

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: May 2, 2023

FROM: Thomas R. Mooney, AICP  
Planning Director

<sup>DS</sup>  


For TRM

SUBJECT: DRB22-0900  
**700 82nd Street**

An application has been filed requesting Design Review Approval for a new 5-story multifamily building, including a waiver from the minimum height of the ground level, a variance to reduce the required setback for structures above 50', a variance from the parking space dimensions, and a variance from the minimum average unit size, to replace two (2) single story buildings.

### **RECOMMENDATION:**

Approval

### **LEGAL DESCRIPTION:**

Lots 13 and 14, Block 5, of "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:**

On March 8, 2023, this item was continued to a date certain of May 2, 2023, in order to address the concerns expressed by staff.

### **SITE DATA:**

Zoning: RM-1  
Future Land Use: RM-1  
Lot Size: 11,250 SF  
Proposed FAR: 14,053 SF/ 1.25\*  
Maximum FAR: 14,062 SF/ 1.25  
\*As represented by the applicant  
Lot Coverage:  
Proposed: (diagram not provided)  
Maximum: 2,160 SF / 45%  
Height:  
Proposed: 52'-0" / 5-Story  
Maximum: 55'-0" /  
Existing Use: Multi-family building  
Proposed Use: Multi-family building  
Residential Units: 14 Units

Required Parking: 14 Spaces  
Provided Parking: 14 Spaces  
Grade: +4.04' NGVD  
Base Flood Elevation: +8.00' NGVD  
Adjusted Grade: +6.02' NGVD  
Proposed Garage Elev. Clearance: **13'-0"**  
Required Garage Elev. Clearance: **12'-0"**  
Finished Floor Elevation: +22.7' NGVD

### **Surrounding Properties:**

East: 1-story 1953 multi-family building  
North: 2-story 1947 multi-family building |  
2-story 1947 multi-family building  
South: 1-story 1951 residence | 1-story  
1951 residence  
West: 1-story 1947 multi-family building

**THE PROJECT:**

The applicant has submitted revised plans entitled "Biscayne Point", as prepared by **idea Architect**, dated, signed and sealed 04/01/2023.

The applicant is requesting the following waiver(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 applicant is providing a clearance of 13'-0" 10'-0" from BFE+ 1'-0" freeboard. Staff recommends the clearance be reduced to 10 feet, and that a waiver be granted for that height.**

The applicant is requesting the following variance(s):

1. A Variance from Section 142-155(b), to waive 17 square feet of the minimum required average unit size of 800 square feet in order to construct the proposed multifamily development with an average unit size of ~~783~~ 784 square feet.  
**Approval recommended**
2. A Variance from Section 142-155(a), to permit a front setback of ~~20~~ 21 feet for the ~~5~~ 2 feet above 50 feet, when an additional setback of one foot would be required for every one foot in height above 50 feet.  
**Approval recommended with modifications**
3. A Variance of from Section 130-61(1), to permit Parking Space 02 to be a length of 16 feet, when 18 feet is required.  
**Approval recommended**

**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 waiver and variance(s):

- Section 142-155. The project shall comply with minimum and maximum yard elevations.
- The City's standard Multi-Family Zoning Data Sheet be provided.
- A lot coverage diagram shall be provided.
- The NGVD elevations datums on all elevations and sections sheets are incorrect and need to be corrected.
- Parking space 01 does not meet the minimum parking depth of 21 feet required for parallel parking.

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.

**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 three variances and one design waiver 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.  
**Satisfied; however, the applicant is requesting three variances and one design waiver 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.  
**Partially Satisfied; See Staff Analysis. The continuous solid balcony railings and planters along the front elevation, require further modifications in order to reduce the mass of the overall building.**
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.

**Satisfied**

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.

**Not Satisfied. The front yard is dominated by walkways, stairs, bicycle parking, and driveways.**

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.

**Not Satisfied; As proposed, the garage is completely open on the rear and sides.**

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; See No. 11 above.**

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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**  
**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.

**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 composed of two interior parcels located within the Biscayne Beach Subdivision of North Beach. The applicant is proposing to construct a new (5) five story, 14 - 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 one design waiver and three variances.

The building is centrally located within the site and features a ground level residential lobby, elevator, utility rooms, and 14 parking spaces. Elevated to 9' NGVD, the lobby is reached by a wide set of stairs and an enclosed lift within the building envelope. The parking is located behind the residential entrance and is accessed by a one-way drive that enters the property along the eastern edge of the property, crosses through perpendicular spaces at each side and site and exits out to the street along the western property line. The project proposes four (4) one-bedroom units for levels 2, 3 and 4, and two (2) three-bedroom units on the fifth floor. Sun decks and a pool are also proposed. The project includes expansive balconies that project beyond the building and run along its perimeter. The generously sized balconies feature landscape planters on each floor at each unit.

The design of the building is contemporary in its materiality and form, contrasting exposed concrete with fluted burnt wood clad walls that alternate with glazing. At the March of 2023 meeting, the applicant requested a continuance of the application, in order to address the concerns expressed by staff. The Board did not review the initial design. With this revised application, the architect has substantially revised the overall massing and proportions of the tower and ground floor, which coupled with fluted materiality has softened the overall design.

