

MIAMI BEACH

PLANNING DEPARTMENT

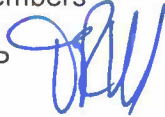
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: November 03, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB20-0585 (DRB20-0555, DRB19-0445)
420 South Hibiscus Drive

An application has been filed requesting exterior design modifications to a previously issued Design Review Approval, specifically for the changes to the site plan and exterior elevations.

RECOMMENDATION:

Continue the application to a future date

LEGAL DESCRIPTION:

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

Parcel II:

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

BACKGROUND:

On December 13, 2019, the Design Review Board reviewed and approved after several continuances the design for a new two-story single-family residence including one or more waivers, and an understory area, and variances, pursuant to DRB19-0445.

On July 22, 2020, the Design Review Board reviewed and approved a modification to the design for a new two-story single-family residence including a variance to exceed the maximum elevation in the required rear yard, pursuant to DRB20-0555.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 19,687 SF
Lot Coverage:
Approved: 5,829.73 SF / 29.6%

Maximum: 5,906.1 SF / 30%
Unit size:
Approved: 9,805.74 SF / 49.8%
Maximum: 9,843.5 SF / 50%
2nd Floor to 1st: 4638/5564 | 83%
*** WAIVER GRANTED**

Height:

Approved: 27'-0" flat roof from BFE +5'
Maximum: 24'-0" flat roof
* **WAIVER GRANTED**

Side Yard Elevations Min: 6.56' Max: 8.16'
Read Yard Elevations Min: 6.56'
Max: 15' Proposed: **16' VARIANCE
REQUD**

Grade: **+5.66' NGVD**

Base Flood Elevation: +10.00' NGVD
Difference: +4.34' NGVD
Adjusted Grade: +7.83' NGVD
First Floor Elevation: +15.50' NGVD
(BFE+5'fb+0.6')

SURROUNDING PROPERTIES:

North: One-story 1947 residence
South: Biscayne Waterway
West: Two-story 2016 residence
East: Two-story 1924/2007 residence

THE PROJECT:

The applicant has submitted plans entitled "420 South Hibiscus Design Review Board CSS Submittal", as designed by **DOMO Architecture + Design**, signed, sealed, and dated November 3, 2020.

On December 13, 2019, the following waivers were approved:

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c): 83.2%.
2. The height of the proposed structure is 27'-0" in accordance with Section 142-105(b) 2'; 27' as measured from BFE +5, or 15' NGVD.
3. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).
4. Understory area shall be subject to the review and approval of the Design Review Board in accordance with Section 142-105(b)(4)(e).

On December 13, 2019, the following variance was approved:

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

On July 22, 2020, the following variance was approved:

1. A variance to exceed by 1'-0" the maximum elevation allowed of 15.0' NGVD within the rear yard in order to construct a pool and pook deck up to 16'-0" NGVD for a new single family home.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the following sections of the City Code.

1. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. **The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line.** The square footage of the additional

open space shall not be less than one percent of the lot area. The open space provided along a side elevation in accordance with this subsection, whether required or not, shall not be included in the lot coverage calculation provided that the combined depth of the open space, as measured from the required side setback line(s), is less than 30 percent of the maximum developable building width of the property, as measured from the interior setback lines, and the total open space provided does not exceed five percent of the lot area. Any portions of the interior side yard open space in excess of five percent of the lot area shall be included in the total lot coverage calculation. The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and at least 75 percent of the required interior open space area shall be sodded or landscaped previous open space. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from the minimum requirements of this provision may be granted only through design review board approval in accordance with the applicable design review criteria.

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

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the proposed design requires a modification to a previously approved design waiver.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the proposed design requires a modification to a previously approved design waiver.
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 proposed design requires a modification to a previously approved design waiver.

5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.

Not Satisfied; the proposed design requires a modification to a previously approved design waiver.

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.

Not Satisfied; the proposed design requires a modification to a previously approved design waiver.

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

Satisfied

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

Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

Not Satisfied; a lighting plan has not been submitted.

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

Satisfied

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

Satisfied

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the proposed design requires a modification to a previously approved design waiver.
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied; see below

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Satisfied
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Satisfied
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
Not Applicable
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.
Not Applicable
- (10) In all new projects, water retention systems shall be provided.
Not Satisfied
- (11) Cool pavement materials or porous pavement materials shall be utilized.
Not Satisfied

