

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: September 6, 2022

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **DRB22-0788 – 1840 Alton Road**

An application has been filed requesting Design Review Approval for the construction of a new 5-story mixed-use development, including a waiver from the ground floor setback requirements for 'Short Frontage Standards', and a front setback variance for a rooftop trellis, to replace an existing single-story structure and gas station.

RECOMMENDATION:

Approval of the design.
Denial of the waiver.
Denial of the variance.

BACKGROUND

An Ordinance pertaining to the Sunset Harbour Development Overlay, including an increase in allowable building height for office uses, was approved by the City Commission on July 20, 2022. On July 26, 2022, the Planning Board approved a Conditional Use Permit for a structure exceeding 50,000 square feet.

LEGAL DESCRIPTION:

Lots 5 and 6, Block 12, Island View Subdivision, as recorded in Plat Book 6 at Page 115 of the public records of Miami Dade County, Florida.

SITE DATA:

Zoning: CD-2
Future Land Use: CD-2
Parking District: No. 5
Lot Size: 16,000 SF
Proposed FAR: 2.0 – 32,000 SF
Maximum FAR: 2.0 – 32,000 SF

Base Flood Elevation: +8.00' NGVD
Ground Floor Elevation: +5'-0" NGVD
Garage Elevation Clearance: 10'-0" from BFE+1
Required Garage Elev. Clearance: 12'-0"
Provided Garage Elev. Clearance: 12'-9"
Finished Floor Elevation: +21'-9" NGVD

Height:

Proposed: 75'-0" from BFE
(84' NGVD)

Highest Projection: +12'-0"
(100'-0" NGVD)

Grade: +3.75' NGVD

SURROUNDING PROPERTIES:

North: 1-story commercial
South: 1-story commercial
West: Surface parking lot
East: 1-story commercial

THE PROJECT:

The applicant has submitted plans entitled "1840 Alton Road as designed by **Kobi Karp Architecture and Interior Design**, dated 7-11-2022.

The applicant is proposing to construct a new 5-story mixed-use building on a site that

contains an existing one-story commercial building. The ground floor consists of retail, building lobby, elevators, mechanical, fire electrical and other utility rooms, a driveway, parking for a total of eight (8) cars and three loading spaces, and a parking ramp. Level 2 contains 36 parking spaces. Levels 3 and 4 contain Class-A office space and Level 5 is described as one 800 sf 'live/work unit'. The roof deck contains a large terrace along with planters, two stair wells and an elevator.

The applicant is requesting the following waiver(s):

1. A waiver from the requirement of Section 133-61(b) to provide a ground floor façade at a 13'-11" setback from the back of curb where a 15' setback is required.

The applicant is requesting the following variance(s):

1. A variance from the requirements of Section 142-312(b)(3)(e) to provide a rooftop trellis with a 6'-11" setback where a 20' setback from the property line is required.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of the requested variances if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property

The applicant has submitted plans and documents with the application that also **DO NOT** 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 requirements of the City Code, in addition to the requested variance(s):

- Section 133-61.(b) Setbacks. The building's ground floor façade, parking areas, and loading areas shall be set back a minimum of 15 feet from the back of curb to provide sufficient area to accommodate the required circulation zone and landscape area in cases where the public right-of-way is not sufficiently wide. If the underlying zoning regulations require a larger setback, the larger setback shall be required. **The applicant is providing a setback of 13'-11"**.
- The lot area is incorrect on the Zoning Data Sheet.
- Building height is missing from Zoning Data Sheet.

Additionally, the maximum FAR in the CD-2 district is 1.5. However, pursuant to Section 142-307(d)(1), when more than 25 percent of the total area of a building is used for **residential units**, a maximum FAR of 2.0 is permitted. As such, the residential unit shown on the 5th level may not be utilized as a 'live-work' unit.

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.
Satisfied
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 a front setback variance for a rooftop trellis.
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
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 a front setback variance for a rooftop trellis.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection

on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

Not Satisfied; a lighting plan has not been submitted.

