

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members DATE: November 13, 2023

FROM: Thomas R. Mooney, AICP Planning Director  for TRM

SUBJECT: DRB23-0928
600-650 72nd Street, 7116-7134 Carlyle Avenue, 7121 Dickens Avenue and 601-621 71st Street.

An application has been filed requesting Design Review Approval for the construction of a new 19-story mixed use development, including one or more waivers, and variances from the minimum required depth for ground floor habitable space along both 72nd Street and Dickens Avenue, a variance from the minimum required interior side tower setback, a variance from the maximum width of a driveway access on Dickens Avenue, and a variance from the minimum width for a 2-way drive. This project is proposed to take place in two (2) phases, as a phased development project.

RECOMMENDATION:

Approval of the design with conditions.
Approval of the phased development project.
Approval of variances #1 - #5.
Continuance of the pedestal screening elements.

LEGAL DESCRIPTION:

See "Exhibit A"

BACKGROUND:

On November 14, 2018, the City Commission adopted the North Beach Town Center—Central Core Land Development Regulations, establishing the **TC-C, Town Center – Central Core** zoning district with an FAR of 3.5. The TC-C district replaced the TC-1, TC-2, TC-3, and TC-3(c) districts within the boundaries of the area established by the FAR referendum.

HISTORY:

On October 11, 2023, the application was reviewed and continued to a date certain of November 13, 2023, in order to address the concerns expressed by the Board.

SITE DATA:

Zoning:	TC-C Town Center--Central Core
Future Land Use:	TC-C Town Center--Central Core
Parking District:	8
Lot Size:	68,407 SF
Proposed FAR:	224,817 SF / 3.29
Maximum FAR:	239,424 SF / 3.5
Retail:	16,269 SF
Units:	125
Height:	

Proposed: **220'-0"** * measured from BFE +5', or 13' NGVD | 19-story

Maximum: 200'-0"

Highest Projection: 240'-0"

***DRB Waiver**

CMB Grade: 6.05' NGVD

Base Flood Elevation: 8' NGVD

First Floor Clearance: 18'-5" measured from BFE +5', or 13' NGVD

Required Parking: 95 residential required spaces | 210 provided.

No retail parking requirement | 29 provided.

Required Loading: Total loading: 5 required spaces | 5 provided.

SURROUNDING PROPERTIES:

East: One-story Religious Institution

North: Surface parking lot / North Shore Youth and Tennis Center

South: Future site of new 13-Story multi-use building (DRB21-0752)

West: 2- story religious institution.

Within the block : Existing 2-story multifamily building

THE PROJECT:

The applicant has submitted revised plans entitled "72B: Final ReSubmittal" as prepared by **Arquitectonica**, dated October 16, 2023.

The applicant is proposing a new 19-story mixed use development, 220'-0" high, comprised of ground floor commercial spaces, 125 upper-level residential units, an amenities deck and roof top with unit pool decks. The application includes requests for several waivers and variances.

A breakdown of the project's development plan is delineated hereto:

Ground Floor: ±11,770 square feet of retail and ±5,000 square feet of restaurant space.

Mezzanine: Corridors, staircases, and elevators.

Level 2: 6 residential liner units (1 BR to 3 BR) ranging in size 734 SF – 1,869 SF.
 2,107 SF retail facing 71st Street (Class A).
 61 parking spaces.

Long Term Bicycle Storage.

Level 3: 6 residential liner units (1 BR to 3 BR) ranging in size 734 SF – 1,869 SF.
 2,107 SF retail facing 71st Street (Class A).
 67 parking spaces.

Long Term Bicycle Storage.

Level 4: 6 residential liner units (1 BR to 3 BR) ranging in size 734 SF – 1,869 SF.
 33 parking spaces.

Long Term Bicycle Storage.

Level 5: 8,939 SF Indoor Amenities.

Outdoor pool, pool deck, Half Basketball Court and Pickleball court.

Levels 6-17: 8 residential units (1 BR to 3 BR) ranging in size 734 SF – 1,799 SF.

Level 18: 7 residential units (1 BR to 3 BR and PH) ranging in size 734 SF – 1,807 SF.

Level 19: 4 residential PH units ranging in size 2,353 SF to 2,687 SF,

Rooftop Level: PH Units' plunge pool and deck.

Mechanical Equipment.

