

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: **DRB20-0534**
5011 Pine Tree Drive

An application has been filed requesting Design Review Approval for the construction of a new two-story residence and the relocation / renovation of an existing architecturally significant pre-1942 two-story residence and carriage boat house on the subject property including one or more setback and height variances and variances to retain two architecturally significant pre-1942 nonconforming structures.

RECOMMENDATION:

Approval with conditions

Denial of variance #5

LEGAL DESCRIPTION:

Lots 1 and 2, Block 1, of Beach View Subdivision According to the Plat thereof as recorded in the Plat Book 9, Page 158, of the Public Records of Miami-Dade County, Florida.

BACKGROUND:

On December 16, 2019, the owner of 5011 Pine Tree Drive requested a formal determination of architectural significance pursuant to section 142-108(a) of the City Code. The residence was found to satisfy all applicable criteria and was formally determined to be 'architecturally significant' on January 06, 2020 pursuant to DRB19-0491.

The original residence and associated buildings were designed for Irving A. Collins, one of three sons of John Collins, by the renowned Miami Beach architect Russel Pancoast. The residential complex is comprised of three original structures – the main home, a boathouse and the servants' quarters/garage building. Both the residence and the boat house were constructed by Beach Construction Company, with the boat house built in 1924 and the main residence in 1927. The servants' quarters/garage building was constructed in 1926 by Struck Construction Company. The original home and structures are designed in the Mediterranean Revival Style. Defined by a crenelated tower, the existing home exhibits eclectic architectural features such as buttress walls, Moorish arched colonnade, quoined corners, arabesque details, and decorative tympanum panels in archways, which are characteristic of the style.

In 1960, variances were granted to permit the owner to rebuild and restore the nonconforming boathouse structure located over the canal on the south side of the property, pursuant to File No. ZBA 126.

HISTORY

This application was first reviewed at the August 04, 2020 DRB meeting, and continued to September 01, 2020 at the request of the applicant. At the September 01, 2020 DRB meeting, the item was presented to the Board; variances #1-4 were approved, and variance #5 and the design of the project were continued to the November 03, 2020 meeting.

SITE DATA:

Zoning: RS-2
Future Land Use: RS
Lot Size: 82,714SF (1.9 acres)
Lot Coverage:
Existing: 9,282 SF / 11%
Proposed: 29,588 SF / 35.77%
Maximum: 33,085 SF / 40%
Unit size:
Existing: 15,845 SF / 19%
Proposed: 49,261 SF / 59.55%
Maximum: 49,628 SF / 60%
2nd Floor to 1st: 21,979 | 26,218 / 84%
Height:
Existing: 41'-10" flat roof from BFE+1'
24'-3.5" sloped roof from BFE+1'
Proposed: 28'-0" | 30'-0" flat roof from BFE+1'
30'-6" sloped roof from BFE+1'
Maximum: 28'-0" | 31'-0"* flat roof
31'-0" sloped roof

Side Yard Elevations Min: 6.56' Max: 11.51'
Read Yard Elevations Min: 6.56' Max: 9'

EXISTING STRUCTURES:

Main Residence

Year: 1927
Architect: Russel Pancoast
First Floor Elevation: 8.34' NGVD
Vacant: No

Demolition: Partial

Carriage Boat House

Year: 1924
Architect: Russel Pancoast
First Floor Elevation: 7.13' NGVD
Vacant: No
Demolition: Minimal

Servants' Quarters

Year: 1926
Architect: Russel Pancoast
First Floor Elevation: 8.26' NGVD
Vacant: No
Demolition: Total

Grade: +9.01' NGVD

Base Flood Elevation: +8.00' NGVD

Difference: +1.01' NGVD

Adjusted Grade: +8.5' NG VD

First Floor Elevation: +9' NGVD (BFE+1fb)

SURROUNDING PROPERTIES:

North: One story residence

South: Flamingo Waterway

West: Two-story 1970 residence

East: Indian Creek Canal

THE PROJECT:

The applicant has submitted revised plans entitled "5011 Pine Tree Drive Revised Final Submittal", as designed by **Luce Architects**, signed, sealed, and dated October 05, 2020. The applicant is requesting Design Review Approval for the construction of a new two-story residence including substantial two-story additions and the relocation / renovation of an existing architecturally significant pre-1942 two-story residence and carriage boat house on a waterfront parcel.

