

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: August 3, 2021

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB21-0674  
**330 76<sup>th</sup> Street**

An application has been filed requesting Design Review Approval for the construction of a new four-story townhouse project with mechanical parking, including one or more waivers and a variance from the setback requirements.

#### **RECOMMENDATION:**

Approval with conditions.

#### **BACKGROUND:**

A similar project was approved by the Design Review Board on September 5, 2017 (DRB17-0163). However a full building permit was not obtained within the required timeframe and this application expired.

#### **LEGAL DESCRIPTION:**

Lot 1 of Block 12, of "Altos Del Mar No.3", according to Plat thereof as recorded in Plat Book 8, Page 41, of the Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

Zoning: RM-1  
Future Land Use: RM-1  
Lot Size: 5,497 SF  
Proposed FAR: 6,866 SF/ 1.25\*  
Permitted FAR: 6,871 SF/ 1.25

\*As represented by the applicant

Height:  
Proposed: 30'-0" / 3-Story  
Maximum: 50'-0" / 5-Story  
Highest Projection: 40'-0"

Existing Use: Vacant Parcel  
Proposed Use: Townhomes  
Residential Units: 7 Units  
Required Parking: 11 Spaces

Provided Parking: 11 Spaces (5 lifts)

Grade: +4.31' NGVD  
Flood: +8.00' NGVD  
Difference: 3.69' NGVD  
Adjusted Grade: +6.15' NGVD  
30" Above: +8.65' NGVD  
Garage Elevation Clearance: 10.5' from BFE  
Finished Floor Elevation: +9.00' NGVD

#### **Surrounding Properties:**

East: 2-story 1958 Multi-Family Building  
North: 1-story 1953 Multi-Family Building  
South: 2-story 1951 Multi-Family Building  
West: 2-story 1946 Multi-Family Building

#### **THE PROJECT:**

The applicant has submitted revised plans entitled "DRB Final Submittal (DRB21-0674)", as prepared by **Gustavo J Ramos Architecture | Planning | Interiors** dated, signed and sealed May 10, 2021.

The applicant is proposing to construct a new seven-unit townhome development on a vacant corner site.

The applicant is requesting the following waiver(s):

- 1- A minimum height of twelve (12) feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable may waive this height requirement by up to two (2) feet, in accordance with the design review or certificate of appropriateness criteria, as applicable. **The applicant is providing a clearance of 10'-6" from BFE+ 1'-0" freeboard.**

The applicant is requesting the following variance(s):

1. A variance to reduce by 5'-6" the minimum required front pedestal setback of 10'-0" in order to construct a three-story residential building at 4'-6" to the closest point from the front property line facing Abbot Avenue.

#### **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, 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 indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

#### **COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

- Section 142-155(3)(f)(A): A minimum height of twelve (12) feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable may waive this height requirement by up to two (2) feet, in accordance with the design review or certificate of appropriateness criteria, as applicable. **The design requires Design Review Board approval to waive 1'-6" of the clearance height.**
- Apartment buildings with 20 apartment units or less may utilize mechanical lifts, in accordance with the review criteria of Section 138-38(5).
- Sec. 130-69. URBAN HEAT ISLAND ORDINANCE. - Commercial and noncommercial parking lots. 3) Open- air parking lots, open to the sky, shall be constructed with (i) a high albedo surface consisting of a durable material or sealant in order to minimize the urban heat island effect, or ii) porous pavement. The provisions of this paragraph shall apply to all parking areas, and all drive lanes and ramps.

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

#### **CONSISTENCY WITH 2040 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **multi-family residential** use appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

#### **ACCESSIBILITY COMPLIANCE**

Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building Construction). These and all accessibility matters shall require final review and verification by the Building Department prior to the issuance of a Building Permit.

#### **CONCURRENCY DETERMINATION:**

In accordance with Chapter 122 of the Code of the City of Miami Beach, the Transportation and Concurrency Management Division has conducted a preliminary concurrency evaluation and determined that the project does not meet the City's concurrency requirements and level-of-service standards. However, the City's concurrency requirements can be achieved and

satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division will make the determination of the project's fair-share mitigation cost.

A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.

