

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: November 2, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB21-0708
800 84th Street

An application has been filed requesting Design Review Approval for the construction of a new 4 story multi-family building on a vacant lot, including one or more waivers and a variance from the required clearance from columns to the driveway.

RECOMMENDATION:

Approval with conditions.

Approval of the variance.

LEGAL DESCRIPTION:

Lot 6, Block 7, Biscayne Beach Subdivision, according to the plat thereof as recorded in Plat Book 44, at Page 67 of the Public Records of Miami-Dade County, Florida.

BACKGROUND:

At the October 5, 2021 meeting this application was continued to a date certain of October 20, 2021 due to the excess number of applications on the agenda.

At the October 20, 2021 meeting, the application was presented and continued to a date certain of November 2, 2021 due to lack of quorum.

SITE DATA:

Zoning: RM-1
Future Land Use: RM-1
Lot Size: 5,625 SF
Proposed FAR: 6,434 SF/ 1.14*
Maximum FAR: 7,031.25 SF/ 1.25
*As represented by the applicant
Height:
Proposed: 39'-10" / 4-Story
Maximum: 55'-0" /
Existing Use: Multi-family building
Proposed Use: Multi-family building
Residential Units: 4 Units
Required Parking: 0 Spaces

Provided Parking: 8 Spaces

Grade: +4.46' NGVD
Base Flood Elevation: +8.00' NGVD
Adjusted Grade: +6.23' NGVD
Proposed Garage Elev. Clearance: **11'-5"**
Required Garage Elev. Clearance: **12'-0"**
Finished Floor Elevation: +21'-1" NGVD

Surrounding Properties:

East: Vacant
North: 2-story 1948 multi-family building
South: 1-story 1951 multi-family building
West: 1-story 1948 multi-family building

THE PROJECT:

The applicant has submitted revised plans entitled "Biscayne Point Fourplex – Final Submittal", as prepared by **CDS | Architecture and Planning** dated, signed and sealed August 2, 2021.

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 11'-5" from BFE+ 1'-0" freeboard.**
2. All floors of a building containing parking spaces shall incorporate residential uses at the first level along all façades facing a street, sidewalk or waterway, per Section 142-156(b). **The applicant is not providing a residential use at the first level along the façade facing the street along the 50'-0" wide lot.** For properties less than 60 feet in width, the total amount of residential space at the first level along a street side shall be determined by the Design Review Board.

The applicant is requesting the following variance(s):

1. A variance to eliminate the required 1'-6" additional setback for columns parallel to a 22'-0" two-way driveway in order to construct the structural walls associated with perpendicular parking abutting a two-way driveway.

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

COMPLIANCE WITH ZONING CODE:

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

1. Section 142-155(3)(f)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 design requires Design Review Board approval to waive 1'-0" of the clearance height.**
2. Section 142-156(b)(1): All floors of a building containing parking spaces shall incorporate residential uses at the first level along all façades facing a street, sidewalk or waterway.
3. Section 142-156(b)(3): For properties less than 60 feet in width, the Design Review Board shall determine the total amount of residential space at the first level along a street.
4. Section 138-16: The maximum area allowed for a wall sign is 20 sf. Proposed sign shall be reduced in size and be located closer to the first floor slab.
5. A solid fence shall be proposed on the sides and rear of the property to shield vehicle lighting projection into the adjacent properties and to screen mechanical equipment from view.
6. Section 142-155. The project shall comply with minimum and maximum yard elevations.

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 application includes one variance and three design waivers.
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 application includes one variance and three design waivers.

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 application includes one variance and three design waivers.

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 application includes one variance and three design waivers.

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).
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.
Partially Satisfied; the applicant is requesting that the Board approve the proposed design at the ground level with no active uses facing the street. For properties less than 60 feet in width, the total amount of residential space at the first level along a street side shall be determined by the Design Review Board.
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.
Partially Satisfied; the applicant is requesting that the Board approve the proposed design at the ground level with no active uses facing the street. For properties less than 60 feet in width, the total amount of residential space at the first level along a street side shall be determined by the Design Review Board.
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
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.

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.