On September 01, 2020 the following variances were reviewed and approved by the Board:

1. A variance to exceed by 1'-11" the maximum allowed height of 5'-0" for a wall located along the front property line in order to retain a wall of up to 6'-11" (15.90' NGVD) in height as measured from the grade of 9.01' NGVD facing Pine Tree Drive.
2. A variance to exceed by 0'-10" the maximum allowed height of 6'-0" for a wall located on the interior north side property line along 4'-0" from the front property line in order to retain a wall of up to 6'-10" (15.81' NGVD) in height as measured from the grade of 9.01' NGVD.
3. A variance to exceed by 2'-5" the maximum total height allowed of 7'-0" for ornamental light fixtures located on a fence at the front property line in order to retain light fixtures up to 9'-5" (18.40' NGVD) in height measured from grade of 9.01' NGVD facing Pine Tree Drive.
4. A variance to exceed by 58.6% (17'-11") the maximum projection of 25% (7'-7") within the required street side (south) side yard of 30'-6" in order to retain an architecturally significant two-story structure up to 5'-0" setback from the street side property line and 83.6% (25'-6") projection within the south side yard.

The applicant is requesting the following additional variance:

5. A variance to exceed by 3'-0" the maximum height of 3'-0" allowed for a roof curb or parapet in order to construct a parapet surrounding the domed roof above the porte cochere up to 6'-0" in height above the maximum 33'-0" height allowed.

- Variance requested from:

Sec. 142-105. - Development regulations and area requirement

(b)The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(7)Height exceptions. The height regulation exceptions contained in section 142-1161 shall not apply to the RS-1, RS-2, RS-3 and RS-4 zoning districts. In general, height exceptions that are not integral to the design intent of a structure shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways. The following height exceptions shall apply, and unless otherwise specified, shall not exceed ten feet above the roofline of the structure:

e.Rooftop curbs, not to exceed three feet in height.

For additions to architecturally significant homes constructed prior to 1942, the City Code allows up to 33'-0" in height for buildings with a sloped roof. The maximum height is measured to the midpoint of the roof. The project features an unusual roof shape above the porte cochere as a truncated pyramid intersected by a dome. The midpoint of this structure is located at 30'-0" from BFE+1' (9.0" NGVD) where up to 33'-0" is allowed for sloped roofs. The roof is also surrounded by flemish gables on 3 sides that extend 9'-0" above the midpoint of the dome. Because the new roof can be located up to 33'-0" in height, the flemish gables are 6'-0" above the maximum building height where only up to 3'-0" is allowed. The additional height of these elements is intrinsically related to the specific design of the roof and not to

practical difficulties associated with the retention of the architecturally significant structures.

Other portions of the new additions feature the roof at the maximum 33'-0" in height allowed for sloped roofs and 30'-0" for flat roofs. The architect has included a variety of elements that are permitted above the roof, such as elevator bulkheads, skylights in combination with the sloped and flat roofs that makes the project very unique. Staff is confident that modifications to the roof to comply with the maximum parapet height would not have a negative impact on the design of the home or on the architecturally significant structures retained on site. In light of the fact that the practical difficulty and hardship criteria has not been satisfied, staff recommends denial of this variance request.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variance # 5 as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code with the exception of variance # 5 as noted above:

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

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

COMPLIANCE WITH ZONING CODE:

