71<sup>st</sup> Street. However, a number of variances related to loading and surface parking clearly do not meet the practical difficulty and hardship standards and should not move forward.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **continued** to a date certain of October 06, 2020, in order to address the inconsistencies with the aforementioned Design Review criteria and Sea Level Rise criteria, and Practical Difficulty and Hardship criteria, as applicable.

Exhibit 'A'

LEGAL DESCRIPTION:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MIAMI-DADE, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOTS 1, 3, 4, 16, 17 AND 18, BLOCK 12 OF NORMANDY BEACH SOUTH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGE 54, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. (LAND AREA: 36,991.48 SQ. FT)

PARCEL 2:

LOT 5, BLOCK 12 OF NORMANDY BEACH SOUTH, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 21, PAGE 54 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. (LAND AREA: 6,000.00 SQ. FT)

PARCEL 3:

LOT 2, BLOCK 12 OF NORMANDY BEACH SOUTH, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 21, PAGE 54 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. (LAND AREA: 6,000.00 SQ. FT)

TOTAL LAND AREA: 48,995.48 SQ. FT

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

MEETING DATE: August 04, 2020

PROPERTY/ FOLIO: 300 71 <sup>st</sup> Street	02-3211-002-0930
326 71 <sup>st</sup> Street	02-3211-002-0850
	02-3211-002-0870
	02-3211-002-0880
6985 Abbott Avenue	02-3211-002-0860
6961 Abbott Avenue	02-3211-002-0890
6972 Harding Avenue	02-3211-002-0920

FILE NO: DRB19-0462

IN RE: An application has been filed requesting Design Review Approval for the construction of a new multistory mixed-use residential and retail development, including one or more waivers and one or more variances from the street class frontage requirements and to retain non-conforming setbacks, to replace surface parking lots and to retain two existing multistory buildings.

LEGAL: See attached Exhibit 'A'

**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 a 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, 13, 16 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 the Sea Level Rise Criteria 1, 5, 10 and 12 in Section 133-50(a) of the Miami Beach Code.
  1. Revised elevation, site plan and floor plan drawings for the proposed mixed-use development at 6961 Abbott Avenue shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:



- a. The proposed plans shall be revised to fully comport with the FAR requirements of the City Code. FAR diagrams and calculations shall be revised and to be reviewed and approved by staff as part of the building permit plans.
- b. The separation of driveways for parking and loading **shall not be** waived as proposed. (Sec 142-745(a)(12)(c)).
- c. A driveway onto Byron Avenue **shall not be** waived as proposed. (Sec. 142-745(f)(3)).
- d. The architect shall comply with the street frontage requirements for the Class A frontage (72<sup>nd</sup> street):
  - i. Although the project complies with the 70% glass frontage, the elevation drawing, and calculations are not accurate. The length of the glazing required cannot include the structural columns. Elevation drawing and calculations shall be revised
  - ii. Café shall be extended to include the required 50'-0" fronting 72<sup>nd</sup> Street. Storage uses are not considered habitable space desired to be within the required frontage depth
  - iii. Utility infrastructure shall be concealed from public view and may be placed within required habitable space (50'-0") or behind if access from the street is required. In this case, demonstrate that access from the street is required by the Florida Building Code or other applicable regulations for the Fire command room.
- e. The architect shall clarify location and type of required bicycle (long vs short term) parking on a revised site plan.
- f. The ground floors of the existing buildings should be developed in accordance with active uses. Further details are needed and the improvement to the buildings shall address the scope and intent of the TC-C regulations.
- g. The "tunnel" design along Harding Avenue shall be completely re-thought and redesigned. All vehicles should entering AND exit from Harding Avenue and the driveway gap in the façade of the new construction should be eliminated so that there is a continuous urban edge along Abbott Avenue that correlates with the continuous urban edge of the development on the west side of Abbott Avenue.
- h. The proposed surface parking area to the south of the existing City National building needs to be eliminated and replaced with active building area.
- i. The architect shall identify ways to open up the ground floor of the City National Bank building in order to accommodate active uses such as retail and restaurant, and better engage the street and sidewalk along the 71<sup>st</sup> Street corridor.