Satisfied

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

Satisfied

STAFF ANALYSIS:

DESIGN REVIEW

The subject site is a vacant interior parcel located within the Biscayne Beach Subdivision of North Beach. The applicant is proposing to construct on the subject property a new (3) three story, (4) four-unit residential multi-family building with ground floor parking. The immediate surrounding area consists of predominantly one-story MiMo buildings constructed in the 1940's and 1950s, with some two-story multi-family residential buildings at the eastern end of the block and across the street from the subject property. The project includes a request for three design waivers and one variance.

The narrow, 50' lot has arranged four townhouse-like units along the western interior side of the property. The ground floor is occupied by parking and mechanical equipment. Two main entrances are located on the western façade that each lead up from the ground floor to the second level where they terminate at a foyer to two units. Each unit is composed of three floors with the master bedroom and two additional rooms on the second floor, the communal areas on the third floor, and a roof top terrace. The four units have been designed with approximate 1,516 and 1,546 SF of enclosed area.

The proposed residential building is sited on a standard RM-1 zoned 5,625 SF lot. Rectilinear in massing, the habitable volume of the structure floats above the parking on curved structure column. The main façade of the home faces the west interior side. The elevation facing the street is articulated by projecting eyebrows and the building address number "800" in large grey painted aluminum, while the side elevations contrast stucco brise soleils with fenestration. The first floor of the units has been elevated to 21'-1" in order to allow for a

parking garage on the ground floor that is screened from the street with a stucco wall and is accented with a decorative entrance door of horizontal aluminum slats and a large eyebrow. Renderings show the wall to be clad in ledgerstone and staff recommends that such materiality be incorporated into the design to provide a contrast of materials, as well as to enhance the principal street facing wall. Overall, staff is supportive of the design.

The first design waiver that the applicant is requesting pertains to the clearance of the garage from the base flood elevation plus minimum freeboard to the underside of the first floor slab, where the code requires a minimum of 12'-0" height clearance. As noted, the first habitable floor of the building is designed at 21'-1" NGVD, which translates to a garage clearance height of 11'-5" above 9' NGVD in order to provide parking with a slab clearance that may accommodate elevation changes to the ground floor with future raising of roadways. The Design Review Board may waive this height requirement by up to 2'-0". Given the nuanced, modest design that is well under the maximum allowable building height staff is supportive of the waiver for 11" of clearance.

The second and third waivers are inherently linked as they pertain to the expression of principal facades of the ground floor for a building that contains parking spaces. The former of these waivers requires that the first level façade facing a street incorporate residential use and the latter requires the Design Review Board to determine the extent if that façade is to be residential. The ground floor facing the street and lining the parking has not been designed with incorporated residential liner within the façade. Typically, this would be reviewed and analyzed as a variance request which is not often supported by staff. Given the narrow width of the lot and minimum dimension of drive aisle widths, coupled with required side setbacks, a 50'-0" wide lot is left with 35'-0" of developable façade length minus the driveway and 18'-0" drive aisle. The Code responds to these zoning incidents and provides a relief for properties less than 60'-0" in width, with the total amount of residential space at the first level along a street side to be determined by the Design Review Board. In this instance, the design of the ground floor façade includes arched columns that render the building appearing floating above the parking garage. Staff finds that the design lends to the appearance of residential use on the first level. Overall, staff is supportive of the waivers relating to the residential use along the first level façade.

VARIANCE ANALYSIS

The applicant is requesting the following variance(s):

2. A variance to eliminate the required 1'-6" additional setback for columns parallel to a 22'-0" two-way driveway in order to construct the building structure walls associated with perpendicular parking abutting a two-way driveway.

- Variance requested from:

Sec. 130-63. Interior aisles.

Interior aisles shall meet or exceed the following minimum dimensions permitted:

90° parking—22'-0", with columns parallel to the interior drive on each side of the required drive, set back an additional 1'-6", measured from the edge of the required interior drive to the face of the column.