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

Not Satisfied

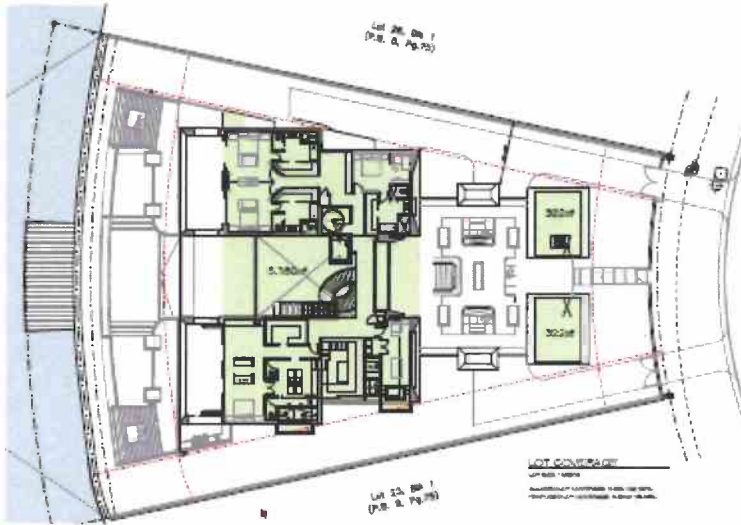
ANALYSIS:
DESIGN REVIEW

The applicant is proposing exterior design and plan alterations to a previously approved two-story residence on a waterfront parcel on the southwest tip of Hibiscus Island that will replace an existing pre-1942 architecturally significant two-story residence. The original design approval included several design waivers, a variance, and review of the understory. The item was first presented to the DRB on October 02, 2019 and then at the November 05, 2019 meetings. The project was continued by the Board in both instances to address specific concerns with the design of the understory and the structure's overall massing on the site, the structure's height, its proposed design of the understory, as well as several of the requested waivers.

The project was approved on December 13, 2019, including a 3'-0" RS-3 height waiver, a second floor to first floor ratio waiver of 83%, as well as relief from both side yard open space requirements and the overall design of the understory. The height of the residence was approved at base flood elevation (10') plus maximum free board (+5') or +15.50' NGVD. Additionally, a variance to exceed by 3'-0" the maximum height allowed of 10'-0" feet above the roofline in order to construct an elevator bulkhead up to 13'-0" was also approved.

The applicant is proposing modest alterations to the approved plans, most of which can be approved at staff level. What exceeds the threshold of administrative review, however, are the proposed exterior modifications to the second-floor fenestration of the south side facade. Specifically, the applicant seeks to add two (2) bay windows to the second story to allow more light into the second story of the proposed residence.

The proposal is to replace previously approved letterbox windows with two (2) new bay windows along the second story of the home, just south the midpoint of subject elevation. The proposed bay windows project 2'-10" from the side wall and at times into the side yard, and are designed in full glass, featuring bronze finish mullions that create a plaid-like pattern along the perimeters and metal screening along the base. Bay windows at the first or second level are allowable encroachments into required setback yards in a similar manner as a balcony, eyebrow or other roof overhang.



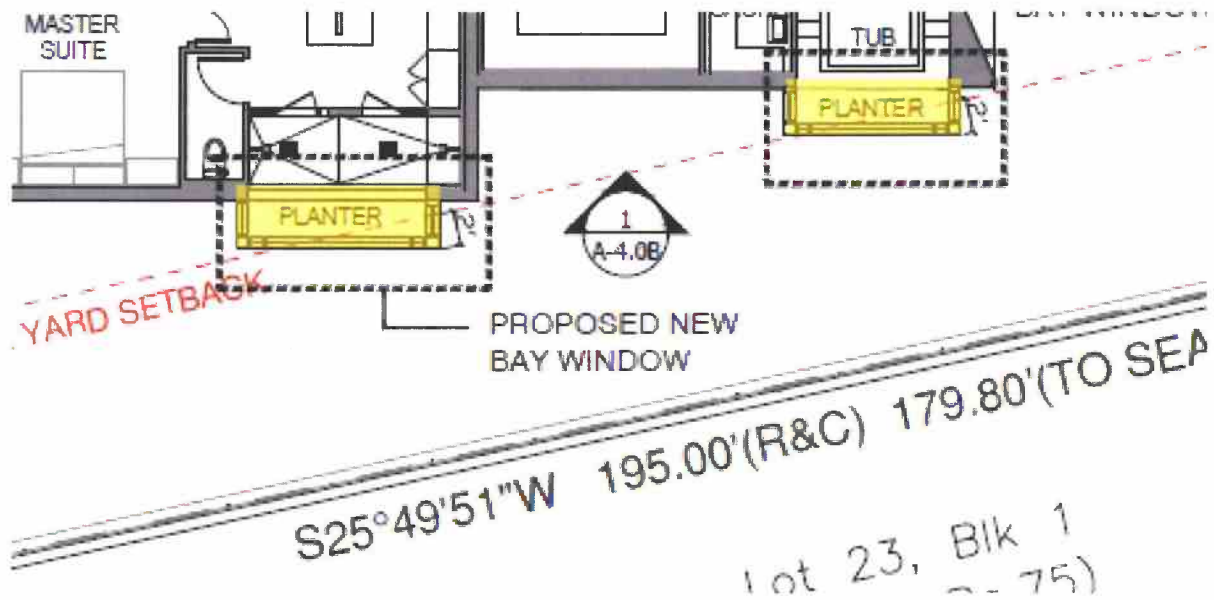
One of the primary design elements of the home is the careful symmetry in plan and elevation. The applicant had obtained design waiver approval of both side open space requirements for two-story elevations that exceed 60'-0" in length (north and south). The house has been carefully designed to contain a lot of movement along the side elevations as the rectilinear design conforms to the pie-shaped parcel. Since the bay windows are not proposed along

the north side, staff believes that the mass, balance, composition and sculptural symmetry of the original design is compromised.

