

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: October 11, 2023; December 11, 2023

PROPERTY: **1656-1680 Alton Rd & 1677 West Avenue ("Main Parcel"), 1698 Alton Road & 1681-1683 West Avenue ("North Parcel"), & 1245 Lincoln Road ("South Parcel"), & abutting portions of Alton Court**

FILE NO: DRB22-0897

IN RE: An application for Design Review Approval for the construction of a new 6-story mixed-use / office building on the "Main Parcel", including one or more waivers, and a variance from the maximum allowed building height, and minimum height required for the ground floor clearance, to replace all existing structures on the "Main Parcel", and the retention of the existing structures on the "North Parcel" and "South Parcel".

LEGAL: See Exhibit "A"

APPLICANT: BH The Alton 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 not consistent with Design Review Criteria i 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 and 4 in Section 7.1.2.4(a)(i) of the Land Development Regulations



1656-1680 Alton Rd & 1677 West Avenue ("Main Parcel"), 1698 Alton Road & 1681-1683 West Avenue ("North Parcel"), & 1245 Lincoln Road ("South Parcel"), & abutting portions of Alton Court December 11, 2023

- 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 the proposed mixed-use building shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The plans shall be further detailed to show compliance with the Resilience and Adaptation Standards as outlined in Section 7.1.2.2, subject to the review and approval of staff.
 - b. The project shall comply with the requirements of the Alton Road Office Development Overlay, Section 7.2.11.10, in a manner to be reviewed and approved by staff.
 - c. The design of the landscape planters and terraces on all elevations shall be fully detailed and developed, in a manner to be reviewed and approved by staff.
 - d. The garage level shall be fully screened from the exterior, in a manner to be reviewed and approved by staff.
 - e. The design for the portion of the north elevation that is visible above the height of the existing mixed-use building located at the intersection of 17th Street and Alton Road, shall be further developed and detailed, in a manner to be reviewed and approved by staff.
 - f. 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.
 - g. 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.
 - h. Consistent with the plans presented, all rooftop lighting shall consist of a lighting fixture that is affixed to, and no higher than, the rooftop parapet wall. All roof-top lighting fixtures shall be designed to preclude light from spilling over to adjacent properties, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - i. The final design 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.

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- j. 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.
 - k. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding 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 the Board. 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 alley shall be relocated underground and all utility poles shall be removed.
 - 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. 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.
 - d. 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.
 - e. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
 - f. The proposed and existing trees located within the right of way 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.

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1656-1680 Alton Rd & 1677 West Avenue ("Main Parcel"), 1698 Alton Road & 1681-1683 West Avenue ("North Parcel"), & 1245 Lincoln Road ("South Parcel"), & abutting portions of Alton Court December 11, 2023

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

In accordance with section 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 variance(s):
 - 1. A variance to exceed by 3'-0" the maximum allowed building height of 75'-0" in order to construct a new mixed use building up to 78'-0" in height. (Variance approved on 10/11/2023).

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1656-1680 Alton Rd & 1677 West Avenue ("Main Parcel"), 1698 Alton Road & 1681-1683 West Avenue ("North Parcel"), & 1245 Lincoln Road ("South Parcel"), & abutting portions of Alton Court December 11, 2023

2. A variance to decrease by two (2') feet the minimum clearance of the ground floor, as measured from the design flood elevation to the underside of the underside of the slab above, from 14 feet to 12 feet. (Variance approved on 12/11/2023).
- B. 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.

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.

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1656-1680 Alton Rd & 1677 West Avenue ("Main Parcel"), 1698 Alton Road & 1681-1683 West Avenue ("North Parcel"), & 1245 Lincoln Road ("South Parcel"), & abutting portions of Alton Court

December 11, 2023

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

- A. As a condition of the variance approved herein, the property owner shall voluntarily elect, at the owner's sole discretion, to execute a restrictive covenant running with the land, in a form approved by the planning director and city attorney affirming that, in perpetuity, no portion of the proposed new building on the property shall be leased or rented for a period of less than six months and one day.
- B. 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.
- C. 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.
- 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. 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.
- F. All allowable construction signage shall be in accordance with Section 6.3.2 of the Land Development Regulations.
- G. The building and parking departments shall approve a construction parking plan prior to the issuance of any building permit, including applicable demolition permits for the project.
- H. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- I. The contractor(s) shall ensure that the street and the alley 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 alley areas before leaving at the end of each day.
- J. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.