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

1. Section 7.2.14.6.c.2: Building Height. For lots that are greater than 50,000 square feet and located north of 71st Street, the design review board, in accordance with the design review criteria in Section 2.5.3 of these land development regulations, may waive the maximum height of 200 feet, in order to authorize up to an additional 20 feet of height, not to exceed 220 feet, based upon the merit of the design. **The applicant is requesting a maximum building height of 220'-0" for the proposed tower.**
2. Section 7.2.14.6.c.i.6.c.: Class B Driveway. Driveways and vehicle access to off-street parking and loading shall be prohibited unless waived by the Design Review Board. **The applicant is requesting a driveway from Dickens Avenue, a Class B street.**
3. Section 7.2.14.6.c.i.1.I.III: Combined Driveways. Driveways for parking and loading shall be combined unless waived by the design review board. **The applicant is requesting a separate driveway for parking and loading.**
4. Section 7.2.14.6.c.i.7.c.II – Class C Street Driveway Spacing. Driveways shall be spaced no closer than 30 feet apart on Class C street unless waived by the Design Review Board. **The applicant is requesting a waiver from the required space between driveways in order to construct the two driveways on Carlyle Avenue with a distance separation of 19'-5".**

The applicant is requesting the following variance(s):

1. A variance to reduce 9'-6" of the the minimum required habitable space of 50'-0" in depth to provide a habitable space of 40'-6" along a Class A frontage facing 72nd Street.
2. A variance to reduce 30'-0" of the minimum required habitable space of 45'-0" " in depth to provide a habitable space of 15'-0" along a Class B frontage facing Dickens Avenue
3. A variance to reduce up to 10'-0" from the minimum required setback of 30'-0" for the tower structure as measured from 13'-0" (from BFE+5') to maximum height along a class C frontage.
4. A variance to exceed 10'-0" of the required 12'-0" driveway width in order to allow a 22'-0" driveway width on a class B frontage for blocks that are over 260 feet in length.
5. A variance from the minimum required 22'-0" for a two-way drive for the loading area accessed from Dickens Avenue.

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 City Code:

1. The plans shall be further detailed to show compliance with the Resilience and Adaptation Standards as outlined in Section 7.1.2.2.

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 **residential / mixed use** is **consistent** with the Future Land Use Map of the Comprehensive Plan.

TRANSPORTATION REVIEW

The Transportation & Mobility Department has reviewed the subject Traffic Study Assessment submitted by the applicant as part of the Design Review Board application for the proposed “72B North Beach” project. Please see attached memo.

COMPLIANCE WITH DESIGN REVIEW CRITERIA, SECTION 2.5.3.1:

Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearance, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The design review board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and applicable design guidelines. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department.

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied
- b. 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 several waivers and variances.
- c. 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 several waivers and variances.
- d. 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 2.5.3.2.
Satisfied

- e. 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 article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and historic preservation board and all pertinent master plans.
Satisfied; however the application includes several waivers and variances.
- f. The proposed structure, 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
- g. 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
- h. 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 safety 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; however, the application includes several waivers and variances.
- i. 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.
- j. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.
Not Satisfied; The landscape plans and the renderings have not been coordinated.
- k. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Partially Satisfied. Additional details are required to ensure that this condition is satisfied.
- l. 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; however, the application includes several waivers and variances.

- m. 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; however, the applicant is requesting two variances from the minimum depth required of habitable space for residential, hotel or commercial uses on the ground floor.
- n. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
- o. 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).
Satisfied
- p. 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
- q. 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 Satisfied; full enclosure of the loading area is required in order to minimize impacts on the abutting 2-story residential building.
- r. In addition to the foregoing criteria, subsection 118-104-6(t) of the General Ordinances 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
- s. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.
Not Satisfied, see below.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4(a)(i) of the Land Development Regulations 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 4 of the Land Development Regulations.
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; additional information will be required at the time of building permit in order to demonstrate compliance.
11. Cool pavement materials or porous pavement materials shall be utilized.
Satisfied; additional information will be required at the time of building permit

in order to demonstrate compliance.

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

Satisfied: additional information will be required at the time of building permit in order to demonstrate compliance.

STAFF ANALYSIS:
DESIGN REVIEW

The subject application pertains to a 1.57-acre unified development site located within the boundaries of the TC-C, Town Center – Central Core District. The subject site is bounded by 72nd Street to the north, Carlyle Avenue to the east, 71st Street to the south and Dickens Avenue to the west. The proposed development site includes nearly all of the properties within the entire block, except for an existing two-story residential building on Dickens Avenue that is not part of the development site.

The proposed 19-story tower fronts 72nd Street, with a 4-story pedestal commencing at the eastern corner of 72nd Street and south down the length of Carlyle Avenue to 71st Street. The composition of the proposed pedestal is similar in massing to the adjacent new construction to the east, 72nd Park Residences, which was also designed by Arquitectonica. The off-street parking component is within the pedestal at the mezzanine, 2nd and 3rd levels and is screened along the east side of the building.