- j. All rooftop and parking shall be screened from view from surrounding buildings through the use of solar carports or landscaping.
- k. Additional design details of the parking garage screening elements are needed. Specifically, the project architect shall further refine all featureless walls to incorporate a more articulated architectural treatment to the 'blank featureless wall' elevations (A4.4 and A4.6).
- l. The architect shall provide additional design details / further refinement of the ground retail tenant build out, including all interior fixtures, shelving, lighting, partitions, and checkout counters, if parallel to the exterior wall, shall be setback a minimum of ten (10') feet from the exterior glass storefront walls of the ground floor along and Abbott Avenue. Additionally, the architect shall refine the south façade ground floor component to allow the storefront glass fenestration to "wrap" around the corner westward in order to provide a more transparent retail condition.
- m. The architect shall provide additional design details / further refinement of the proposed soccer pitch including details of the fencing and lighting, location, height, configuration and specifications, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the direction from the Board.
- n. The applicant shall further refine the proposed parking garage screening. The final design details and color selection of the "parking garage podium screening" proposed at portions of the parking podium 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.
- o. The final details of all exterior surface finishes and materials, including samples, 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.
- p. All interior fixtures, including, but not limited to, shelving, partitions, and checkout counters, if parallel to the exterior wall, shall be setback a minimum of ten (10') feet from the exterior walls of the building, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. This shall not prohibit substantially transparent fixtures for display purposes; however, shelving, partitions, and checkout counters, or similar objects, shall not be permitted to be flush to the exterior walls of the building facing any right-of-way.
- q. The final design and details of all exterior and interior lighting shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. Interior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding area. No florescent or intensive 'white' lighting (or similar intensive lighting) visible from the adjacent public rights or way or adjacent properties shall be permitted.

- r. Any future kitchen ventilation or mechanical venting shall be chased through the interior of the building to the roof. No exhaust ducts or vents shall be permitted on any building elevations.
- s. All internal garage lighting shall be shielded to buffer views of all direct light sources from outside of the structure, as well as on the roof deck, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- t. The final design details and pattern of the hardscape and exterior walkways 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.
- u. Any exterior ground floor exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions, material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
- v. The interior walls of the two driveways at the first level of the parking garage entrance, ramps and loading areas, shall be fully detailed on revised plans. Such interior areas shall consist of high quality, non-stucco surface materials which have a well finished appearance commensurate with the primary façade of the building, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- w. All building signage shall require a separate permit. A uniform sign plan for the new building shall be required. Such sign plan shall be consistent in materials, method of illumination and sign location, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- x. Final details of all proposed storefront systems and associated details shall be provided for all ground floor elevations on the project site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- y. 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.
- z. 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 site plan, 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 plan 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. 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 application, 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.
  - d. All overhead utility lines shall along all street frontages within the block of the subject property be relocated underground. All utility poles shall be removed.
  - e. All exterior walkways and drives shall consist of decorative pavers, set in sand or other semi-pervious material, with the exception of a small portion of slab to accommodate loading in the alley, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - 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 Backflow prevention device shall not be permitted within any area fronting a street or sidewalk, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board

- h. Street trees shall be required within the sidewalk 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 existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- j. 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.
- k. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- l. 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.
- m. 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 wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- n. 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, withdrawn, or denied:

The following variance(s) were **approved** by the Board:

- 1. A variance to reduce up to 10'-0" from the minimum required setback of 10'-

0" for the pedestal structure as measured from Grade to 55'-0" (from BFE+5') along a class A frontage in order to retain an existing building located at the corner of 71<sup>st</sup> Street and Harding Avenue with a setback ranging from 5'-0" to zero (0'-0").

2. A variance to reduce up to 25'-0" from the minimum required setback of 25'-0" for the tower structure as measured from 55'-0" (from BFE+5') to maximum height along a class A frontage in order to retain an existing building located at the corner of 71<sup>st</sup> Street and Harding Avenue with a setback ranging from 5'-0" to zero (0'-0").
3. A variance to reduce up to 10'-0" from the minimum required setback of 10'-0" for the pedestal and tower structure along a class C frontage in order to retain an existing building located at the corner of 71<sup>st</sup> Street and Harding Avenue with a setback ranging from 2'-4" to zero (0'-0").
4. A variance to reduce by 10'-0" the required 10'-0" wide "Clear Pedestrian Path" along 71<sup>st</sup> Street (Class A).
5. A variance to reduce by 10'-0" the required 10'-0" wide "Clear Pedestrian Path" along Harding Avenue (Class C).

The following variance(s) were **denied with prejudice** by the Board:

6. A variance to reduce the minimum required habitable space with 20'-0" in depth along 85% of the length of the façade at setback line along a class C frontage (Harding Avenue) in order to provide a portion of the façade with landscape.
7. A variance to reduce the minimum required habitable space along 85% of the length of the façade at setback line along a class C frontage (Harding Avenue) in order to provide a portion of the façade with landscape.
8. A variance to reduce by 35'-0" the minimum height of a façade in order to not provide a building along 85% of the façade fronting on Harding Avenue (Class C).
9. A variance to eliminate the visibility requirement for ground floor parking along Harding Avenue

The following variance(s) were **approved** by the Board:

10. A variance to eliminate the shade structure required that projects for a minimum depth of five (5) feet along 71<sup>st</sup> Street (Class A) in order to retain an existing nonconforming six-story building.
11. A variance to eliminate the shade structure required that projects for a minimum depth of five (5) feet along Harding Avenue (Class C) in order to retain an existing nonconforming six-story building.