The project proposes 4 residential units with 8 parking spaces at the ground level. As the property is located in the RM-1 district with a lot width less than 65'-0", parking is not required for residential units. In this case, the property could be developed with up to 7 units with a minimum area of 550 sf and an average of 800 sf. The proposed units have an area exceeding 1,500 sf that is intended for a larger family, which is not typical in these smaller properties. In this regard, the need for parking spaces is more evident. However, based on the lot area and lot width of the property, the addition of parking spaces in residential developments have imposed challenges in order to successfully meet the size and clearances required by the Code and many times variances to reduce or eliminate some of the requirements have been previously approved for similar sized properties.

Since two (2) parking spaces are provided per residential unit with the same condition for each residential unit and there are only 4 apartments proposed, staff believes that there should not be any negative impact on the functionality of the parking area. As this variance request is self-contained in the property and the residential units are significantly larger than most apartment buildings in the area, staff is supportive of the approval of the variance request.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, including the variance request, 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.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 2, 2021

PROPERTY: **800 84th Street** **02-3208-008-1570**

FILE NO: DRB21-0708

IN RE: An application has been filed requesting Design Review Approval for the construction of a new 4 story multi-family building on a vacant lot, including one or more waivers and a variance from the required clearance from columns to the driveway.

LEGAL: Lot 6, Block 7, Biscayne Beach Subdivision, according to the plat thereof as recorded in Plat Book 44, at Page 67 of the Public Records of Miami-Dade County, Florida.

APPLICANT: 6BM 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 9, 13, 16 and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1 and 10 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:

2. Revised elevation, site plan and floor plan drawings for the proposed multi-family residential building shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The minimum height requirement of (12) feet, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab, **shall** be waived by one (1) foot.
 - b. The amount of residential space at the first level along the street is hereby approved by the Board, as submitted.
 - c. The final design and details of the proposed metal louvered screens on the west elevation of the garage 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.
 - d. The final design, location and details of the proposed building address number “800” 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. The final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. The final design and details including samples and color selection of the proposed vertical beam elements 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. 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.
 - h. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:

- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
- b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed 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.
- d. 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.
- e. The architect shall substantially increase the amount of native canopy shade trees within 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.
- 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.
- h. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- i. 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.
- j. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.

- k. 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.
- l. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- m. 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):
 - 1. A variance to eliminate the required 1'-6" additional setback for columns parallel to a 22'-0" two-way driveway in order to construct the building structure walls associated with perpendicular parking abutting a two-way driveway.
- B. The applicants have 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 applicants have 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.

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 request and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. The proposed sign shall be modified to comply with location and maximum sign area allowed.
3. The proposed fence along the sides and rear shall be of a solid design to screen mechanical equipment and lighting from the parking area from views from adjacent properties, in a manner to be reviewed and approved by staff.

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. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.

- B. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
- C. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit
- D. During construction work, the applicant shall maintain gravel at the front of the construction site within the first 15'-0" of the required front yard, and including the swale (subject to the review and approval of Public Works), to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way.
- E. During the course of construction, all vehicles, including, but not limited to all personal vehicles, shall park within the confines of the private property, the swale directly abutting the construction site, or at alternate overflow parking sites that are not on-street metered spaces and not zoned RS. Additionally, parking of any vehicles shall be prohibited in the travel lanes of all streets.
- F. A construction fence shall be installed along all property lines, in accordance with Section 142-876 of the City Code, "Vacant and abandoned properties and construction sites." However, along the front property line, such fence shall consist of an opaque screening, a minimum of eight (8') feet tall (as measured from adjacent grade), which may include plywood or aluminum panels, or the equivalent solid construction on a wood or metal frame, with a continuous color finish, and concrete foundations. Only rolling gates or rigid folding panels shall be permitted. Swinging gates shall not be permitted. Such fence shall not encroach into the right-of-way.
- G. The building and parking departments shall approve a construction parking plan prior to the issuance of any building permit, including applicable demolition permits for the project.
- H. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- I. The contractor(s) shall ensure that the street and the swale directly abutting the construction site remains free of debris and refuse at all times; at a minimum, the contractor(s) shall inspect and clear the street and swale areas before leaving at the end of each day.
- J. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.

- K. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- L. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- M. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- N. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- O. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- P. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Biscayne Point Fourplex – Final Submittal", as prepared by **CDS | Architecture and Planning** dated, signed and sealed August 2, 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

Filed with the Clerk of
the Design Review Board on (