

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: September 05, 2017

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB17-0163
330 76th Street – Townhomes

The applicant, Delmar Investments LLC and Dronero Investments LLC, is requesting Design Review Approval for the construction of a new three-story townhouse building with mechanical parking on a vacant site, including one or more waivers, and variances from the minimum lot size required, to reduce the minimum required pedestal front, rear, and both sides setbacks, to reduce the required driveway width, to exceed the maximum area for a deck within the required rear yard, and to exceed the maximum projection allowed into required yards.

RECOMMENDATION:

Approval with conditions

Approval of the variances #1, #2, #3, #5, #6, #7, #8 and #9 with conditions.

LEGAL DESCRIPTION:

Lot 1 of Block 12, of "Altos Del Mar No.3", according to Plat thereof as recorded in Plat Book 8, Page 41, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RM-1

Future Land Use: RM-1

Lot Size: 5,497 SF*

***VARIANCE REQUIRED**

Proposed FAR: 6,866 SF/ 1.25*

Permitted FAR: 6,871 SF/ 1.25

*As represented by the applicant

Height:

Proposed: 30'-0" / 3-Story

Maximum: 50'-0" / 5-Story

Highest Projection: 40'-0"

Existing Use: Vacant Parcel

Proposed Use: Townhomes

Residential Units: 7 Units

Required Parking: 11 Spaces

Provided Parking: 11 Spaces (5 lifts)

Grade: +4.31' NGVD

Flood: +8.00' NGVD

Difference: 3.69' NGVD

Adjusted Grade: +6.15' NGVD

30" Above: +8.65' NGVD

Garage Elevation Clearance: 10.5' from BFE

Finished Floor Elevation: +9.00' NGVD

Surrounding Properties:

East: 2-story 1958 Multi-Family Building

North: 1-story 1953 Multi-Family Building

South: 2-story 1951 Multi-Family Building

West: 2-story 1946 Multi-Family Building

HISTORY:

On October 06, 2015, the Design Review Board reviewed and approved a new 3-unit townhouse project requiring multiple variances on the subject site, pursuant to DRB File No. 23202. That project never came to fruition.

THE PROJECT:

The applicant has submitted plans entitled "Proposed 3 Story Townhouse Building with 7 units and 11 Parking Spaces Final Submittal 07/06/17", as prepared by **Gustavo J. Ramos Architecture** dated, signed, and sealed 07/17/17.

The applicant is proposing to construct a new seven-unit townhome development on a vacant corner site.

The applicant is requesting the following waiver(s):

- 1- A minimum height of twelve (12) feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable may waive this height requirement by up to two (2) feet, in accordance with the design review or certificate of appropriateness criteria, as applicable. **The applicant is providing a clearance of 10'-6" from BFE+ 1'-0" freeboard.**

The applicant is requesting to utilize mechanical parking lifts. Apartment buildings with 20 apartment units or less may utilize mechanical lifts, in accordance with the review criteria of section 138-38(5).

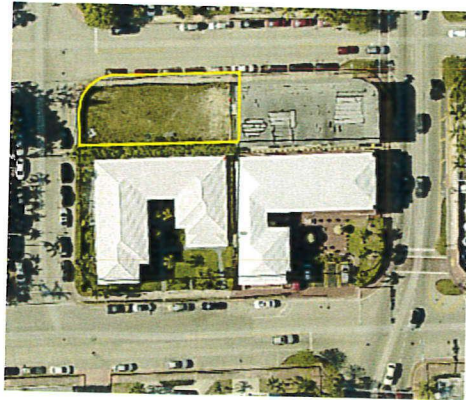
The applicant is requesting the following variance(s):

1. A variance to reduce 103 SF from the minimum required lot area of 5,600 SF within the RM-1 district in order to construct a three-story residential building on a property with a lot area of 5,497 SF.
 - Variance requested from:

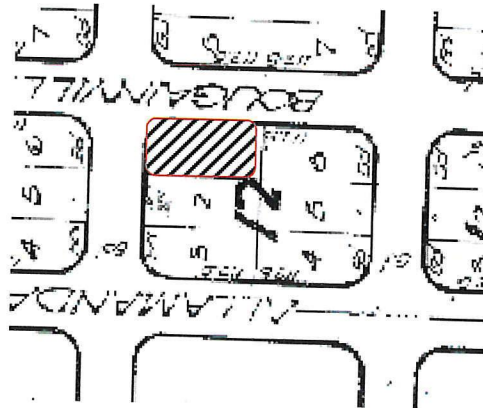
Sec. 142-155. - Development regulations and area requirements.