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the applicant is requesting a front setback variance for a rooftop trellis.
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.
Satisfied

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) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.
Satisfied
- (5) Whether 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, including a study of land elevation and elevation of surrounding properties were considered.
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.
Satisfied
- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.
Satisfied
- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.
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.

Satisfied

- (10) Where feasible and appropriate, water retention systems shall be provided.

Satisfied

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Satisfied

- (12) The design of each project shall minimize the potential for heat island effects on-site.

Satisfied

ANALYSIS:

DESIGN REVIEW

The applicant is proposing to construct a new 5-story mixed-use building on a site that contains an existing gas station and garage. The ground floor consists of retail, an entrance lobby, back of house areas, parking, loading and a parking ramp. Level 2 is a 36-space parking garage. Levels 3 and 4 are entirely Class-A office and Level 5 is a large, approximately 8,000 SF, residential unit that is identified as 'live-work'. The building has a roof deck that is comprised of a large terrace and landscape planters.

As noted in the zoning analysis section, the FAR bonus of .5 in the CD-2 district is specific to residential units. The Code, at least currently, does not have a provision that would allow this .5 bonus to apply to 'live-work' units. As such, only a residential apartment unit (s) shall be permitted.

The proposed building is designed in a contemporary style that contrasts grey-hued textured cladding and stone with transparent glass and white stucco. With an overall cubic massing, the design of the front elevation features individual cubic volumes that step inward and outward within a pronounced stucco frame that envelopes the overall façade. The principal façade is predominately finished in glass, with the exception of the parking gate on the ground floor and the second floor parking garage where walls are clad in vertical metal slats. Additionally, the front elevation has recessed voids at each floor that are inlayed with landscaped planters. Due to the commercial nature of the surrounding properties, the north and south side are predominately finished in stone and feature several recessed planes that expose wood-like cladding and glazing beyond.

The applicant is also requesting a waiver from one of the Short Frontage Standards requirements for the ground floor setback as noted in Section 133-61(b). These standards adopted in 2020 to ensure that development was more resilient from issues such as minor flooding and adaptable to future street raising due to rising sea levels:

Sec. 133-61. Short frontage standards.

The following regulations shall apply to new construction with nonresidential uses on the ground floor on frontages with a width of 150 feet or less:

- (a) *Sidewalk standards. Where feasible, sidewalks shall be constructed as follows:*
- (1) *Circulation zone. The sidewalk shall contain a "circulation zone" with a minimum dimension of ten feet in width, pursuant to the following standards:*
- a. *The circulation zone shall be fully illuminated, consistent with the city's street and sidewalk lighting requirements and subject to the review and approval of the public works director.*
 - b. *The design of the circulation zone shall be consistent with the city's public sidewalk requirements.*
 - c. *The circulation zone may be constructed in areas of the public right-of-way and required yards that are in front of a building facade.*
 - d. *The circulation zone shall remain free from obstructions created by landscaping, signage, utilities, and lighting fixtures.*
 - e. *Pedestrians shall have 24-hour access to the circulation zone.*
 - f. *The circulation zone shall include a minimum five-foot wide "clear pedestrian path," free from obstructions, including, but not limited to, stairs, ramping, handrails, outdoor cafés, sidewalk cafés, and door swings. The clear pedestrian path shall be delineated by in-ground markers that are flush with the path, including differing pavement tones, differing pavement type, or by another method approved by the planning director.*
 - g. *An easement providing for perpetual public access shall be provided to the city for portions of the circulation zone that are constructed within the setback area on private property.*
- (2) *Landscape area. A "landscape area" between the circulation zone and the adjacent automobile parking or vehicle travel lanes shall be provided as follows:*
- a. *The landscape area shall be predominantly landscaped, except where there are access paths, public transit stops, valet parking stands, lighting fixtures, pedestrian crossings, or driveways.*
 - b. *The landscape area shall have a minimum width of five feet.*
 - c. *Street trees shall be planted within the landscape area.*
 - d. *Where the landscape area is adjacent to on-street parking, access paths shall be provided between parking spaces so that each parking space has access to the circulation zone generally from either the front end or rear end of the vehicle. Access paths shall be no wider than 36 inches.*
 - e. *Street and pedestrian lighting fixtures shall be located within the landscape area.*
 - f. *The circulation zone may encroach into the landscape area in order to meet adjacent sidewalks and street crossings.*

(b) Setbacks. The building's ground floor façade, parking areas, and loading areas shall be set back a minimum of 15 feet from the back of curb to provide sufficient area to accommodate the required circulation zone and landscape area in cases where the public right-of-way is not sufficiently wide. If the underlying zoning regulations require a larger setback, the larger setback shall be required.