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

- **Sec. 142-108. (g)** New construction requirements for properties containing a single-family home constructed prior to 1942. (2) Regulations for additions to architecturally significant homes which are substantially retained and preserved. In addition to the development regulations and area requirements of section 142-105, of the land development regulations of the City Code, the following shall apply in the event an architecturally significant single-family home constructed prior to 1942 is substantially retained and preserved.
- The following are the following aspects of the "incentive ordinance" that are utilized in the design herein:
 - a. *Lot coverage.* The total lot coverage may be increased to, but shall not exceed, 40 percent.
 - b. *Unit size.* The total unit size may be increased to, but shall not exceed, 60 percent.
 - c. *Heights for RS-1 and RS-2.* The heights for ground level additions, not to exceed 50 percent of the lot coverage, may be increased up to 30' for a flat roofed structure and 33' for a sloped roof structure may be waived at the administrative level.
 - d. *Front setback.* Two-story structures or the second floor may encroach forward to the 20-foot front setback line *Two-story ground level additions.* The construction of a ground floor addition of more than one story shall be allowed to follow the existing interior building lines, provided a minimum side setback of five feet is met, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.
 - e. *Second Floor requirements.* The maximum second floor area of 70 percent can be waived at the administrative level.
- The maximum elevation for decks and yards within the required rear yard cannot exceed the proposed finish floor of the home (9.0' NGVD).
- Open space calculations for the rear yard and street side yard shall be provided. Minimum open space/landscape is 70% of the rear yard and 50% in the street side yard.
- URBAN HEAT ISLAND ORDINANCE Sec. 142- 1132. g) Driveways. (4) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in section 114- 1 of this Code. (5) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114- 1 of this Code, shall be prohibited.
- The boathouse is located on a navigable waterway and will likely require a Coastal

Permit in addition to the regular standard DERM plan review, and possibly some state permits.

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

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the applicant is requesting one variance from the Design Review 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 one variance from the Design Review 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 one variance from the Design Review 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 one variance from the Design Review 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 one variance from the Design Review Board.

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the applicant is requesting one variance from the Design Review Board.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied; a lighting plan has not been submitted
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the applicant is requesting one variance from the Design Review Board.
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall

buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

Satisfied

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

Satisfied

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

Not Satisfied; the applicant is requesting one variance from the Design Review Board.

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

Satisfied

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

Not Applicable

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.

Not Applicable

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

Not Satisfied; see below

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

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

Not Satisfied

A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.

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

Satisfied

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

Satisfied

- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.

Satisfied

- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

Satisfied

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.

Satisfied

- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

Satisfied

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

Satisfied

- (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.

Satisfied

- (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

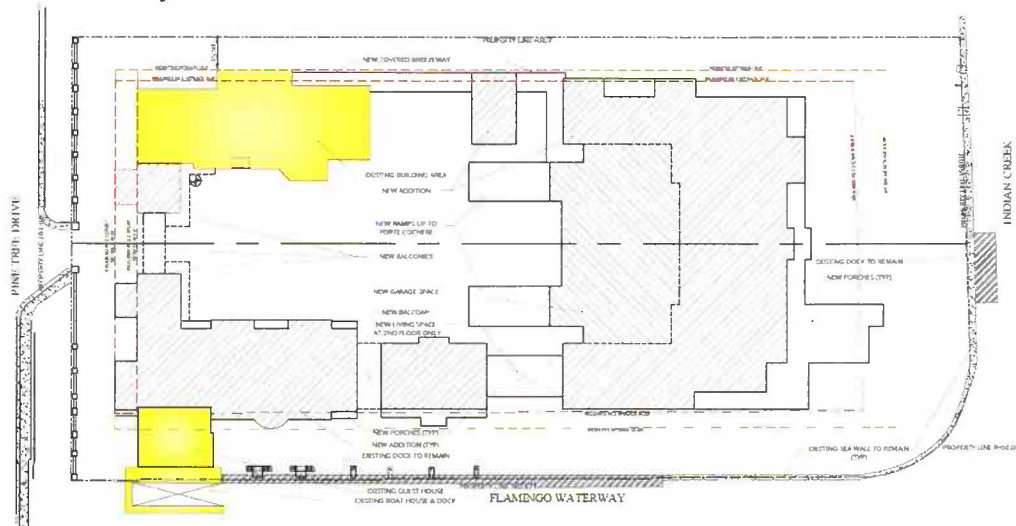
- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Satisfied

The intent of the new site design is to integrate the main house and the boathouse into the residential complex. The boat house will remain in its current location and the main house will be relocated to a new position along the north property line to allow for the new construction to occupy the former footprint and achieve the vistas of the canals offered from this viewpoint.



In moving the structure, the applicant will rotate the 1927 main structure 90 degrees along the north property line and locate it closer to the front the north property line. The existing building will connect to a new structure at its westernmost point, requiring minimal demolition of a one-story portion of the home that houses the kitchen and laundry. The proposed new structure fronting Pine Tree Drive is two-stories in height and features two, two-story guard towers that flank the main entry drive.