- (b) *The lot area, lot width, unit size and building height requirements for the RM-1 residential multifamily, low density district are as follows:*
Minimum Lot Area (Square Feet): 5,600

The subject property is a corner lot located in a block originally platted with 6 parcels. In this block, the two parcels facing 76th Street have remained as single lots and the adjacent sites to the south have joined developments including the interior lots. Other blocks in the area between 75th Street and 76th Street have similar conditions and were originally platted with smaller lot sizes than those typically found in the RM-1 zoning district. Without the granting of this variance, the construction of the proposed building would not be permitted and the site could not be developed as other lots in the same district. Based on the special conditions of the site, staff has no objections to the approval of variance #1 as it is the absolute minimum variance necessary to develop the site.



Current property view.



Original 1923 platted lots

2. A variance to reduce by 13'-0" the minimum required front pedestal setback of 20'-0" in order to construct a three-story residential building at 7'-0" to the closest point from the front property line facing Abbot Avenue.

- Variance requested from:

Sec. 142-156. Setback requirements.

The setback requirements for the RM-1 residential multifamily, low density district are as follows:

Subterranean and Pedestal, Front: 20 feet

The majority of the front of the building facing Abbott Avenue is proposed with a setback of 10'-6" from the front property line, except for portions at the corner radius of the site at 7'-0" and a protruding window box at the second level. The setback of 10'-6" of the predominant wall at the front façade is compatible with the front setback of other surrounding buildings. In analysing the immediate area of this portion of North Beach, the overwhelming majority of residential properties have front setbacks less than 10'-0" from the front property line. A larger setback of 20'-0" might break the established setbacks and character of the neighborhood. The shape of the corner that reduces the available area for development, and the undersized area of the lot are practical difficulties that create the need for the front setback variance. Based on this analysis, staff has no objections to the approval of variance #2.

3. A variance to reduce by 3'-9" the minimum required pedestal rear setback of 11'-3" in order to construct a three-story residential building with a rear setback of 7'-6" from the south property line.

- Variance requested from:

Sec. 142-156. Setback requirements.

The setback requirements for the RM-1 residential multifamily, low density district are as follows:

Subterranean and Pedestal, Rear: 10% of lot depth

The lot has an irregular non parallel lot lines and because the building is designed parallel to the street side line, the rear yard of the property has an angled shape with its narrowest setback at the southeast corner. The rear setback ranges from 7'-6" to 8'-9". The building façade is mostly solid except for the trash area at the ground level and a floor to ceiling fenestration on a portion of the second level. The reduced setback is not expected to have an adverse impact as the abutting property to the rear has a non-conforming rear setback of 5.3', as noted in the survey submitted. Other neighboring properties to the south and west have similar non-conforming rear setbacks. Staff has no objection to this request as the proposed 7'-6" setback is consistent and similar in scale and scope with the rear setback of the adjacent properties. Staff finds that the undersized lot with irregular shape and narrow width are existing conditions that create practical difficulties that result in this variance request. All of the existing three residential properties on this block have setbacks of 5'-0" approximately from the rear property line(s). Based on the established urban context of the surrounding area, staff has no objections to the approval of variance #3.

4. A variance to reduce by 0'-6" the minimum required pedestal street side setback of 7'-6" in order to construct a three-story residential building at 7'-0" from the street side property line facing 76th Street.

- Variance requested from:

Sec. 142-156. Setback requirements.