The primary façade of the building faces 72nd Street and the North Shore Park Youth Center; vehicular drop-off, as well as the entrance to the parking garage are on Carlyle Avenue. Retail and commercial uses are proposed at the ground floor along 72nd Street and Carlyle Avenue, and within the first three floors of the pedestal corner facing 71st and Carlyle Avenue. Spacious residential units, varying from 1 to 3 bedrooms are located within the 72nd Street liner of the pedestal structure and within the tower. The development features an amenity deck for all residents on the 5th floor with a large pool and deck, lawns, a half basketball court and a pickleball court. The rooftop contains small swim spas and decks for the respective penthouses located just below.

The site contains two vehicular driveways from Dickens Avenue. The northernmost drive accesses the internal loading and trash rooms, while the other is an existing driveway with surface parking associated with an existing 1-story commercial building (Navarro Pharmacy) on 71st Street. The latter driveway and commercial building are part of the Phase II Development and will be replaced with a new building. However, within the Phase I site plan, the applicant is proposing a similar two-way driveway from Carlyle Avenue cutting into and connecting to the existing driveway – essentially creating a block through drive. In addition to the one-way vehicular drop-off and the two-way driveway that cuts through the block, the project proposes access to the parking podium from Carlyle Avenue.

While staff would not typically support a thru-drive such as that proposed herein, particularly when combined with the other three (3) curb cuts proposed on Carlyle Avenue, the proposed drive is a temporary condition for Phase 1 only. At the termination of the lease for Navarro Pharmacy (no later than December 31, 2026), the associated drive, parking, and curb cut on both Dickens Avenue and Carlyle Avenue will be replaced with active building programming.

The proposed new development has been designed in a contemporary architectural style featuring curved corner glass balcony rails atop thinly articulated slabs that wrap the tower and pedestal on the principal 72nd Street façade and along the entirety of the ground floor. The commercial and enclosed public spaces are also cloaked in floor to ceiling glazing. The pedestal elevations of the project have been significantly updated, as more specifically described in the update section below.

HEIGHT

The applicant is proposing a 19-story structure measuring 220'-0" to the top of the main roofline of the tower from BFE +5, or 13' NGVD. The first waiver of this application pertains to the height of the tower. For lots that are greater than 50,000 square feet and located north of 71st Street, the maximum building height is 200 feet, and the Board may authorize an additional 20 feet, not to exceed maximum height of 220 feet. The applicant is seeking an additional 20 feet in height to allow for more generous floor to ceiling heights. Given that this project is not designed to its maximum density and that the development site encompasses nearly the entire block, with a lot area of 68,406 square feet, staff supports the proposed height of the tower.

DRIVEWAY AND LOADING

While the following two separate waivers are individual sections of the code, they are inter-related. The application is requesting a driveway to access loading on a Class B street, which is prohibited unless waived by the Board. Further, this driveway is for loading only, where the code calls for a combined driveway for loading and parking. The loading area is proposed within the site and with an access point on Dickens Avenue, away from the most used street frontages of this project: 72nd Street and Carlyle Avenue. However, the designated street for the loading driveway is a Class B street and the applicant is requesting a waiver. Due to the shape of the development site and the usage of Carlyle as a more dominant frontage, the siting of the loading driveway on Dickens Avenue is the most ideal and staff is supportive of the waiver.

The second waiver associated with the loading driveway relates to the code requiring a combined driveway for parking and loading. A singular 23'-0" wide, two-way drive is proposed as an entry point into the parking podium from Carlyle Avenue (Class C street). This driveway is dedicated solely for the residential and retail component on levels two through four of the parking podium. In this instance, the separate driveways are necessary for the efficient vehicular operation of the loading and parking needs of the development. Staff is supportive of the waiver to allow uncombined driveways for parking and loading.

The final waiver also pertains to driveways but is related to the spacing between them on a given street. The code requires that driveways be spaced at least 30' apart from one another. In this instance, the applicant is proposing on Carlyle Avenue a driveway for access the parking within the pedestal, and another driveway 19'-5" to north that cuts through the site connecting to the surface parking lot of the Phase II portion of the project. As this condition is only temporary, and the thru-drive will be removed as part of Phase II, staff is supportive of this waiver.

PHASED DEVELOPMENT REVIEW

The subject property consists of all the platted lots within Block 4 of the Normandy Beach South Plat/Subdivision, except for lot 3. The subject site contains the following uses and existing structures:

1. 2- story multifamily structure (650 72nd Street);
2. 2- story multifamily structure (600 72nd Street);
3. 2- story multifamily structure (7134 Carlyle Avenue);
4. 1- story multifamily structure (7130 Carlyle Avenue);
5. Surface Parking (7116 Carlyle and 7121 Dickens Avenue);
6. 1-story commercial and surface parking (601 71st Street)
7. 1-story commercial (621 71st Street).