The boat house will also connect to a new two-story structure. Through this, two major accomplishments are achieved—1) it enables the original 1927 main residence and the habitable portion of the boat house to be raised to the current minimum base flood elevation plus freeboard (BFE+1', or 9' NGVD) and 2) it preserves the two most iconic buildings of the original complex, providing minimal demolition to these two elements and allowing the applicant to build new structures on the site. Staff commends the applicant on this historic preservation effort.

The proposed residence is comprised of a primary two-story structure roughly in the same location as the previous home, and features ancillary buildings that run along the north and sides of the property where via the original boathouse to the south and the original home to the north connect to two, two-story structures that flank an arched entryway. Open collonades unify the structures of the site. The property is entered via a central drive, under an archway,

that splits midway in the site to access an elevated porte-cochere, with the garage located below on the ground floor. The arms of the u-shaped home hug the port-cochere, while the private and family spaces are programmed along the wings and are connected by a double height formal space in the rear of the property overlooking the Indian Creek Canal.

The ancillary buildings contain guest quarters and amenities such as an arcade, bowling alley and fitness space. Along the main entrance axis of the property, the hardscape, waterscape and open gardens unravel in baroque inspired outlines, and terminate at the rear yard with an ornate pool with a tower. The new residential complex is designed in an eclectic Mediterranean Style that pays homage to the original home with the usage of arched openings, colonnades and towers, and abounds in eclectic architectural features such as Flemish gables, Baroque Solomonian columns, stained glass windows and balustrades.

The architect has revised elements of the architecture and landscape of the proposed home to address the Board's comments from the September 01, 2020 meeting. The Board expressed concerns with the perceived scale of the new construction along Pine Tree Drive and the Flamingo Waterway, as well as the extent of hardscape that appeared to dominate the site plan. In response to the scale of the proposed guard gates along Pine Tree Drive, the applicant has replaced the dominant Flemish gables with simplified sloped roofs with exposed rafter ends. This modification blends with the Mediterranean Revival style of the original home, as well as allows the original home's tower to dominate the street façade.

Regarding the waterway elevation, the architect maintained the predominant height and massing, but removed some architectural details, specifically the central balustrade that projected from the central building volume and softened the overall elevation with additional plantings that include canopy trees, shrubs and grasses. Lastly, the applicant addressed the Board's concern about the extent of hardscape by incorporating two additional planting beds along the ramps to the porte-cochere.

Staff finds that the revisions to the elevations, especially the Pine Tree Drive elevation, address the Board's comments. As proposed, the hardscape does remain extensive. Staff recognizes that the design of a large estate often requires more hardscape than a typical single family home project, especially for maintenance vehicles. However, staff recommends that the design team explore ways to further to soften the hardscape and integrate it with landscape.

Overall, the architect has created a unique preservation/new design project and staff recommends that the design be approved with the modifications recommended in the attached draft order.

VARIANCE ANALYSIS

The applicant is requesting five (5) variances for the improvements proposed to the property. Variances #1 through #4 are related to the retention of elements and structures associated with the architecturally significant home and existing conditions on the property, and as noted in the project portion of this report were approved at the September 01, 2020 meeting.

Variance # 5 is created by the specific design of the roof proposed and not due to practical difficulties or special conditions in the property. Staff recommends denial of variance #5.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved** with conditions, and the **denial** of variance request #5 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: **5011 Pine Tree Drive** **02-3214-003-0010**

FILE NO: DRB20-0534

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story residence and the relocation / renovation of an existing architecturally significant pre-1942 two-story residence and carriage boat house on the subject property including one or more setback and height variances and variances to retain two architecturally significant pre-1942 nonconforming structures.

LEGAL: Lots 1 and 2, Block 1, of Beach View Subdivision According to the Plat thereof as recorded in the Plat Book 9, Page 158 of the Public Records of Miami-Dade County, Florida.

