

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: December 11, 2023

FROM: Thomas R. Mooney, AICP
Planning Director



for TRM

SUBJECT: DRB23-0943
300 West 40th Street

An application has been filed requesting Design Review Approval for the construction of a new single story religious institution and associated parking, including variances from the pervious landscape requirements along Sheridan Avenue, to replace an existing structure, to be demolished.

RECOMMENDATION:

Approval with conditions.

LEGAL DESCRIPTION:

Lots 5 and 6, in Block 50, of Orchard Subdivision No. 2 & 3, according to the Plat thereof, as recorded in Plat Book 8, at Page 116, of the Public Records of Miami-Dade County, Florida.

HISTORY:

On September 5, 2023, the application was discussed and continued to a date certain of November 13, 2023, in order to address the concerns expressed by the Board. On November 13, 2023, the application was continued to a date certain of December 11, 2023, at the request of the applicant.

SITE DATA:

Zoning:	RS-2	Grade:	+5.80' NGVD
Future Land Use:	RS	Flood:	+8.00' NGVD
Lot Size:	36,065 SF	Adjusted Grade:	+6.9' NGVD
Lot Coverage:		Finished Floor Elevation:	9' NGVD (BFE +1')
Proposed:	5,043.5 SF / 14%		
Maximum:	14,426 SF / 40%		
Unit size:			
Proposed:	4,900.68 SF / 13.6%		
Maximum:	18,032.7 SF / 50%		
Height:			
Proposed:	18'-0" flat roof		
Maximum:	18'-0" flat roof		

SURROUNDING PROPERTIES:

North: Parking lot
 South: Two story 1938 Residence
 Two-story 1938-1996 Residence
 West: One-Story 1950 Residence
 East: Two story 1934 and 1986
 Residences

EXISTING STRUCTURE:

Year: 1959
 Architect: C. Draper Faulkner
 Vacant: No
 Demolition: Full

THE PROJECT

The applicant has submitted plans entitled "JW Congregation of South Miami Beach Inc." as designed by **J. C. D. Architect, Inc.**, dated, 11/9/2023.

The applicant is requesting Design Review Approval for partial demolition, renovation, and exterior façade modifications to an existing one-story religious facility, including a variance from the required interior side setback.

The applicant is requesting the following variance:

1. A variance from the minimum requirement of **50%** of the side facing a street landscaped pervious open space, in order to provide a landscaped open space of **35.54%**.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 2.8.3 of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;
- iii. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;
- iv. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- vi. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
- vii. 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; and

- viii. 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 7, article I, 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 aspects of the City Code with the exception of the variance requested:

- URBAN HEAT ISLAND ORDINANCE Section 7.5.3.2(g)(iv) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in Section 1.2.1 of this Code, and (v) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in Section 1.2.1 , shall be prohibited.

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; However, the proposed project seeks a variance from the Board.
- 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 proposed project seeks a variance from the Board.
- 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 proposed project seeks a variance from the Board.
- 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.
Partially Satisfied, staff recommends further refinement of the architectural elements, see Analysis: Design Review.
- 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 Ordinance and

other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.

Satisfied; However, the proposed project seeks a variance from the Board.

- f. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.

Satisfied; However, the proposed project seeks a variance from the Board.

- 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 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

- 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.

Satisfied

- 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.

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

- 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
- 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).
Not Applicable
- 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.
Satisfied
- r. 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
- s. The structure and site complies 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 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.
Not 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.
Not 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.

ANALYSIS:

DESIGN REVIEW

The applicant is proposing a new single story religious building and associated parking to replace an existing religious structure. The existing religious structure was first built in 1959 as a First Church of Christ Scientist and in 1995 was purchased by the local congregation of Jehovah's Witnesses, English Congregation of Miami Beach.