Due to the size of the subject property and the expansive nature of the project, as well as challenges with the current lease holder, the applicant seeks a phased development permit, pursuant to Section 7.2.14.6.d.i.2 and Section 2.5.3.5.d of the Miami Beach Resiliency Code, to complete the renovations in two (2) phases. In accordance with Section 2.5.3.5.d of the Miami Beach Resiliency Code, the applicant has reserved approximately 15,105 square feet of floor area for the Phase II development. No later than December 31, 2026, or the earlier termination of the lease, the applicant will request design review approval from the Design Review Board for the Phase II development of the existing commercial space (621 71st Street) on the Property.

In accordance with the Lease Renewal agreement dated June 26, 2021, by and between NFPR#15, LLC, as "Landlord", and HOLIDAY CVS, L.L.C., as "Tenant", for the Premises located at 631 71st Street, MIAMI, Florida ("Lease")(CVS#10709L01), submitted with the application, **the lease shall expire and be terminated on December 31, 2026.**

Lot Size: 68,407 SF
 Proposed FAR: 239,242 SF / 3.49
 Phase I FAR: 224,319 SF
 Phase II FAR: 15,105 SF

VARIANCE REVIEW

The applicant is requesting the following variance(s):

1. A variance to reduce 9'-6" of the the minimum required habitable space of 50'-0" in depth to provide a habitable space of 40'-6" along a Class A frontage facing 72nd Street.
 - Variance requested from:

Section 7.2.14.6 Town Center-Central Core (TC-C) District

c.i.5.b.II. - Except where required for driveways and utility infrastructure, the ground floor shall contain habitable space with a minimum depth of 50 feet from the building façade.

In accordance with Section 7.2.14.6.c.i.5.b.II of the Resiliency Code, the ground floor level shall contain habitable space with a minimum depth of 50 feet along 72nd Street, which is considered a Class A frontage. There is approximately 4,102 square feet of commercial space

and a 2,652 square foot lobby that is situated in the northeast corner of 72nd Street and Carlyle Avenue. The developable area of the ground floor is restricted due to the parcel on the west side of the site (Lot 3) that is not part of the project site. Also, class C frontage streets, such as Carlyle Avenue, allow for driveways to have a maximum width of 24 feet, and driveways and vehicle access to off-street parking and loading are prohibited on Class A street frontages such as 71st and 72nd Streets. As a result, the drop-off and ramp circulation are located along Carlyle, which reduces the minimum depth for habitable space along the northeast façade by approximately 9'-6" from the required 50'-0". Notwithstanding these site constraints, the applicant is still providing an active linear frontage of 200 feet, which is 90% of the building façade facing 72nd Street. The ground floor will consist of retail amenities and a 10-foot clear pedestrian path that allows for a portion of the pathway to include outdoor sidewalk cafes and landscaping that enhances the pedestrian realm. In summary, staff believes the irregular shape of the site presents a practical difficulty in complying with this requirement and justifies approval of the variance.

2. A variance to reduce 30'-0" of the minimum required habitable space of 45'-0" " in depth to provide a habitable space of 15'-0" along a Class B frontage facing Dickens Avenue.
 - Variance requested from:

Section 7.2.14.6 Town Center-Central Core (TC-C) District

c.i.6.b.II. Except where required for driveways and utility infrastructure, the ground floor shall contain habitable space for residential, hotel, or commercial uses with a minimum depth of 45 feet from the building façade for the minimum required length along the setback line.

The ground floor habitable spaces that face the northwest corner of Dickens Avenue and 72nd Street contain retail spaces. As per Code, Class B frontages require that residential, hotel, or commercial uses on the ground floor maintain a minimum depth of 45 feet perpendicular to the setback line. However, to provide the required loading spaces for the commercial uses on the ground floor, the habitable space is proposed be reduced to 30'-0". To further emphasize, a portion of the two required loading spaces are located behind the proposed retail space, which ranges in depth from 15 feet to 50 feet. The location of the existing two-story building on lot 3 does not allow for the loading spaces to be relocated to the mezzanine or second level. Due to the practical difficulties associated with the irregular portions of the development site, staff is supportive of the variance request to reduce the depth of the required habitable space on the ground floor to provide the operation of the required loading spaces.