ORDER

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

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 4, 5, 6, 9, 12 and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 10, 11 and 12 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 5011 Pine Tree Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. A museum quality historic analysis and display of the existing structure(s), inclusive of a photographic and written description of the history and

evolution of the original building, shall be submitted to and approved by staff, prior to the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy; such historic analysis and marker shall be displayed prominently within or on the retained existing wall in a location to be determined by staff.

- b. The exterior elevations of the relocated 1927 principal structure and 1926 boathouse shall be restored to the original design to the greatest extent possible, except as modified herein, in a manner to be reviewed and approved by staff consistent with all documented resources.
- c. The Applicant shall submit a restrictive covenant, running with the land, to the Department, approved as to form by the City Attorney, that the property owner will retain, preserve, and maintain to the greatest extent possible the relocated significant portion of the principal structure and the boathouse and protect against violation of minimal maintenance standards and demolition by neglect. Any damage that occurs during the course of relocation of the historic structure shall be repaired to the original condition.
- d. The architect shall revise the dome element as it is measured as a sloped roof and provide the midpoint of the dome to comply with the height requirement or be redesigned to have the dome comply with the open, decorative element that does not extend interior habitable space.
- e. The exterior design of the home shall replicate as closely as possible the amount, style and precision of the decorative ornamentation found throughout the exterior design of the proposed estate, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. The maximum elevation for decks and yards within the required rear yard shall not exceed the proposed finish floor of the home.
- g. The open space calculation for the rear yard and street side yard shall not exceed 70% in the rear yard and 50% in the street side yard.
- h. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- i. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- j. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
 - a. The design of the hardscape shall be reduced in scale and integrated with landscape in order to soften its impact on the site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. 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.
 - c. 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.
 - d. Any tree identified to be in good overall condition shall be retained and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
 - e. 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.
 - f. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
 - g. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department. Any new street trees shall be of a consistent canopy tree species as similar to the neighboring trees along the street.

- h. The applicant shall install street trees adjacent to the subject property consistent with the City's Street Tree Master Plan or similar to existing species along the street, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and root barriers shall be installed along the sidewalk in conjunction with structural soils.
- 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 preventers and all other related devices and fixtures. The location of backflow preventers, 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-way 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, or denied:

The following variances were approved by the Board:

1. A variance to exceed by 1'-11" the maximum allowed height of 5'-0" for a fence located along the front property line in order to retain a wall fence of up to 6'-11" (15.90' NGVD) in height as measured from the grade of 9.01' NGVD facing Pine Tree Drive.
2. A variance to exceed by 0'-10" the maximum allowed height of 6'-0" for a fence located on the interior north side property line along 4'-0" from the front property line in order to retain a wall fence of up to 6'-10" (15.81' NGVD) in height as measured from the grade of 9.01' NGVD.
3. A variance to exceed by 2'-5" the maximum total height allowed of 7'-0" for ornamental light fixtures located on a fence at the front property line in order to retain light fixtures up to 9'-5" (18.40' NGVD) in height measured from grade of 9.01' NGVD facing Pine Tree Drive.
4. A variance to exceed by 58.6% (17'-11") the maximum projection of 25% (7'-7") within the required street side (south) side yard of 30'-6" in order to retain an architecturally significant two-story structure up to 5'-0" setback from the street side property line and 83.6% (25'-6") projection within the south side yard.

The following variance was denied by the Board:

5. A variance to exceed by 3'-0" the maximum height of 3'-0" allowed for a roof curb or parapet in order to construct a parapet surrounding the domed roof above the porte cochere up to 6'-0" in height above the maximum 33'-0" height allowed.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variance # 5 as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code with the exception of variance # 5 as noted above:

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

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

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

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

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

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

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

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

- C. The Board hereby **Approves** variance(s) #1, #2, #3, and #4 and **Denies** variance request #5, as noted above 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.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. In addition to variances to retain the boathouse, the following are potential types of regulatory approvals required to place/retain a building structure over the canal: a Coastal Permit as it is a navigable waterway in addition to the regular standard DERM plan review for the boathouse, and possibly some state permits as it is a navigable waterway.
- B. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- C. 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.
- D. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of

soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.

- E. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- F. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- G. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- H. 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.
- I. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- J. 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.
- K. 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.
- L. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- M. 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

[illegible]

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 _____ ()

DRAFT