1656-1680 Alton Rd & 1677 West Avenue ("Main Parcel"), 1698 Alton Road & 1681-1683 West Avenue ("North Parcel"), & 1245 Lincoln Road ("South Parcel"), & abutting portions of Alton Court December 11, 2023

- K. 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.
- L. 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.
- M. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- N. 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.
- O. 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.
- P. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- Q. 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 "The Alton", prepared by **Foster + Partners and Kobi Karp Architecture and Interior Design**, dated August 7, 2023, the revised plans submitted at the 10/11/2023 meeting, and the plans entitled 'DRB22-0897 Final Submittal 12-11-2-23 Updated Addendum 3', dated 12-11-2023, 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



1656-1680 Alton Rd & 1677 West Avenue ("Main Parcel"), 1698 Alton Road & 1681-1683 West Avenue ("North Parcel"), & 1245 Lincoln Road ("South Parcel"), & abutting portions of Alton Court December 11, 2023


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 (**October 11, 2023**), 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 1/23/2024 | 7:37 PM EST

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:


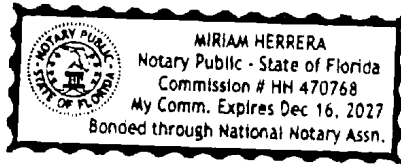
BY: DEC3ECF2EB68404
Michael Belush, AICP
Planning & Design Officer
For Chairman

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

The foregoing instrument was acknowledged before me this 25 day of January 2024 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.



1656-1680 Alton Rd & 1677 West Avenue ("Main Parcel"), 1698 Alton Road & 1681-1683 West Avenue ("North Parcel"), & 1245 Lincoln Road ("South Parcel"), & abutting portions of Alton Court December 11, 2023



(NOTARIAL SEAL)

Notary *Miriam Herrera*
Print Name *Miriam Herrera*
Notary Public, State of Florida
My Commission Expires: *12-16-27*
Commission Number: *HH470768*

Approved As To Form: _____
City Attorney's Office: _____ (*Faroat Andashvili* (1/23/2024 | 7:37 PM EST))

Filed with the Clerk of
the Design Review Board on _____ (*Jessica Gonzalez* (1/25/2024 | 12:01 PM EST))

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1656-1680 Alton Rd & 1677 West Avenue ("Main Parcel"), 1698 Alton Road & 1681-1683 West Avenue ("North Parcel"), & 1245 Lincoln Road ("South Parcel"), & abutting portions of Alton Court December 11, 2023

"Exhibit A"

Legal Description per Survey

Main Parcel

FOLIO: 02-3234-017-0160
LOTS 2 AND 3, BLOCK 40, OF FIRST ADDITION TO COMMERCIAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 30, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; AND,

FOLIO: 02-3234-017-0170
LOTS 4 AND 5, BLOCK 40, OF FIRST ADDITION TO COMMERCIAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 30, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; AND,

FOLIO: 02-3234-017-0180
LOT 6, BLOCK 40, OF FIRST ADDITION TO COMMERCIAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 30, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; AND,

FOLIO: 02-3233-017-0050
LOT 15, BLOCK 40, OF THE ALTON BEACH REALTY COMPANY'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 165, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; AND,

FOLIO: 02-3234-017-0190
LOTS 7 AND 8, BLOCK 40, OF FIRST ADDITION TO COMMERCIAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 30, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; AND,



1656-1680 Alton Rd & 1677 West Avenue ("Main Parcel"), 1698 Alton Road & 1681-1683 West Avenue ("North Parcel"), & 1245 Lincoln Road ("South Parcel"), & abutting portions of Alton Court December 11, 2023

North Parcel

FOLIO: 02-3233-017-0040

LOT 14, BLOCK 40, OF THE ALTON BEACH REALTY COMPANY'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 165, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; AND,

FOLIO: 02-3233-017-0030

LOTS 12 AND 13, AND THE 20 FEET OF ALLEY LYG. & E ADJ. CLOSED PER RES #2016-26489, BLOCK 40, OF THE ALTON BEACH REALTY COMPANY'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 165, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; AND,

FOLIO: 02-3234-017-0200

LOTS 9 AND 10, BLOCK 40, OF FIRST ADDITION TO COMMERCIAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 30, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; AND,

South Parcel

FOLIO: 02-3233-017-0100

LOTS 20 AND 21, BLOCK 40, OF THE ALTON BEACH REALTY COMPANY'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 165, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; AND,