3. A variance to reduce up to 10'-0" from the minimum required setback of 30'-0" for the tower structure as measured from 13'-0" (from BFE+5') to maximum height along a class C frontage.
 - Variance requested from:

Section 7.2.14.6.c Town Center-Central Core (TC-C) District

The applicant is requesting a variance to construct the structure with a 20-foot setback, where

30 feet is required, along the interior side setback for the portions of the building constructed above 55 feet. Within the interior side setback of the Class C street frontage, the pedestal level requires a 0-foot minimum setback (grade to 55 feet). As previously stated, the site is an irregular lot that is impacted by the interior portion of the site on lot 3, which has resulted in a void near the center of the block.

It is important to note that if the applicant complied with the setback requirements, the pedestal level would consist of a 0' setback, resulting in a shift of the 30' setback at the tower level above 55 feet. However, this would create an "L" shaped structure that would be more imposing on the existing 2-story building that is not part of the development. Staff again finds that the irregular shape, as well as the special conditions and circumstances of the site, present practical difficulties in complying with the required interior side yard setback for the tower. Further, above the ground level, the pedestal portion of the building abutting the 2-story building to the south has been setback 20 feet, where zero (0) is required. This increased pedestal setback helps to mitigate the reduced tower setback on the neighboring building.

4. A variance to exceed 10'-0" of the required 12'-0" driveway width in order to allow a 20'-0" driveway entrance on a class B frontage for blocks that are over 260 feet in length.

- Variance requested from:

Section 7.2.14.6 Town Center-Central Core (TC-C) District

C. Driveways and vehicle access to off-street parking and loading shall be prohibited unless it is the only means of egress to the site or if the only other means of egress is from a Class A street. Permitted driveways on Class B frontages shall be limited by the following:

The prohibition on driveways may be waived by the design review board on blocks that are over 260 feet in length; however, such driveways shall be limited to 12 feet in width.

The restriction of a 12'-0" driveway width is feasible, operationally, when it is associated with a second access drive, such as a one-way in and separate one-way out. As proposed by the applicant, this driveway will serve as both the ingress and egress for all loading on the site, including for larger vehicles up to 35 feet in length. As the additional width is necessary for maneuverability into and out of the site, the irregular shape of the site presents a practical difficulty in complying with the requirements of the code, while also providing a usable loading area with minimal impacts on the street. For this reason, staff is supportive of the variance.

5. A variance from the minimum required 22'-0" for a two-way drive for the loading area accessed from Dickens Avenue, in order to provide a two-way drive that varies from 18 feet to 20 feet.

- Variance requested from:

Section 5.3.4 – Drives

Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic. Notwithstanding the foregoing, for residential buildings with fewer than 25 units, drives shall have a minimum width of 18 feet for two-way traffic. For those grade level parking areas with less than ten parking spaces, inclusive of those parking areas

underneath a building or structure, the two-way curb-cut and driveway entrance shall have a minimum width of 12 feet.

Variance #5 is associated with the 2-way drive accessing the loading area, as referenced in Variance #4. Because this driveway accessing the loading area is 2-way, a minimum width of 22 feet is required. At its widest point, the driveway is 20 feet, and is further reduced by three of the smaller loading bays, which encroach into the 2-way drive by approximately two (2') feet. As indicated in the maneuverability diagrams provided in the traffic study, the proposed loading area, drive, and maneuverability area, can accommodate the five (5) loading spaces provided, with all trucks able to head-in and head-out of the loading drive on Dickens Avenue. As also indicated by the applicant, and included as a condition of approval, a dockmaster shall be required on-site to manage the loading areas during all times that loading is operational on the subject site. As stated previously, the irregular shape of the site presents a practical difficulty in complying with the code required driveway width. Increasing the width of the drive would result in a loss of habitable space fronting 72nd Street and increase the degree of Variance request #2.

UPDATE - November 13, 2023 DRB

At the October 11, 2023 meeting, the Board expressed concerns with the open loading area at the northwest corner of the site, as well as the scale of the proposed garage cladding. The applicant has revised the plans to include a completely enclosed loading area.

The applicant has also included a note on the plans for a proposed a 9" wide flush planter for 'creeping fig' to grow up the walls; however, the plans do not provide adequate space for the proposed planter. To address this, staff recommends that the walls of the loading area be setback 9" from the property lines, in order to allow for the required space for the proposed landscaping. The interior of the loading areas will also have to be modified to maintain the required depth of the driveway and accommodate maneuverability of trucks for loading.

The applicant has also modified the parking garage screening, as well as the building façade along 71st Street. While generally supportive of the concept of a three-dimensional scalloped metal cladding on 71st Street, staff does not recommend the art-deco inspired design elements, as they are too literal and not consistent with the overall architectural language of the rest of the building. These elements should be further developed in a more abstract manner and better screen views of the parking areas. Due to the high visibility and prominence of the garage, staff would recommend that the final design and details of the pedestal screening elements be further developed and reviewed and approved by the Board at a future date.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved with conditions**, including **approval of Variances Nos. 1 - 5**, 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.