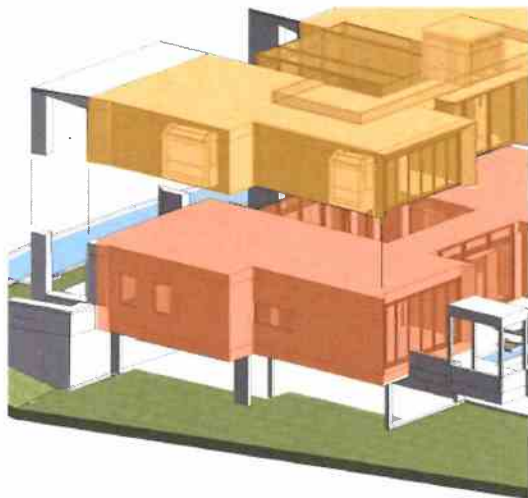
Staff also has a concern with the impact of the proposal on the previously approved waiver for the open space requirement along the south side elevation, where the bay windows are proposed. The Board approval of this waiver was fundamentally based on the site plan that provided significant movement of the two-story massing along the side elevations. The proposed new bay windows increase the second-floor massing without offsetting the second-floor design waiver previously approved, as portions of the elevation, though in the form of a window box, are proposed to encroach closer towards the side property line.

The design plans feature a zagged, serrated layout that does not create a sheer vertical wall abutting the neighboring two-story residences. The Code requires that the additional open space be regular in shape, open to the sky from grade, and at least eight feet in depth, as measured perpendicular from the minimum required side setback line. Since the projecting bay windows further decrease the "open space" from the ground "open to the sky", in those portions outside of the required side yard the previously approved waiver would need to be modified.

The second-floor slab of the home is configured at 29.5' NGVD. The neighboring affected property is an older home built in 1927 with a more recent addition constructed in 2007. Due to the nature of the original construction, the neighboring house sits considerably lower below the design on the contemporary structure. The proposed bay windows also reduce the amount of air and light in the setback between the properties and again, require the open space waiver to be re-assessed.



Detail of second floor bay windows



Finally, the proposed modification also increases both the perceived mass and footprint. At earlier hearings, members of the Board indicated that the proposed home appears significantly larger than the permitted allowance of square footage (due to the incorporation of the understory and the configuration of an “elevated garden” beneath which does not count towards lot coverage).

In summary, although the proposed bay windows are allowable encroachments within the side yards, they do have a significant impact on the design of the structure. In this regard, staff would suggest that the previously approved window configuration be retained, or that the proposed bay window configuration be further studied. In view of the

foregoing analysis, staff recommends continuance of the application to a future date in order to further study the bay window configuration, as well as meet with the neighboring property owner.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **continued** to a future date to address the inconsistencies with the aforementioned Design Review Criteria, as well as the concerns identified herein. If the DRB should move to approve the application and allow the proposed bay windows, staff recommends that any approval be subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review and Sea Level Rise criteria.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 03, 2020

PROPERTY/FOLIO: 420 South Hibiscus Drive 02-3232-006-0210

FILE NO: DRB20-0585

IN RE: An application has been filed requesting exterior design modifications to a previously issued Design Review Approval, specifically for the changes to the site plan and exterior elevations.

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 an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 9 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 consistent with Sea Level Rise Criteria in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 1. The property shall comply with all of the conditions of the original approval enumerated in the Final Order for DRB19-0445, dated December 13, 2019 and the Final Order for DRB20-0555, dated July 22, 2020, except as modified herein.
 2. Revised elevation, site plan, and floor plan drawings for the proposed new home at 420 South Hibiscus Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed windows within both of the projecting bay windows of the bathroom elements (showers and tubs) along the south elevation at the second level shall not be approved as proposed, in a manner to be reviewed

and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

- b. 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.
- c. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

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

II. Variance(s)

- A. No variances were filed as part of this application.

