MIAMIBEACH
PLANNING DEPARTMENT
Staff Report & Recommendation — Design Review Board

TO: DRB Chairperson and Members

DATE: June 4, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB24-1015
1801 Alton Road

An application has been filed requesting Design Review Approval for the construction of a new 1-story commercial building, including a variance from the minimum landscape requirement bordering a temporary or provisional surface parking lot abutting a property line, street, or sidewalk, and one or more waivers, replacing an existing two-story commercial building.

RECOMMENDATION:
Approval with conditions.

LEGAL DESCRIPTION:
The East 50 feet of lot 6, Lot 10 LESS the North 2.8 feet thereof, and all of Lot 11, Block 11, of THE ALTON BEACH REALTY COMPANY'S PLAT OF ISLAND VIEW SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 6, Page 115. of the Public Records of Miami-Dade County, Florida , LESS those lands conveyed lo the City of Miami Beach by Deeds recorded in Deed Book 1343, Page 69 and Deed Book 1343, Page 74, of the Public Records of Miami-Dade County, Florida.

BACKGROUND:
On August 3, 2021, the Board approved the reconfiguration and a storefront addition on the subject site. Since that time the applicant has changed the scope and design of the project and is requesting approval for a completely new application.

SITE DATA:

Zoning:	CD-1
Future Land Use:	CD-1
Parking District:	1
Lot Size:	46,845 SF
Existing FAR:	22,071 SF / 0.47
Proposed FAR:	5,000 SF / 0.11*
Maximum FAR:	46,845 SF/ 1.0
*As represented by the applicant	
Height:	
Existing:	42'-0"
Proposed:	18'-0" from BFE +1
Maximum:	40'-0"
CMB Grade:	4.3' NGVD
Base Flood Elevation:	8.0' NGVD
Existing Use:	Office
Proposed Use:	Office
Required Parking:	17 Spaces
Provided Parking:	67 Spaces

EXISTING STRUCTURE:

Year Constructed:	1981
Architect:	Isaac Sklar Assoc.

SURROUNDING PROPERTIES

North:	One-Story Commercial
South:	Canal
West:	Five-story Commercial
East:	Two-story Commercial

THE PROJECT:

The applicant has submitted plans entitled "New Single Story Commercial Building", as designed by **Gonzalez Architecture,** signed, sealed, and dated April 5, 2024.

The applicant is requesting Design Review Approval for the construction of a new 1-story commercial building and surface parking to replace an existing two-story commercial building.

The applicant is requesting the following waiver(s):

1. A waiver from additional requirements for Long Frontage Standards for new construction with non-residential uses on the ground floor, per sec. 7.1.2.2.g.2. of the City Code.

The applicant is requesting the following variance(s):

1. A variance from **Sec. 5.3.2.** to maintain existing 16-foot-long parking spaces that do not provide two (2) feet of pervious area overhang in place of wheel stops for a total length of 18 feet.

2. A variance **Sec. 5.3.12.d.** to maintain the asphalt hardscape of an existing parking area, instead of pavers set in sand, grass pavers, or similar semi-pervious material.

3. A variance from **Sec. 4.2.9.a.1** to maintain the existing landscape borders around a parking area, when five feet is required.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that partially 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.

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:

- 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;

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the requirements of the City Code with the exception of the variance(s) requested.

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 COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **commercial use** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria is found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
   Satisfied

2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
   Satisfied

3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
   Satisfied; however, the application includes variances for the parking lot.

4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
   Satisfied

5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.

   Satisfied; however, the application includes variances for the parking lot.

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

Satisfied

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied; however, the applicant is requesting waivers of the frontage standards.

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied; a lighting plan has not been submitted.

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Not Satisfied; the applicant is requesting variances related to landscape of temporary parking areas.

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied

13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Satisfied

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.
To be satisfied at time of building permit.

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.
Satisfied

10. In all new projects, water retention systems shall be provided.
Satisfied

11. Cool pavement materials or porous pavement materials shall be utilized.
Not Satisfied

12. The project design shall minimize the potential for a project causing a heat island effect on site.
Partially Satisfied; except where variances are requested for asphalt to remain.

ANALYSIS:

DESIGN REVIEW

The applicant is proposing the construction of a new one-story commercial building to replace an existing two-story commercial building, originally constructed as a bank building with offices. The irregularly shaped lot is located at the intersection of Alton Road and Dade Boulevard with access from 19th Street, Alton Road and Dade Boulevard. The Applicant intends to downsize the commercial use on this site in an effort to reimagine the site's future development. The applicant expects to develop the surface parking lot areas at a future date.

The proposed project scope includes a new 5,000 square foot commercial building, the retention of an existing surface parking lot and drive lanes, and new surface parking. The rectilinear commercial structure is located in the southwest corner of the site, with the main building façade along Alton Road. One-story in height, the building is designed in a contemporary style with floor to ceiling storefront glazing that is crowned with a projecting, chrome-finish architectural fin and a metal screened parapet wall.