It is further recommended that the pedestal screening elements be continued to the January or February 2024 DRB meeting for review and approval by the Board.

“Exhibit A”

Legal Description:

Lots 1 and 2, Block 4, LESS the West 5 feet thereof, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lot 12, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lot 11, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lot 10, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lot 4, Block 4, LESS the West 5 feet thereof, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lots 5 and 6, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lots 7 and 8, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lot 9, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 13, 2023

PROPERTY: **600-650 72nd Street, 7116-7134 Carlyle Ave, 7121 Dickens Ave, 601 71st Street**

650 72 Street	02-3211-002-0170
600 72 Street	02-3211-002-0250
7134 Carlyle Avenue	02-3211-002-0240
7130 Carlyle Avenue	02-3211-002-0230
7121 Dickens Avenue	02-3211-002-0190
621 71 Street	02-3211-002-0200
601 71 Street	02-3211-002-0210
7116 Carlyle Avenue	02-3211-002-0220

FILE NO: DRB23-0928

IN RE: An application for Design Review Approval for the construction of a new 19-story mixed use development, including one or more waivers, and variances from the minimum required depth for ground floor habitable space along both 72nd Street and Dickens Avenue, a variance from the minimum required interior side tower setback, a variance from the maximum width of a driveway access on Dickens Avenue, and a variance from the minimum width for a 2-way drive. This project is proposed to take place in two (2) phases, as a phased development project.

LEGAL: See attached Exhibit 'A'.

APPLICANT: 72nd & Carlyle Investment LLC, NDPRE #15 LLC and NDPRE #15B 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 2.1.3.1 of the Land Development Regulations. 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 d, i, j & s in Section 2.5.3.1 of the Land Development Regulations.

- 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 7.1.2.4(a)(i) of the Land Development Regulations
- D. The project shall take place in two phases as a phased development project in accordance with the following phasing schedule:
1. **Phase I** (Lots 1, 2, 7, 8, 9, 10, 11, and 12 of Block 4) A full building permit for the Phase I improvements shall be issued within eighteen (18) months of the Board's approval; and

Phase II (Lots 4, 5, 6, and 9 of Block 4). A complete application shall be submitted for Design Review Board Approval for Phase II, no later than December 31, 2026 (the minimum time necessary to allow for the completion of the lease), in accordance with Section 2.5.3.5.c. The minimum required floor area to be reserved for Phase II shall be 15,105 SF.
 2. Within 90 days of the completion of Phase I (issuance of a TCO or CO), the applicant shall present a progress report to the Board on the status of Phase II.
- E. A progress report on the operation of the facility, including updated traffic study, shall be scheduled before the Design Review Board within 180 days after obtaining a TCO or CO for Phase I.
- F. The project would be consistent with the criteria and requirements 2.5.3.1 and/ or Section 7.1.2.4(a)(i) if the following conditions are met:
1. Revised elevation, site plan and floor plan drawings for the proposed multi-family residential building shall be submitted to and approved by staff (except as noted); at a minimum, such drawings shall incorporate the following:
 - a. The design of the garage screening shall not be approved as proposed. The final design and details of the garage screening shall be provided, subject to the review and approval of the Design Review Board at a future meeting.
 - b. The loading area of phase 1 shall be fully enclosed by solid walls, in order to mitigate negative impacts on the abutting 2-story multifamily building. The south and west walls (along the interior property lines) of the loading area shall be setback 9", in order to allow the planting of a creeping vine on the abutting walls.
 - c. A vehicular gate shall be provided at the building line along Dickens Avenue, which shall remain closed when the loading docks close, in accordance with the allowable operations for loading within the TC-C district.
 - d. The proposed 20'-0" increase, for a not to exceed height of 220 feet , **shall be** waived.

- e. The separation of driveways for parking and loading **shall be** waived as proposed.
- f. The proposed driveway on a Class B street (Dickens Avenue) **shall be** waived as proposed.
- g. The reduced separation distance between the driveways on Class C frontage **shall be** waived as proposed.
- h. A minimum 10'-0" foot wide "Clear Pedestrian Path," free from obstructions, including but not limited outdoor cafes, sidewalk cafes, landscaping, signage, utilities, door swings, etc., shall be maintained on the ground floor along all street frontages.
- i. The final design details and color selection of the "parking garage podium screening" proposed at portions of the parking podium shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- j. The final 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.
- k. The final design and details of all exterior and interior lighting shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. Interior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding area. No florescent or intensive 'white' lighting (or similar intensive lighting) visible from the adjacent public rights of way or adjacent properties shall be permitted.
- l. Any future kitchen ventilation or mechanical venting shall be chased through the interior of the building to the roof. No exhaust ducts or vents shall be permitted on any building elevations.
- m. All internal garage lighting shall be shielded to buffer views of all direct light sources from outside of the structure, as well as on the roof deck, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- n. All roof-top lighting fixtures shall be designed to preclude light from spilling over to adjacent properties, and shall not exceed 10 feet in height, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- o. The final design details and pattern of the hardscape and exterior walkways 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.