The following variance(s) were **denied** by the Board:

12. A variance to reduce the required minimum of 70 percent clear glass windows with views into the habitable space along 71<sup>st</sup> Street (Class A) in order to retain an existing nonconforming six-story building.
13. A variance to reduce the required minimum of 70 percent clear glass windows with views into the habitable space along Harding Avenue (Class C) in order to retain an existing nonconforming six-story building.
14. A variance to eliminate the requirement to screen the parking facilities from public rights-of-way and clear Pedestrian Path facing Abbott Avenue and Harding Avenue.
15. A variance to allow a driveway on a class B frontage (Abbott Avenue) when there is a class C frontage (Harding Avenue) on the property in order to provide two separate driveways.

The following variance(s) were **withdrawn** by staff:

16. A variance to reduce the required minimum of 70 percent clear glass windows with views into the habitable space along 71<sup>st</sup> Street (Class A) in order to retain an existing nonconforming three-story building.
17. A variance to reduce the required minimum of 70 percent clear glass windows with views into the habitable space along Abbott Avenue (Class B) in order to retain an existing nonconforming three-story building.
18. A variance to not provide a clear pedestrian path free from obstructions along limited portions of 71<sup>st</sup> Street (Class A) frontage.
19. A variance to not provide a clear pedestrian path free from obstructions along limited portions of Abbott Avenue (Class B) frontage.
20. A variance to not provide a shade structure over the required pedestrian path along 71<sup>st</sup> Street (Class A).
21. A variance to not provide a shade structure over the required pedestrian path along Abbott Avenue (Class B).
22. A variance to reduce up to 10'-0" from the minimum required setback of 10'-0" for the pedestal structure as measured from Grade to 55'-0" (from BFE+5') along a class A frontage in order to retain an existing building located at the corner of 71<sup>st</sup> Street and Abbott Avenue with a setback ranging of zero (0'-0").
23. A variance to reduce up to 10'-0" from the minimum required setback of 10'-0" for the pedestal structure as measured from Grade to 55'-0" (from BFE+5') along a class B frontage in order to retain an existing building located at the corner of 71<sup>st</sup> Street and Abbott Avenue with a setback ranging of zero (0'-0").

- B. The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variances #6, #7, #8, #9, #14, and #15.

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, with the exception of variances #6, #7, #8, #9, #14, and #15 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 **Approves** the Variance request(s), and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
  2. If required, the applicant shall obtain a revocable permit from the Public Works Department for the proposed improvements within the public right-of-way, subject to approval of the City Commission, prior to the issuance of a building permit.

3. The architect shall revise the ground floor site plan to comply with providing a continuous shade structure over the pedestrian path along the portions of the facades of the entirety of the development along of Indian Creek Drive.

**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 a 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. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
- C. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- D. Project shall comply with Urban Heat Island Ordinance, roofing.
- E. Identify intended compliance with Section 142-747 North Beach Public Benefits Fund. Fee per unit public fund benefit. Contribution to public benefits fund. A contribution to the public benefits fund, in the amount identified in appendix A shall be required for each square foot of floor area located above the 125 feet. Provide information and details of how the project will satisfy this requirement.
- F. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
- G. The Applicant agrees that a project manager will be retained to ensure that all aspects of the development permitting and licensing processes are coordinated and consistent with the approved plans. The applicant agrees to submit the name and contact information for the project manager to the Planning Department within 90 days of the May 05, 2020 meeting. Failure to comply with this condition within the specified time shall result in notice and a hearing before the Board to extend the timeframe.
- H. The applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the proximity of the new building to the proposed alley re-alignment.



- I. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.
- J. 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.
- K. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- L. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- M. 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.
- N. 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.
- O. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- P. 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 "6985 Abbott Avenue: Final Submittal" as prepared by **cube3, LLC** dated signed and sealed June 04 2020, 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.

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

Exhibit 'A'

**LEGAL DESCRIPTION:**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MIAMI-DADE, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOTS 1, 3, 4, 16, 17 AND 18, BLOCK 12 OF NORMANDY BEACH SOUTH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGE 54, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. (LAND AREA: 36,991.48 SQ. FT)

PARCEL 2:

LOT 5, BLOCK 12 OF NORMANDY BEACH SOUTH, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 21, PAGE 54 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. (LAND AREA: 6,000.00 SQ. FT)

PARCEL 3:

LOT 2, BLOCK 12 OF NORMANDY BEACH SOUTH, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 21, PAGE 54 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. (LAND AREA: 6,000.00 SQ. FT)

TOTAL LAND AREA: 48,995.48 SQ. FT