

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: April 6, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB20-0589
4838 Pine Tree Drive

An application has been filed requesting Design Review Approval for the construction of a new two-story residence that includes one or more waivers to replace an architecturally significant pre-1942 two-story residence.

RECOMMENDATION:

Approval with Conditions

LEGAL DESCRIPTION:

Lot 22, Block 32, of "Lake View Subdivision according to the Plat thereof, as recorded in Plat Book 14, at Page 42, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 14,115 SF
Lot Coverage:
Proposed: 63,941.3 SF / 29.3%
Maximum: 4,234.5 SF / 30%
Unit size:
Proposed: 6,847 SF / 48.5%
Maximum: 7,057.5 SF / 50%
Height:
Proposed: 27'-0" flat roof from BFE +1'

***DRB WAIVER**

Maximum: 24'-0" flat roof

Grade: +4.8' NGVD
Base Flood Elevation: +8' NGVD
Difference: +3.2' NGVD

Adjusted Grade: +6.4 NGVD
First Floor Elevation: +9' NGVD (BFE+1)
Side Yard Elevations Min: 6.56' Max: 6.56'
Read Yard Elevations Min: 6.56' Max: 9'

EXISTING PROPERTY:

Year: 1937
Architect: William H. Merriam
First Floor Elevation: 7.02' NGVD
Vacant: No
Demolition: Total

SURROUNDING PROPERTIES:

North: Two-Story 1937 Residence
South: Two-Story 1937 Residence
West: Flamingo Waterway
East: Two-Story 1930 residence

THE PROJECT:

The applicant has submitted plans entitled "4838 Pine Tree Drive", as designed by **3 Design Architecture**, signed, sealed, and dated February 5, 2021.

The applicant is requesting Design Review Approval for the construction of a new two-story residence on a waterfront residence to replace an existing pre-1942 residence.

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

1. The height of the proposed structure is 27'-0" in accordance with Section 142-105(b); as measured from BFE +1, or 9' NGVD.
2. A two-story side (north) elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).
3. A two-story side (south) elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).

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:

- 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.
- Section 142-105(b)(1) *Lot area, lot width, lot coverage, unit size, and building height requirements*. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows: **RS-3 May be increased up to 28 feet for flat roofs when approved by the DRB in accordance with the applicable design review criteria.**
- 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:
 - a. 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.
 - b. The square footage of the additional open space shall not be less than one percent of the lot area.
 - c. The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and
 - d. At least 50 percent of the required interior open space area shall be sodded or landscaped with pervious open space.
- The required yards shall comply with minimum and maximum yard elevations, Section 142-105(b)(8) *Exterior building and lot standards*.

- The proposed roof deck setbacks shall comply with Section 142-105(b)(6).
- The proposed mechanical equipment shall comply with in Sec. 142-106(b)(5).
- Portion of accessory building located within the main building required setbacks will have to comply with associated side setback of 10'-0". Only structures located within the rear setback are allowed a side setback of 7'-6" for a one-story structure. Revise setback or relocate the building completely within the required rear yard.

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 applicant is requesting three design waivers from the Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the applicant is requesting three design waivers from the Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
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 three design waivers from the Board.

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the applicant is requesting three design waivers from the Board.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Not Satisfied; the applicant is requesting three design waivers from the Board.
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 three design waivers 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.

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.
Not Satisfied; Applicant will provide a recycle/salvage plan for demolition at time of permitting.
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 requesting Design Review Approval for the construction of a new two-story residence on a waterfront parcel that will replace an existing two-story, pre-1942 home. The design floor elevation of the new residence is proposed at base flood elevation (8' NGVD) plus a free board +1', or +9.00' NGVD, and seeks three design waivers.

The proposed residence is designed in a contemporary style. The design exhibits a rich material palette that contrasts wall claddings, such as precast concrete panels and stone, with stucco and wood finished accents. The front and rear elevations are refined with undulating wall planes and volumes that provide movement and architectural interest. Such architectural gestures wrap around to the south, side elevation, but do not continue onto the north, side elevation, which is longer and more impactful. Staff recommends that the architect further refine this elevation by continuing some of the material cladding and planar movement that is found along the residence's principal facades, incorporate more fenestration along the entirety of the ground floor, and revise the design of the open space notch to include fenestration, mechanical equipment screening and additional landscaping.