The applicant is also requesting a waiver for the long frontage standard that is required for new construction with nonresidential uses on the ground floor on frontages with a width greater than 150 feet. Pursuant to the long standard regulations, the applicant is required to provide a parallel circulation area and landscape zone. Specifically, the sidewalk shall contain a "circulation zone" with a minimum dimension of 10 feet in width. The applicant is proposing an 8'-8" wide circulation zone. Within the circulation zone, a minimum 5' clear pedestrian path shall be free of obstruction, including but not limited to outdoor cafes, handrails, and outswing doors.

While the circulation zone may contain existing streetlights or utilities, staff believes that the applicant is providing sufficient space to maintain a 5' clear pedestrian path to accommodate pedestrians. The applicant has indicated that they are taking steps to comply with the required widths; however, they are seeking the waivers, as these frontages are on FDOT rights-of-way and they anticipate having to make changes to comply with their standards. Staff is not opposed to the waivers given that there is sufficient space to maintain the required clear pedestrian paths.

In addition to the circulation zone, a parallel transition is required between the raised circulation zone and lower-level sidewalks, street crossings, intersections, and driveways. Staff finds that the applicant has provided the necessary steps and ramps adjacent to the property line to transition the elevation between the existing street level of 6.75' N.G.V.D. and the proposed finished floor of 9'-0" N.G.V.D.

In summary, staff is confident the project architect can successfully address the concerns raised herein and would recommend that the design of the projected, including the requested waivers, be approved.

VARIANCE REVIEW
The applicant is requesting the following variance(s):

1. A variance requested from **Section 5.3.2.a** regarding off-street parking space dimensions**:**

   A standard perpendicular parking space shall have a width of not less than eight and one-half feet and a length of not less than 18 feet, or when located outdoors, 16 feet with two feet of pervious area overhang, in place of wheel stops and defined by continuous concrete curb, for a total length of 18 feet. The provision of having a two-foot pervious area overhang in standard parking spaces may be waived at the discretion of the planning and zoning director in those instances where said overhang is not practical. In no instance, however, shall the length of any standard off-street parking space be less than 18 feet, unless otherwise provided for under sections 5.2.6, 5.2.13, 5.3.11 and 5.3.2.b. herein.

The site contains an existing parking lot that the applicant does not wish to remove at this time. The parking lot has spaces that do not comply with current requirements for parking space dimensions. In this case, the parking spaces are 16 feet but do not provide the 2 foot pervious area overhang and do not comply with the minimum overall length of 18 feet. The applicant has indicated that they expect to redevelop this area in the near future and therefore do not want to undergo the expense of replacing a parking lot that they do not expect to remain in the near in the future. This represents a practical difficulty, and staff is not opposed to the granting of the variance.

2. A variance requested from **Section 5.3.12.d** regarding temporary parking lot standards**:**

   Hardscape materials. All surfaces over the required lime-rock base, including, but not limited to, driveways, drive aisles, parking spaces and walkways, shall consist of pavers set in sand, grass pavers, or similar semi-pervious material. The use of asphalt, concrete or similar impervious surfaces shall be prohibited. However, concrete ribbons, in conjunction with a paver and landscape system, may be utilized to delineate drive

aisles, parking spaces, or to contain paver fields, subject to the review and approval of the planning department. In no instance shall the use of concrete ribbons exceed 20 percent of the lot area.

As the applicant is proposing to maintain the existing asphalt parking areas as a temporary parking lot. Section 5.3.12.d requires that temporary parking lots consist of pavers or similar semi-pervious materials. As this parking area is existing, and the applicant expect to redevelop the area soon, this represents a practical difficulty. As such, staff is not opposed to the proposed variance.

3. A variance requested from **Section 4.2.9.a.1** regarding temporary and provisional parking lot standards**:**

   At a minimum, the plan shall indicate a five-foot wide, landscaped area bordering the surface area along a property line, street, alley or sidewalk.

As the applicant is proposing to maintain the existing asphalt parking areas as a temporary parking lot. Section 3.2.9.a.1 requires that temporary parking lots have a five-foot wide landscape buffer. The existing parking lot provides landscape areas that are less than 5 feet. However, the applicant is proposing to provide dense landscaping in this area. As this parking area is existing, and the applicant expect to redevelop the area soon, this represents a practical difficulty. Given that this is a temporary condition and dense landscaping will be provided, staff is not opposed to the proposed variance.

RECOMMENDATION:

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

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: June 4, 2024

PROPERTY/FOLIO: **1801 Alton Road 02-3233-012-0090**

FILE NO: DRB24-1015

IN RE: An application has been filed requesting Design Review Approval for the construction of a new 1-story commercial building, including a variance from the minimum landscape requirement bordering a temporary or provisional surface parking lot abutting a property line, street, or sidewalk, and one or more waivers, replacing an existing two-story commercial building.