The setback requirements for the RM-1 residential multifamily, low density district are as follows:

Subterranean and Pedestal, Side Facing Street, Single lots less than 65 feet in width: 7.5 feet.

Most of the street façade exceeds the required setback of 7'-6" with a setback of 10'-2", and a reduction to 8'-6" at the second floor projecting fenestration. However, at the curved corner of the site, the angled facade has a setback of 7'-0" to the radial lot line, which requires this variance. The lot is substandard in area, with 50 feet in width and a round corner which makes the design of the project very challenging in order to provide minimum required parking and residential unit size. These special conditions as previously noted on variances #1, #2, #3 and #4 also in this case, create practical difficulties that result in this variance request. As the majority of the building façade on this side exceeds the required setback of 7'-6" and the reduction is for a minor portion of the building at the corner, staff has no objection to the approval of variance #4.

5. A variance to exceed by 0.35' NGVD the maximum allowable elevation for a porches, platforms and terrace projection of +8.65' NGVD (30" above adjusted grade) in order to construct entrance steps and porch at +9.00' NGVD at the front and street side yards.

- Variance requested from:

Sec. 142-1132. - Allowable encroachments within required yards.

(o)Projections. In all districts, every part of a required yard shall be open to the sky.

except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.

(6) Porches, platforms and terraces (up to 30 inches above the elevation of the lot.

The Code allows for porches, terraces and platforms to encroach within required yards, specially to provide access into and from the building. As the building code now requires the finished first floor to be at a minimum of +1' above the minimum base flood elevation, the 30" allowances prescribed under 142-1132(o) 'Projection' no longer is sufficient in some cases to compensate for the difference between the proposed finish floor, allowed with a range of 5' (freeboard) in height and sidewalk elevation. There is a difference of 4.69 between the finished floor and the sidewalk elevation. Although the finish floor is proposed at the minimum elevation required of 9.0', it still exceeds by 0.35' or 5 inches the maximum elevation allowed. Staff is supportive of this minor increase in elevation based on the fact that these elements are open to the sky and do not exceed the 25% projection allowance into the setback. In advance of the city's initiative towards more resilient building design, staff has no objections to the approval of variance #5.

6. A variance to exceed by 13% (1'-5") the maximum allowable projection of 25% (2'-7") for porches, platforms and terraces in order to construct an entrance platform and porch at 9.0' NGVD with 38% (4'-0") of encroachment into the proposed front yard, facing Abbott Avenue.

- Variance requested from:

Sec. 142-1132. - Allowable encroachments within required yards.

(o)Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.

Entrance steps are proposed at the front that exceeds the maximum 25% projection of the proposed front setback within the portion with 10'-6" setback. Based on the restrictions of the site previously noted, specifically the need to construct at a higher elevation and the conflict with the existing site elevations, this variance request satisfies the practical difficulties criteria for the granting of the variance. The variance pertains to the top portion of the stairs at 9.0' NGVD. The lower portions are considered as a walkway as they do not exceed the threshold for projections. Staff again is supportive of this variance and recommends approval.

7. A variance to exceed by 10% (57.6 sf) the maximum 30% (168.7 sf) area allowed for a deck in the required rear yard in order to construct a new three-story building with a deck/impervious surface of 40%, (226.3) within the rear yard.

- Variance requested from:

Sec. 142-1132- Allowable encroachments within required yards.

(j) Hot tubs, showers, saunas, whirlpools, toilet facilities, swimming pool equipment, decks. In all districts, hot tubs, showers, whirlpools, toilet facilities, decks and cabanas are structures which are not required to be connected to the main building but may be constructed in a required rear yard, provided such structure does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line.

This variance is associated with variance #3 for the reduction of the rear setback. As the building encroaches into the rear yard also the maximum area allowed for decks is compromised. Although the only additional element proposed is a walkway to the trash room, the footprint of the building and the walkway area exceeds the maximum area allowed within the technical rear yard. Based on the restriction in area for the property as previously noted, staff recommended approval of variance #3.