- (c) *Ground floor elevation. The ground floor shall be located no lower than the future crown of road elevation.*
- (d) *Ramping and stairs. Ramping and stairs from the sidewalk elevation to 14 inches below the ground floor elevation may occur on the exterior of the building and encroach into the circulation zone only if within five feet of the façade of the building. Ramping and stairs shall not encroach into the clear pedestrian path. Ramping above 14 inches below the ground floor elevation shall occur within the property and shall not encroach into the public sidewalk or setback areas.*
- (e) *Knee wall. Except where there are doors, facades shall have a knee wall with a minimum height of two feet, six inches above the sidewalk elevation. Such knee walls shall include any required flood barrier protection. The planning director or designee may waive this knee wall requirement if the applicant can substantiate that the proposed glass storefront system satisfies all applicable Florida Building Code requirements for flood barrier protection or if the finished floor meets the minimum freeboard requirements of the city Code.*
- (f) *Flood damage-resistant materials. Ground floors shall utilize water resistant materials for a minimum of two feet six inches above the floor elevation.*
- (g) *Flood panels. Flood panels for doorways shall be permanently stored next to doorways, except when in use.*
- (h) *Multiple frontages. For developments that contain more than one frontage, and where one such frontage is greater than 150 feet, the requirements of section 133-62 shall apply.*
- (i) *Waivers. Where implementation of the regulations in this section is unfeasible or incompatible with the environment and adjacent structures, they may be waived to the minimum extent necessary by the historic preservation board (HPB) or design review board (DRB), in accordance with the certificate of appropriates review criteria or design review criteria, as applicable; however, an applicant may be required to consider alternative approaches for adequate mitigation of flooding.*

While the majority of the building at the ground level has a setback of 23'-0" from the back of curb (13'-0" from the front property line), limited portions of the building at the extreme north and south ends have a setback of 13'-11" from the back of curb (6'-11" from the front property line), when 15'-0" from the back of curb is otherwise required. The applicant has indicated that they are requesting the waiver to align with an existing single story automotive service building to the north. As this adjacent site will likely be redeveloped in the future and can be made code compliant at that time, staff recommends that the requested waiver be denied. Such a waiver may be appropriate when adjacent to a significant or historic structure, which is not the case here.

VARIANCE REVIEW

The applicant is requesting the following variance(s):

1. A variance from the requirements of Section 142-312(b)(3)(e) to provide a rooftop trellis with a 6'-11" setback where a 20' setback is required.

The subject site is located within the Sunset Harbour development area where special development regulations were adopted in 2021, and recently amended in July of this year to include an increase in height. These regulations include specific regulations for height exceptions for structures located above the maximum building height. The purpose of these height regulations is to minimize visual impacts on neighborhood view corridors as viewed from public rights-of-ways and waterways. With the recent increase in the allowable building height, these regulations for height exceptions must be even more carefully reviewed.

The variance request is for the setback requirements of a proposed roof-top trellis along the front elevation. The regulations requires that such rooftop elements be setback further than the building from the property line to not impact the building's overall height and in turn to minimize the visual impact such elements have from the public rights-of-way. While the subject trellis is an integral part of the architecture and is a striking feature of the project, the design is not an argument for the granting of a variance on its own. For these reasons, staff is not supportive of the requested variance due to the lack of hardship or practical difficulty.

Overall, staff is supportive of the design with the exception of the waiver and variance request, and recommends approval of the application.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, and that the waiver and variance requests be **denied**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review and Sea Level Rise criteria.