- p. Any exterior ground floor exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions, material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
 - q. The interior walls of the first level of the parking garage entrance, ramps and loading areas, shall be fully detailed on revised plans. Such interior areas shall consist of high quality, non-stucco surface materials which have a well finished appearance commensurate with the primary façade of the building, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - r. Utility infrastructure shall be concealed from public view and may be placed within required habitable space (20'-0") or behind if access from the street is required. In this case, demonstrate that access from the street is required by the Florida Building Code or other applicable regulations for the Fire Pump room.
 - s. All building signage shall require a separate permit. A uniform sign plan for the new building shall be required. Such sign plan shall be consistent in materials, method of illumination and sign location, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - t. Final details of all proposed storefront systems and associated details shall be provided for all ground floor elevations on the project site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - u. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 4-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
- a. All existing overhead utility lines abutting the site on Carlyle Avenue shall be relocated underground and all utility poles shall be removed.

- b. The width and depth of the planters at the rooftop of the tower shall be increased to be of a sufficient size to support the trees shown on the renderings provided, subject to the review and approval of staff.
- c. A minimum 9" wide planting strip with a creeping vine, shall be provided along the south and west walls of the enclosed loading area, along the interior property lines, in a manner to be reviewed and approved by staff.
- d. 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.
- e. 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.
- f. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
- g. 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.
- h. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- i. Any proposed new street trees shall be of a planting species consistent or similar with existing street trees in the immediate area or consistent with any master street tree plan for the area, subject to the review and approval of the City Urban Forester.
- j. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- k. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- l. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.

- m. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- n. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- o. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

In accordance with section 2.2.4.8 of the Land Development Regulations, the applicant, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal a decision of the design review board for design review approval only to the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission.

II. Variance(s) and Waiver(s)

- A. The applicant filed an application with the Planning Department for the following waivers:
 - 1. A waiver from 7.2.14.6.c.2 filed as part of this application. The Board hereby grants the requested waiver of to allow an additional 20 feet of height to allow for a height not to exceed 220 feet.
 - 2. A waiver from 7.2.14.6.c.i.6.c filed as part of this application. The Board hereby grants the requested waiver to allow driveways and vehicle access to off-street parking and loading on a Class B frontage (Dickens Avenue).
 - 3. A waiver from 7.2.14.6.c.i.1.I.III filed as part of this application. The Board hereby grants the requested waiver to allow for a separate loading and parking driveways.
 - 4. A waiver from 7.2.14.6.c.i.6.c.II filed as part of this application. The Board hereby grants the requested waiver to allow for driveways on a Class C street to be spaced closer than 30 feet, for a space of 19'-5".
- B. The applicant filed an application with the Planning Department for the following variance(s):
 - 1. A variance to reduce the required 50'-0" of the habitable depth requirement along 72nd Street (Class A).

2. A variance to reduce the required 45'-0" of the habitable depth requirement along Dicken Avenue (Class B).
 3. A variance to reduce by 10' the required side, interior setback (Class C Street) in order to construct a portion of the building above 55 feet at a setback of 20'-0".
 4. A variance to construct a 22' wide limited driveway, where with a design waiver the driveway may not exceed a 12' width (Class B Street).
 5. A variance from the minimum required 22'-0" for a two-way drive for the loading area accessed from Dickens Avenue.
- C. 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.

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.

- D. The Board hereby **Approves** the Variance request(s), 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 applicant shall address the following Transportation, Mobility, Concurrency, and Parking requirements:
 - a. The applicant shall pay all impact, mobility, and concurrency fees due prior to obtaining a Building Permit, Certificate of Occupancy, or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing.
 - b. Property managers and business operators for all residential and commercial uses shall ensure that at no time shall delivery trucks block traffic flow on the public right-of-way.
 - c. The applicant shall submit an MOT (Maintenance of Traffic) plan to Public Works Department and Transportation Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
 - d. The applicant shall coordinate with the Transportation & Mobility Department to implement the Transportation Demand Management (TDM) strategies listed in this Memorandum and agreed upon via email on 9/22/2023.
 - i. The applicant shall commit to providing secure bicycle parking spaces, including 17 short-term spaces and 200 long-term spaces.
 - ii. As part of the proposed redevelopment, the project will provide 242 parking spaces within the proposed parking garage.
 - iii. The applicant shall create and implement a carpool incentive program for employees.
 - iv. The applicant shall integrate bikeshare information into communication materials for visitors and residents.
 - v. The applicant shall provide Miami-Dade County Transit and Miami Beach Trolley information within the site, including route schedules and maps.
 - vi. The applicant shall offer at least 3 free monthly Citi Bike passes to employees.
 - vii. The applicant shall offer at least 3 free monthly Miami-Dade County Transit passes to employees.