**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.  
**Satisfied; However, the applicant is requesting one variance from the required front setback.**
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.  
**Satisfied; However, the applicant is requesting one variance from the required front setback.**
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.  
**Satisfied; However, the applicant is requesting one variance from the required front setback.**

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.  
**Satisfied; However, the applicant is requesting one variance from the required front setback.**
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 was not 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.  
**Partially Satisfied; staff is recommending a vehicular gate to further screen the parking areas.**
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).  
**Satisfied**
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.  
**Partially Satisfied; staff is recommending a vehicular gate to further screen the parking areas.**
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 Applicable (for the current requested design modifications)**

#### **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.

**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**

**STAFF ANALYSIS:**  
**DESIGN REVIEW**

The subject site is a vacant corner parcel located within the boundaries of the North Shore National Register Historic District. The applicant is proposing to construct a contemporary three-story building with a roof terrace. Seven residential townhouse type units are proposed with private active roof decks and mechanical parking lifts. Vehicular access is from 76<sup>th</sup> Street. Each unit has been designed with individual entrances and associated parking areas. With the exception of the ground floor unit fronting Abbott Avenue, all units consists of two floors of living area with a private roof top deck.

The ground floor contains entrance vestibules and the parking area; the second floor provides living space and the bedroom suites are located on the 3<sup>rd</sup> floor. Each unit has access to a private roof deck terrace. The seven units have been designed ranging from 848 SF to 1,093SF in size. The vacant parcel is currently surrounded by two, two-story MiMo buildings which were constructed in the 1950s and all of which have nonconforming front, rear and side setbacks. The proposed townhouse building is compatible and consistent with the scale and massing of the surrounding residential area, and the setbacks proposed conform with the residential fabric of the neighborhood.

The project, as proposed, is designed with shifting volumes and architectural elements that work together to form a complemented, cohesive and well-articulated design. The architect has broken down the massing of the building by creating recesses and shifting the façade on the upper floor to create interest and scale. The breaks in the massing of the structure also help alleviate the impact of this structure within the existing urban context and the surrounding area. The required yards that surround the building, with the exception of entry steps, walkways and driveway, have been elevated, advancing the City's initiative towards more resilient building design.

The interior garage utilizes mechanical lifts with a 10'-6" ceiling clearance from the base flood elevation plus minimum freeboard to the underside of the first floor slab. The code requires a minimum of 12'-0" but the Design Review Board may waive this height requirement by up to 2'-0". Staff is supportive of the waiver.

Staff recommends a vehicular gate be provided, as well as further refinement of the aluminum ventilation screen proposed along the garage elevation at the rear and side in order to fully screen the mechanical parking. In summary, staff commends the applicant for proposing a noteworthy design solution for this corner site recommends its approval along with the above noted design comments.

**VARIANCE ANALYSIS**

The applicant is requesting the following variance(s):

1. A variance to reduce by 5'-6" the minimum required front pedestal setback of 10'-0" in order to construct a three-story residential building at 4'-6" to the closest point from the front property line facing Abbot Avenue.
  - Variance requested from:



**Sec. 142-870.15. Development regulations and area requirements.**

*(e) The setback requirements for all buildings located in the RM-1 district within the North Beach National Register Overlay district are as follows:*

*North Shore; Front: 10 feet*

The project was previously approved in September 5, 2017 under DRB17-0163 and included multiple variances from the standard requirements of the RM-1 district. Variances for the lot size, maximum allowable projections, minimum open space, front, street side and rear setbacks were approved. The construction of the project never started and the previous approval expired.

When the North Beach National Register Conservation District Overlay was created, new development regulations applied to the RM-1 properties located within the boundaries of the district including the subject property located within the North Shore Historic District. The required front setback was reduced from 20'-0" to 10'-0". As presented, only one variance from the front setback is being sought for the project. The variance request applies to a new ADA lift, portions of a stair and a portion of the building at the corner. The configuration of the property with a round corner reduces the available area for development and creates the practical difficulties that justify the requested variance. Staff would note that the majority of the front facade complies with the required front setback in the upper levels and the project, and exceeds the minimum setback requirements in the rear, interior and street side yard setbacks. Staff is supportive of the applicant's request and recommends approval of the variance.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **approved**, including the variance requested, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review, Sea Level Rise criteria and Hardship and Practical Difficulties criteria, as applicable.