8. A variance to reduce 10'-0" from the minimum required drive width of 22'-0" in order to provide eleven (11) parking spaces with a driveway entry width of 12'-0".

- Variance requested from:

Sec. 130-64. - Drives.

Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic. For those grade level parking areas with less than ten parking spaces, inclusive of those parking areas underneath a building or structure, the curb-cut and driveway entrance shall have a minimum width of 12 feet.

This variance request is very common for many new developments on lots with 50 feet in width. In most residential areas, these lots were not platted and developed with parking on site. Some residential developments that were originally constructed with parking usually do not comply with the current parking design standards. The space required for parking, driveway and residential component facing the street are not likely provided in many sites with similar conditions. This variance request is one of the most common variance requested and has been granted numerous times. Because the parking area is for 11 cars, and complies with the curb-cut and driveway entrance minimum width of 12 feet for those grade level parking areas with less than ten parking spaces, inclusive of those parking areas underneath a building or structure, staff believes that this is a reasonable request in order to achieve the proposed design. Based on the established urban context of the surrounding area and the shape, size and width of the lot, staff has no objections to the approval of variance #8.

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 with the application comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land,

structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

- Section 142-155(3)(f)(A): A minimum height of twelve (12) feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable may waive this height requirement by up to two (2) feet, in accordance with the design review or certificate of appropriateness criteria, as applicable. **The design requires Design Review Board approval to waive 1'-6" of the clearance height.**
- Apartment buildings with 20 apartment units or less may utilize mechanical lifts, in accordance with the review criteria of Section 138-38(5).

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 2025 COMPREHENSIVE PLAN

A preliminary review of the project indicates that the proposed **multi-family residential** use appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

ACCESSIBILITY COMPLIANCE

Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building Construction). These and all accessibility matters shall require final review and verification by the Building Department prior to the issuance of a Building Permit.

CONCURRENCY DETERMINATION:

In accordance with Chapter 122 of the Code of the City of Miami Beach, the Transportation and Concurrency Management Division has conducted a preliminary concurrency evaluation and determined that the project does not meet the City's concurrency requirements and level-of-service standards. However, the City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division will make the determination of the project's fair-share mitigation cost.

A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the parcel does not comply with the minimum lot size required for the RM-1 Zoning District and will require a variance to develop the lot.
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.
Not Satisfied; the proposed project requires several variances and a design waiver from the Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the proposed project requires several variances and a design waiver from the Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.

Not Satisfied; the color palette for the stucco and metal window frames and railings can be enhanced.

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.

Not Satisfied; the proposed project requires several variances and a design waiver from the Board.

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.

Not Satisfied; the proposed project requires several variances and a design waiver from the Board.

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

Satisfied

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

Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

Not Satisfied; a lighting plan has not been submitted

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

Satisfied

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.
Not Applicable
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied; see below

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Satisfied
A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.
Satisfied
- (5) Whether 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, including a study of land elevation and elevation of surrounding properties were considered.
Not Satisfied
Sea Level Rise projections were not taken into account.
- (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.
Satisfied
- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.
Satisfied
- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.
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) Where feasible and appropriate, water retention systems shall be provided.
Not Satisfied

STAFF ANALYSIS:
DESIGN REVIEW

The subject site is a vacant corner parcel located within the boundaries of the North Shore National Register Historic District. The applicant is proposing to construct the vacant corner parcel with a contemporary (3) three-story, (7) seven-unit residential townhouse building

with private active roof decks and mechanical parking lifts. Vehicular access is off of 76th Street. Each unit has been designed with individual entrances and associated parking area and with the exception of the ground floor unit fronting Abbott Avenue consists of two floors of living area with a private roof top deck. The proposed project does require a design waiver and several variances from the Design Review Board.

The ground floor is occupied by a ground level entrance vestibule and the parking area with a second floor common area and third floor bedroom suites. Each unit has access to a private roof deck terrace. The seven units have been designed ranging from 848 SF to 1,093SF in size. The vacant parcel is currently surrounded by two, two-story MiMo buildings which were constructed in the 1950s and all of which have nonconforming front, rear and side setbacks. The proposed townhouse building is compatible and consistent with the scale and massing of the surrounding residential area, and the relaxed setbacks conform with the residential fabric of the neighborhood.