- viii. The applicant shall designate a TDM Coordinator who will communicate with the City of Miami Beach Transportation & Mobility Department regarding the implementation of the above. The applicant will provide a name, phone number, and email to the Transportation & Mobility Department.
 - e. The applicant shall reconfigure the Navarro Pharmacy driveway as part of this project and this will provide east/west connectivity between Dickens Avenue and Carlyle Avenue for Phase I. Such connectivity, including parking and loading will be removed, as proposed for Phase II.
 - f. The applicant shall coordinate with the Transportation & Mobility Department to develop appropriate signal timing improvements to reduce delays at the Dickens Avenue/71 Street and Dickens Avenue/72 Street intersections during the PM peak hour.
 - g. The applicant shall commit to provide the sufficient number of valet attendants for residents only to ensure that the queue from the valet does not extend onto public right-of-way, a minimum of one (1) attendant during normal peak periods.
 - h. Backing into or out of the site from Dickens Avenue or Carlyle Avenue shall not be permitted.
 - i. A signage and marking plan shall be reviewed and approved by the Transportation and Mobility Department prior to the issuance of a Building Permit.
3. The applicant shall address the following Public Works comments prior to the issuance of a Building Permit:
- a. An analysis of the water and sewer system may be required prior to connecting to the City's Utility Infrastructure to confirm if the system can accommodate the additional flows proposed by the increased demand from the site.
 - b. There east-west and north-south easements traversing NORMANDY BEACH SOUTH PB 21-54 BLK 4. Contact Public Works Department Administration to initialize the easement vacation process. Initialization is required prior to approval by the Public Works department.
 - c. The site has existing 4-inch and 6-inch water mains within the easements which also serves 7141 Indian Creek Drive. The developer will be responsible for installing and bare all costs for a new water main to feed the site which will lose service from the abandonment of these water mains in the utility easement.
 - d. Show corner clearance triangle on plans. Use the CMB Detail Drawing 10-27. Sec. 142-1135. - Corner visibility. On a corner lot, there shall be no

structure or planting which obstructs traffic visibility between the height of two feet and ten feet above the street corner grade, within the triangular space bounded by the two intersecting right-of-way lines and a straight line connecting the right-of-way lines 15 feet from their intersection.

If the sight-visibility cannot be achieved, a Hold Harmless Agreement and Convex mirrors will be required prior to approval of the building permit, subject to the review and approval of the Public Works Department and Planning Department.

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 and Waivers*’ noted above.

- A. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- 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 Section 7.1.3.2 of the Land Development Regulations. This fee is set as a percentage of the cost of construction.
- C. In accordance with Section 7.2.14.6(d)(2), participation in the public benefits program shall be required for floor area that is located above 125 feet in height up to the maximum height. The applicant shall identify the option or mix of options chosen at the time of the initial building permit application. All required fees shall be paid prior to the issuance of a building permit.
- D. 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.
- E. The applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney’s Office, in a form acceptable to the City Attorney, agreeing to indemnify and hold harmless the City from and against any claim or loss arising from an accident caused by a motor vehicle or other instrumentality being operated in reverse while entering or exiting the proposed development’s loading facilities.
- F. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless

otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

- G. All allowable construction signage shall be in accordance with Section 6.3.2 of the Land Development Regulations.
- H. 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.
- I. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- J. 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.
- K. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- L. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- M. 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.
- N. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- O. 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.
- P. 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.
- Q. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- R. 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 "72B: Final Submittal" as prepared by **Arquitectonica**, dated August 7, 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 Section 2.2.4.6 of the Land Development Regulations; 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 2 of the Land Development Regulations, 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 2 of the Land Development Regulations, 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 _____ ()

“Exhibit A”

Legal Description:

Lots 1 and 2, Block 4, LESS the West 5 feet thereof, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lot 12, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lot 11, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lot 10, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lot 4, Block 4, LESS the West 5 feet thereof, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lots 5 and 6, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lots 7 and 8, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

AND

Lot 9, Block 4, NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.