The site is located on the south side of West 40th Street and is located in a single-family residential zoning district (RS-2). West 40th Street, between Pine Tree Drive and Chase Avenue, is unique in that the properties along the north side abut the 41st Street commercial corridor and are zoned low-intensity commercial (CD-1) or government use (GU), while the properties to the south are all zoned single family residential (RS-2 and RS-4). Also, the south side of 40th Street is part of the 40th Street religious institution overlay.

The subject property is street-bound on three sides: to the north by West 40th Street, to the east by Pine Tree Drive and to the west by Sheridan Avenue. The proposed new one-story structure is located on the north part of the site and surface parking is proposed on the sides and rear of the property. Landscape is proposed along the perimeter of the property to buffer the parking and to address the residential nature of the neighborhood.

According to the applicant, the majority of the congregants do not live in the area and would drive to the site; as such, the main entrance has been located on the south elevation facing the parking lot. Staff is amenable to the entrance location but would recommend that the design incorporate a more prominent pedestrian entrance gate on 40th Street, which can include a combination of gated entry/wall and fence on the west side of the building connecting to the sidewalk on 40th Street.

The proposed new structure is designed in a contemporary architectural style, including flat roofs and varying sized volumes. The building is predominately finished in stucco of varying colors, with the main entrance finished in grey stone. The facades are accented with eyebrows above many of the window openings and aluminum-batten screens within the windows. Staff finds the eyebrows, as proposed, are awkwardly designed with one end starting at the edge of the opening. While the design concept appears to have the eyebrows intentionally off center from the banding of the window opening, staff recommends extending one end of the eyebrows past the edges, maintaining the design concept yet allowing the eyebrows to properly shade the openings below.

VARIANCE REVIEW

The project includes the following variance request:

1. A variance from the minimum requirement of **50%** of the side facing a street landscaped pervious open space, to provide a landscaped open space of **35.5%**.

- Variance requested from:

Section 7.2.2.3.b.i.

5. At least 50 percent (50%) of the required front yard and side facing a street yard area (including portions of the rear and front yards) shall be sodded or landscaped pervious open space. With the exception of driveways and paths leading to the building, paving may not extend any closer than 5 feet to the front of the building. When a pool is located in the side yard, facing a street the area of the water may count as part of the open space.

It is important to note that the present configuration of the site includes surface parking on the southeast corner (8 parking spaces) and the southwest corner (7 parking spaces). These parking areas, as well as the existing building, have a minimum south side setback of approximately five (5') feet. Two single family homes (one each on Sheridan Avenue and Pine Tree Drive) abut the subject property on the south side.

To provide an improved buffer between the single-family homes to the south, as proposed, the new building has been located along the north setback line, resulting in a south setback of almost 116 feet. Additionally, the surface parking areas have been reconfigured to provide a setback of 20 feet, which will be heavily landscaped with a variety of ground covers and a double row of trees, including Bridalveil and Seagrape trees.

While the proposed parking spaces comply with the setback requirements, due to the parking along Sheridan Avenue, the applicant is requesting a variance from the minimum required pervious open space, in order provide a pervious landscaped area of 1,374 SF (35.5%), where 1,938 SF (50%) is required. In reviewing the site as a whole, the minimum required pervious open space exceeds the requirements by 426 square feet in the front yard, 430 square feet along Pine Tree Drive, and 700 square feet in the rear yard, for a combined total of 1,556 square feet. This more than offsets the deficiency of 564 square feet for Sheridan Avenue by nearly 1,000 square feet.

Staff finds that the variance request satisfies the practical difficulties criteria for approval. Based on the low scale of the proposed project, the parking needs for the use and the mitigating factors outlined herein, staff is supportive of the requested variance.

December 11, 2023 Update:

Since the September 5, 2023 meeting the applicant has made the following changes to the design of the project:

1. Synthetic greenery is now proposed to be added to the west elevation.
2. A new prominent entry gateway is proposed along the north elevation, clad in a grey stone, with a framed opening that matches the height of the building, along with a more substantial double entry gate.