The project, as proposed, is designed with shifting volumes and architectural elements that work together to form a complemented and cohesive, well-articulated design. The architect has articulated the massing of the building by creating recesses and shifting the façade on the upper floor to create interest and scale. The provided breaks in the massing of the structure also help alleviate the impact of this structure into the existing urban context of its surrounding area. The required yards that surround the building, with the exception of entry steps, walkways and driveway, have been elevated to greater minimum yard elevation requirements, in advance of the city's initiative towards more resilient building design.

The non-mechanical parking scheme has been reviewed by Planning staff and meet the requirements of the design standards of the city code. Henceforth, the project may proceed to site plan approval utilizing mechanical parking. The allowable density and intensity of the uses permitted for the proposed project, do not exceed that which would have been permitted using the number of parking spaces noted on the set of plans using traditional parking. The interior garage utilizes mechanical lifts with a 10'-6" ceiling clearance from the base flood elevation plus minimum freeboard to the underside of the first floor slab. The code requires a minimum of 12'-0" but the Design Review Board may waive this height requirement by up to 2'-0". Staff is supportive of the waiver.

Staff would recommend that the exterior paint color selection and metal faming elements of the window and railings should be a lighter, more modern color finish selection such as more vivid paint hue for the stucco and a natural aluminum finish for the metal accent elements. In summary, staff commends the applicant for proposing a noteworthy design solution for this corner building. Staff would recommend approval of the design along with the above noted material finishes and color selection concerns.

VARIANCE REVIEW

The project is proposed on a substandard, irregular lot for which multiple variances are requested. Without the granting of the variance #1 (lot area), the construction of the proposed building would not be permitted and the site could not be developed as other lots in the same district (see 'Project' analysis). Variances #2, #3, #4, #7 and #8 are directly related to the site conditions noted on the project description. They are consistent with the setbacks and building line fabric of the existing MiMo buildings in the area. The construction

of the building at the proposed setbacks and reduced drive entrance is more compatible with the existing conditions in the immediate area.

Variances #5 and #6 are triggered by the conflict between the existing low site elevations and the minimum requirements to mitigate sea level rise impact. The building's design is challenged by the lot size, width and shape in relation to the building code standards of higher finished floor elevations requiring additional encroachments for elements typically permitted under allowable projections.

Staff finds that all variances requested are created by the site conditions associated with area, shape, and lot width in the neighborhood context. These variances are the minimum required to develop the site with a more resilient structure consistent with the City's direction. Further, these variances have been previously approved numerous times by the Design Review Board and the Board of Adjustment for properties with similar lot size and site conditions within the RM-1 district. In summary, staff recommends that the Board approve all variances requested.

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 criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria.

TRM/JGM

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: September 05, 2017

FILE NO: DRB17-0163

PROPERTY: **330 76th Street**

APPLICANT: Delmar Investments LLC and Dronero Investments LLC

LEGAL: Lot 1, Block 12, Normandy Island According to the Plat Thereof, as Recorded in Plat Book 8, Page **41**, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new three-story townhouse building with mechanical parking on a vacant site, including one or more waivers, and variances from the minimum lot size required, to reduce the minimum required pedestal front, rear, and both sides setbacks, to reduce the required driveway width, to exceed the maximum area for a deck within the required rear yard, and to exceed the maximum projection allowed into required yards.