Although supportive of the revised design, staff has some additional design recommendations in order to further break down the mass of the building. To this end, staff recommends that the architect explore breaking up the continuous balconies on the front elevation to provide additional interest and planar movement, as well as increase and integrate the landscape in front of the stucco walled stair tower. Staff would also recommend that the ground level parking be fully screened with a combination of solid walls and louvers or other architectural screening in order to fully contain both garage and vehicular lights. Lastly, the front yard of the site is dominated by walkways, steps and bicycle racks, and staff recommends an overall reduction of hardscape and additional landscaped terrain.

Additionally, the applicant is requesting a waiver pertaining 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. The applicant has lowered the building and reduced the height of the first habitable floor of the building to 19'-8" NGVD, which translates to a garage clearance height of 10'-0" 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". Staff is supportive of the waiver for 10' clearance.

Staff is supportive of the revised design and recommends approval of this application with the noted design recommendations and the conditions outlined in the attached draft Order.

### **VARIANCE ANALYSIS**

The applicant is requesting the following variance(s):



1. A Variance from Section 142-155(b), to waive 17 square feet of the minimum required average unit size of 800 square feet in order to construct the proposed multifamily development with an average unit size of ~~783~~ 784 square feet.

**Approval recommended**

The RM-1 regulations require a minimum unit size of 550 SF and a minimum average SF of 800 SF. In addition to these requirements the city's Comprehensive Plan includes a density limitation of 60 units per acre. Based on the lot size of the subject site, the density requirements limit the number of units to 15. Due to practical difficulties associated with the lot and the proposed unit layout, meeting the average unit size is challenging and would result in the loss of a unit. As the requested variance (17 SF) is minimal, and the number of units is below the maximum density threshold for the site, staff has no objection to this request.

2. A Variance from Section 142-155(a), to permit a front setback of ~~20~~ 21 feet for the ~~5~~ 2 feet above 50 feet, when an additional setback of one foot would be required for every one foot in height above 50 feet.

**Approval recommended**

In order to mitigate the scale of new construction in relationship to the street and surrounding neighborhood the city code has increased setbacks for construction located above the pedestal of the building, which is that portion below a height of 50 feet. Due to the height proposed, and configuration of the structure, the applicant appears to have practical difficulties in fully complying with these requirements, as the last floor of the building would have to be setback an additional two (2') feet or 22 feet from the street.

Staff had previously recommended that the ground floor be lowered by three (3') feet, which would reduce the overall height of the building to 52 feet. The applicant has modified the latest plans to comply with this recommendation. However, to still meet the minimum code requirements, the top floor would have to be setback two (2') feet from the floor below, or 22 feet from the front property line. For this reason, staff is supportive of this request.

3. A Variance of from Section 130-61(1), to permit Parking Space 02 to be a length of 16 feet, when 18 feet is required.

**Approval recommended**

As this variance request is self-contained in the property and limited to one parking space, staff has no objection to this requested variance. Providing an adequate lobby, building services, vertical circulation, and required parking on a relatively small lot presents a practical difficulty in complying with this, as well as the aforementioned code requirements.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **approved**, including the requested variances, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review and Sea Level Rise criteria, and practical difficulty and hardship criteria.

**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: May 2, 2023

PROPERTY: **700 82<sup>nd</sup> Street**  
700 82<sup>nd</sup> Street 02-3202-008-0930  
710 82<sup>nd</sup> Street 02-3202-008-0920

FILE NO: DRB22-0900

IN RE: An application for Design Review Approval for a new 5-story multifamily building, including a waiver from the minimum height of the ground level, a variance to reduce the required setback for structures above 50', a variance from the parking space dimensions, and a variance from the minimum average unit size, to replace two (2) single story buildings.

LEGAL: Lots 13 and 14, Block 5, of "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: Biscayne Point Developments 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 4, 9, 10, 11, 13 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 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:

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 two (2) feet.
  - b. The continuous balconies proposed on the front elevation shall be broken up 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.
  - c. The proposed landscaping in the balcony planters shall be enhanced and integrated into the architecture of the stucco stair tower, 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.
  - d. The design of the front yard shall reduce the hardscape and increase the landscaped terrain, and the 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. The final color, design and details of the exposed concrete finish 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 color, design and details of the fluted burnt wood finish wall 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.
  - g. The final color, design and details of the wood-like cladding underneath the balcony slabs 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 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.
  - i. 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.

- j. The garage shall be fully screened from the exterior with a combination of walls and louvers or other architectural treatments, in a manner to be reviewed and approved by staff.
  - k. 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. The extent of paved areas in the front of the building shall be reduced, including a reduction in the width of the steps, subject to the review and approval of staff.
  - b. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
  - c. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
  - d. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
  - e. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
  - f. The 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.

- 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 existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- j. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- k. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- l. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow 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.
- m. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- n. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

**In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.**

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s):
1. A Variance from Section 142-155(b), to waive 17 square feet of the minimum required average unit size of 800 square feet in order to construct the proposed multifamily development with an average unit size of 784 square feet.
  2. A Variance from Section 142-155(a), to permit a front setback of 21 feet for the 2 feet above 50 feet, when an additional setback of one foot would be required for every one foot in height above 50 feet.
  3. A Variance of from Section 130-61(1), to permit Parking Space 02 to be a length of 16 feet, when 18 feet is required.
- 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.

**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”, as prepared by **idea Architect**, dated, signed and sealed 04/01/2023, 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  
Planning & Design Officer  
For Chairman

Filed with the Clerk of  
the Design Review Board on \_\_\_\_\_ ( )