3. The previously proposed tan painted stucco has been replaced with a dove gray painted stucco on all elevations.
4. In addition to the architectural elevations, revised elevations have been provided that show the proposed landscaping.
5. Additional renderings have been provided showing the proposed building, along with the proposed landscaping.

Staff is supportive of the proposed changes, including the creation of a more prominent pedestrian entry feature along 40th street. However, staff recommends that this entry feature be clad in a coral stone or other lighter, natural stone finish. Additionally, staff would strongly recommend against the use of any artificial greenery on the building or the site.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, 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, as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: December 11, 2023

PROPERTY: **300 West 40th Street** **02-3227-017-0590**

FILE NO: DRB23-0943

IN RE: An application for Design Review Approval for the construction of a new single story religious institution and associated parking, including variances from the pervious landscape requirements along Sheridan Avenue, to replace an existing structure, to be demolished.

LEGAL: Lots 5 and 6, in Block 50, of Orchard Subdivision No. 2 & 3, according to the Plat thereof, as recorded in Plat Book 8, at Page 116 of the Public Records of Dade County, Florida.

APPLICANT: Jehovah's Witnesses Congregation of South Miami Beach, Inc.

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 in consistent with Design Review Criteria d, l & 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 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 300 West 40th Street shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. URBAN HEAT ISLAND ORDINANCE Section 7.5.3.2.g. Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in section 1.2.1 of this Code. (e) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 1.2.1 of this Code, shall be prohibited.
 - b. Artificial greenery shall not be permitted anywhere on the subject building or site.
 - c. The design of the eyebrows proposed over the window and door opening shall be revised to extend beyond the opening ends that shall be submitted in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. The final design and details of the pedestrian gate on 40th street 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 design details and material finish of the aluminum battens proposed on exterior elevations for openings shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - g. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
 - h. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding 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. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject

- to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
- b. 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. 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.
 - d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
 - e. 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.
 - f. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP
 - g. 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.
 - h. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
 - i. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
 - j. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
 - k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.

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

In accordance with section 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)

- A. The applicant filed applications with the Planning Department for the following variance(s):
 1. A variance from the minimum 50% pervious landscape requirements along Sheridan Avenue, as per Section 7.2.3.3(b)(i), in order to allow a pervious landscaped area of 35.5%.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, as noted above 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.

Additionally, the Board has concluded that the plans and documents submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 2.8.3 of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;
- iii. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;

- iv. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
 - v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
 - vi. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
 - vii. 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; and
 - viii. 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 7, article I, as applicable.
- C. The Board hereby **Approves** the variance requests and imposes the following condition based on its authority in Section 2.8.4 of the Land Development Regulations:
- 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. 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.
- B. 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.
- C. All allowable construction signage shall be attached to or situated behind the construction fence, and shall be limited to one (1) sign, not to exceed four (4) square feet, in accordance with Section 6.3.2 of the Land Development Regulations.

- D. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- E. 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.
- F. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- G. 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.
- H. 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.
- I. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- J. 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.
- K. 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.
- L. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- M. 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.

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.

I. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. 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.

- B. 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.
- C. 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.
- D. 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.
- E. All allowable construction signage shall be attached to or situated behind the construction fence and shall be limited to one (1) sign, not to exceed four (4) square feet, in accordance with Section 6.3.2 of the Land Development Regulations.
- F. 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.
- G. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- H. 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.
- I. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- J. 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.
- K. 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.

- 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 "JW Congregation of South Miami Beach Inc." as designed by **J. C. D. Architect, Inc.**, dated 11/9/2023, 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
Chief of Planning and Zoning
For Chairman

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by Michael Belush, Planning & Design Officer of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

Notary:
Print Name
Notary Public, State of Florida
My Commission Expires:
Commission Number:

{NOTARIAL SEAL}

Approved As To Form:
City Attorney's Office: _____ ()

Filed with the Clerk of the
Design Review Board on _____ ()