The first design waiver request is for height. The applicant is seeking an additional 3'-0" of height for the new two-story residence, as measured from BFE +1'-0", or 9' NGVD. The subject site contains a lot area of 14,115 SF, which exceeds the minimum lot area required for RS-3 lots (10,000 SF). The majority of the residence's two-story volume is proposed at this increased height, with the frontmost two-story roof at the required elevation of 24'-0". The design endeavors to mitigate the impact of its massing with varied roof heights. Staff is amenable to the requested height with further refinement of the north side elevation.

The second design waiver that the applicant is requesting is for the open space requirement for two-story elevations that exceed 60'-0" in length; specifically for the south facing, interior side elevation. This interior elevation spans nearly 70', with a third of its facade setback two and half feet. While this elevation does not comply with strict adherence of the required open space, it does provide movement and massing breakup that meets the intent of the code. As such, staff is supportive of this waiver.

The third and last design waiver pertains to the open space requirement for two-story elevations along the north facing, interior elevation. This elevation features two, two-story volumes that are broken up by a recessed court, within which is sited pool and mechanical equipment, as well as a staircase leading from the second floor to the rooftop. While neither of the volumes exceed 60' in length, the provided open space notch is not eight feet in depth, as prescribed by the code, nor is it open to sky. As proposed, the elevation does feature planar movement that lends to breaking up the massing, but the architectural articulation of the façade needs further refinement, as noted in the design comments above. As per the proposed design, staff is not supportive of the waiver and recommends that the north elevation incorporate additional fenestration, architectural interest and further enhancement of the open space with mechanical screening and landscaping in order to support such a waiver.

As such, staff recommends the approval the design with the noted modifications.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved with conditions**, 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: April 6, 2021

PROPERTY/FOLIO: **4838 Pine Tree Drive** **02-3222-022-1740**

FILE NO: DRB20-0589

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story residence including one or more waivers to replace an architecturally significant pre-1942 two-story residence.

LEGAL: Lot 22, Block 32, of "Lake View Subdivision according to the Plat thereof, as recorded in Plat Book 14, at Page 42, of the Public Records of Miami-Dade County, Florida.

APPLICANTS: ALGINET MB LLC

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 2, 3, 4, 5, 6, 7, 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 4838 Pine Tree Drive shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The proposed (north) side elevation shall not be approved as proposed. The architect shall refine the elevation with fenestration along the ground floor, planar movement, and refinement of the open space with screening on mechanical equipment and additional landscaping; and 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.
- b. The proposed 3'-0" increase in height **shall be** permitted; the maximum height of the two-story structure shall be 27'-0" when measured from BFE + 1'-0" freeboard, provided that the proposed north elevation is further refined with fenestration and planar movement.
- c. The proposed (south) side open space requirement **shall be** waived as proposed.
- d. The proposed (north) side open space requirement **shall be** waived provided that the proposed north elevation is further refined with fenestration, planar movement, and the proposed open space shall include mechanical screening and landscaping. The revised design 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.
- e. 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.
- f. The proposed roof deck shall not be approved as proposed. The revised design shall be submitted in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- g. The accessory building shall not be approved as proposed. The revised design shall be submitted in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- h. The final design details and color selection of the "precast concrete panels" 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. The final design details and color selection of the "wood cladding" 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.
 - j. The final design details and color selection of the "limestone cladding" 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.
 - k. 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.
 - l. 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.
 - m. 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. 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. Prior to any site demolition work, a tree protection fence following the City standard shall be installed for trees scheduled to remain subject to the review and approval of the City Urban Forester.
 - d. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
 - e. 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.

- 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 proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- h. 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.
- i. Any proposed new street trees shall be of a planting species consistent or similar with existing street trees in the immediate area or consistent with any master street tree plan for the area, subject to the review and approval of the City Urban Forester.
- j. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- k. 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.
- l. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- m. 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.
- n. 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.

- o. 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. No variance(s) 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. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- B. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- C. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.

- D. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- I. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "4838 Pine Tree Drive", as designed by **3 Design Architecture**, signed, sealed and dated February 5, 2021, 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 _____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
Michael Belush, AICP
Chief of Planning and Zoning
For Chairman

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

The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

Notary:
Print Name
Notary Public, State of Florida
My Commission Expires:
Commission Number:

{NOTARIAL SEAL}

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

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

DRAFT