ORDER

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1—6, and 9 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 3, 5, and 10 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/or Section 133-50(a) if the following conditions are met:

1. The use of mechanical parking lifts shall be approved as proposed. The following shall apply to the construction and operation of the proposed mechanical parking system:
 - a. The noise or vibration from the operation of mechanical parking lifts, or car elevators, shall not be plainly audible to or felt by any individual standing outside an apartment or hotel unit at any adjacent or nearby property. In addition, noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage;
 - b. For mechanical lifts, the parking lift platform must be fully load bearing, and must be sealed and of a sufficient width and length to prevent dripping liquids or debris onto the vehicle below;
 - c. All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage; vehicle elevators must have backup generators sufficient to power the system;
 - d. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift;
 - e. The ceiling heights of any parking level with parking lifts within the parking garage shall be a minimum of 11 feet by six inches;
 - f. All parking lifts shall be maintained and kept in good working order;
 - g. All mechanical parking systems, including lifts and elevators, must be inspected and certified as safe and in good working order by a licensed mechanical engineer at least once per year and the findings of the inspection shall be summarized in a report signed by the same licensed mechanical engineer or firm. Such report shall be furnished to the Planning Director and the Building Official;
 - h. The parking operation may be self-parking or valet. A restrictive covenant limiting the use of each lift to the same unit owner shall be submitted to the City Attorney for review and approval prior to a final Certificate of Occupancy or Business Tax Receipt, whichever occurs first.
2. Revised elevation, site plan and floor plan drawings for the proposed residential building shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department, in a manner to be reviewed and approved by staff.

- b. The minimum clearance height of the parking garage **shall be** waived as proposed.
 - c. 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.
 - d. All window frames shall be composed of silver, white or natural color anodized aluminum frames. All windows shall consist of clear glass and incorporate the minimum tint required by the energy code, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. A properly architecturally designed automatic overhead garage gate shall be required for the parking garage. The final design details and material sample of the roll down/security door/gate located at the entrance of the garage of the property shall be submitted. the property shall be further studied and refined in design, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. All exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
 - g. The final color selection of the exterior stucco elements shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
 - 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. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:

- a. 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. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- 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. The amount of paving within the required front yard shall not be greater than 50% of the required front yard.
- f. The architect shall substantially increase the amount of native canopy shade trees within the site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- g. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- h. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- i. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- j. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.

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

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

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 - 1. A variance to reduce 103 SF from the minimum required lot area of 5,600 SF within the RM-1 district in order to construct a three-story residential building on a property with a lot area of 5,497 SF.
 - 2. A variance to reduce by 13'-0" the minimum required front pedestal setback of 20'-0" in order to construct a three-story residential building at 7'-0" to the closest point from the front property line facing Abbot Avenue.
 - 3. A variance to reduce by 3'-9" the minimum required pedestal rear setback of 11'-3" in order to construct a three-story residential building with a rear setback of 7'-6" from the south property line.

4. A variance to reduce by 0'-6" the minimum required pedestal street side setback of 7'-6" in order to construct a three-story residential building at 7'-0" from the street side property line facing 76th Street.
 5. A variance to exceed by 0.35' NGVD the maximum allowable elevation for a porches, platforms and terrace projection of +8.65' NGVD (30" above adjusted grade) in order to construct entrance steps and porch at +9.00' NGVD at the front and street side yards.
 6. A variance exceed by 13% (1'-5") the maximum allowable projection of 25% (2'-7") for porches, platforms and terraces in order to construct an entrance platform and porch at 9.0' NGVD with 38% (4'-0") of encroachment into the proposed front yard, facing Abbott Avenue.
 7. A variance to exceed by 10% (57.6 sf) the maximum 30% (168.7 sf) area allowed for a deck in the required rear yard in order to construct a new three-story building with a deck/impervious surface of 40%, (226.3) within the rear yard.
 8. A variance to reduce 10'-0" from the minimum required drive width of 22'-0" in order to provide eleven (11) parking spaces with a driveway entry width of 12'-0".
- B. The applicant has submitted plans and documents with the application that satisfiess Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that the Board has concluded comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

- C. 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.

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

- A. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- B. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
- C. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
- D. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. 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.

- G. 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.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- I. 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 "Proposed 3 Story Townhouse Building with 7 units and 11 Parking Spaces Final Submittal 07/06/17", as prepared by **Gustavo J. Ramos Architecture** dated, signed, and sealed 07/17/17, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