LEGAL: The East 50 feet of lot 6, Lot 10 LESS the North 2.8 feet thereof, and all of Lot 11, Block 11, of THE ALTON BEACH REALTY COMPANY'S PLAT OF ISLAND VIEW SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 6, Page 115. of the Public Records of Miami-Dade County, Florida, LESS those lands conveyed lo the City of Miami Beach by Deeds recorded in Deed Book 1343, Page 69 and Deed Book 1343, Page 74, of the Public Records of Miami-Dade County, Florida.

APPLICANTS: Santa Elena Holdings LLC

O R D E R

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 I, j, and 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 and 11 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 the proposed new one-story Commercial building at 1801 Alton Road shall be submitted, at a minimum, such drawings shall incorporate the following:

    a. 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 or way or adjacent properties shall be permitted.

    b. The Long Frontage Standards for new construction with non-residential uses on the ground floor on Alton Road and 18th Street, per sec. 7.1.2.2.g.2, of the Resiliency Code are waived as proposed.

    a. 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.

    b. The final details of all proposed storefront systems and associated details shall be provided for all of the structures 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.

    c. Any future tenant requiring kitchen ventilation shall chase ventilation through the interior of the building to the roof. No exhaust ducts or vents shall be permitted on any building elevations.

    d. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall screened from view on all sides, 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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    e. Pavers and concrete banding shall be utilized for the vehicular entry drive, including alternate colors of concrete banding in place of painted striping, 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, 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.

    g. A fully enclosed trash room shall be provided, which is sufficient to handle the maximum uses intended for the proposed structure.

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.

i. URBAN HEAT ISLAND ORDINANCE Section 7.5.3.2(g)(iv) new 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.

j. 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 shall be prepared by and bear the seal of a Landscape Architect licensed to practice in the State of Florida. The corresponding landscape plans shall be submitted to and approved by staff. At a minimum, landscape plans shall comply with Chapter 46 Tree Preservation and Protection Ordinance of the City Code and Chapter 4, Landscape Requirements of the Land Development Regulations and shall incorporate the following:

    a. Any existing canopy shade tree(s) on site with a caliper size of 4” of greater being impacted by the construction shall be carefully root pruned, protected and/or relocated. This shall not apply to prohibited tree species. A Tree Disposition Plan shall be provided for Planning staff review and approval prior to the issuance of a Building Permit.

    b. Prior to the issuance of a building permit, the applicant shall submit a tree survey and tree disposition plan that includes the approved tree protection fencing detail for existing mature trees and palms to remain. Such plans shall be subject to the review and approval of staff. A tree work permit shall be obtained prior to the removal of any existing trees and palms.

    c. In new construction projects, street trees are required within the public right of way. Street trees are in addition to the required lot trees according to the Chapter 2 Landscape Ordinance. All proposed street tree plantings shall be reviewed and approved by the Public Works Department and a right of way permit shall be obtained prior to any plantings in the right of way.

    d. Suspended paver systems such as Silva Cells or equal shall be installed where street trees are planted in right of way sidewalk and other hardscape areas in a manner to be reviewed and approved by staff. Suspended paver systems shall be clearly delineated in the landscape plans. Structural soils may be considered where proposed trees are located immediately adjacent to large open space areas.

    e. Root guards or barriers shall be installed to protect utilities and structures within close proximity of proposed tree plantings. The root guards shall be clearly delineated in the landscape plans and shall be reviewed and approved

by staff.

f. Irrigation systems shall be designed and installed corresponding to the water requirements of the proposed plantings and as required in the Chapter 2 Landscape Ordinance. The irrigation system shall be extended into the public right of way. A rain shut off device is required to be installed as part of the irrigation system.

a. 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.

b. 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.

g. Prior to the issuance of a Certificate of Occupancy, the Project Landscape 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 an application with the Planning Department for the following variance(s), which were either approved by the Board or Denied:

1. A variance from **Sec. 5.3.2.** to maintain existing 16-foot-long parking spaces that do not provide two (2) feet of pervious area overhang in place of wheel stops for a total length of 18 feet.

2. A variance **Sec. 5.3.12.d.** to maintain the asphalt hardscape of an existing parking area, instead of pavers set in sand, grass pavers, or similar semi-pervious material.

3. A variance from **Sec. 4.2.9.a.1** to maintain the existing landscape borders around a parking area, when five feet is required.

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 request**, 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. All new construction over 7,000 square feet shall comply with the "Green Building" requirements in section 7.1.3.2 of the Resiliency Code.

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. All allowable construction signage shall be in accordance with Section 6.3.2 of the Land Development Regulations.

D. 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.

E. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.

F. 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.

G. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.

H. 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.

I. 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.

J. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

K. 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.

L. 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.

M. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

N. 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 revised plans, entitled "New Single Story Commercial Building", as designed by **Gonzalez Architecture,** signed, sealed, and dated April 5, 2024, 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:_____
Rogelio A. Madan, AICP

Development & Resiliency Officer
For the Chair

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

The foregoing instrument was acknowledged before me this _____ day of _____ 20___ by Rogelio A. Madan, AICP, Development & Resiliency 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:
{NOTARIAL SEAL] Commission Number:

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

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