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. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. 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.
- D. 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

- F. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "420 South Hibiscus Design Review Board CSS Submittal", as designed by **DOMO Architecture + Design**, signed, sealed, and dated November 3, 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.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

Exhibit A

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

Parcel II:

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

DRAFT

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 03, 2020

PROPERTY/FOLIO: 420 South Hibiscus Drive 02-3232-006-0210

FILE NO: DRB20-0585

IN RE: An application has been filed requesting exterior design modifications to a previously issued Design Review Approval, specifically for the changes to the site plan and exterior elevations.

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 an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 9 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 consistent with Sea Level Rise Criteria in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 1. The property shall comply with all of the conditions of the original approval enumerated in the Final Order for DRB19-0445, dated December 13, 2019 and the Final Order for DRB20-0555, dated July 22, 2020, except as modified herein.
 2. Revised elevation, site plan, and floor plan drawings for the proposed new home at 420 South Hibiscus Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed windows within both of the projecting bay windows of the bathroom elements (showers and tubs) along the south elevation at the second level shall be an opaque or frosted glass element to ensure minimal

gaze into the abutting property in an effort to preserve the privacy of the abutting property, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

- b. 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.
- c. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

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

II. Variance(s)

- A. No variances were filed as part of this application.

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. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. 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.
- D. 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.

- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "420 South Hibiscus Design Review Board CSS Submittal", as designed by **DOMO Architecture + Design**, signed, sealed, and dated November 3, 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.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIR

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

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

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

Approved As To Form: _____
City Attorney's Office: _____ ())

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

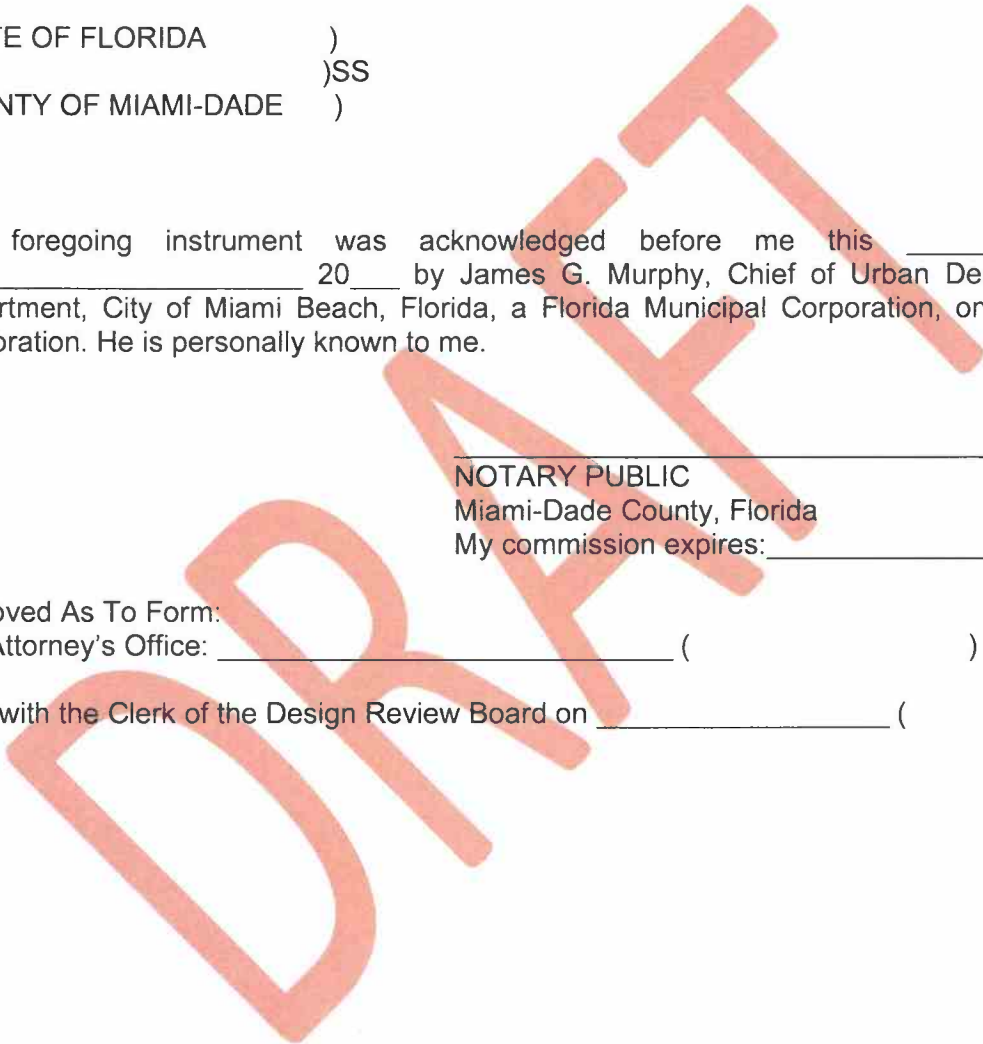


Exhibit A

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

Parcel II:

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

DRAFT