

# 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: DRB17-0149  
**7128 Indian Creek Drive**

The applicant, IC Property Capital Corp., is requesting Design Review Approval for the construction of a four-story hotel with artistic super graphics to replace an existing two-story building, including one or more waivers and variances to reduce the minimum required front, and both side setbacks for the building, to reduce the required width for a drive aisle, and to exceed the maximum elevation allowed within required yards.

#### **RECOMMENDATION:**

Approval with conditions

Approval of the variances #1, #2, #3, #4 and #5 with conditions.

#### **LEGAL DESCRIPTION:**

Lot 10 of Block 2 of "Normandy Beach South", according to the plat thereof filed for record and recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

|                           |   |
|---------------------------|---|
| Zoning:                   | TC-3 Town Center Residential Office                                 |
| Future Land Use:          | TC-3  |
| Lot Size:                 | 6,500 SF  |
| Lot Width:                | 58.8'   |
| Existing FAR              | 4,421 / 0.68  |
| Proposed FAR:             | <b>8,125 SF / 1.25</b>  |
| Maximum FAR:              | 8,125 SF / 1.25   |
| Proposed Height:          | 40'-1" from BFE   (4) four-story                                    |
| Maximum Height:           | 23'-0"   45'-0" from BFE + Freeboard (12.62' NGVD)   (4) four-story |
| #Hotel Units:             | 16  |
| #Parking spaces:          | 8   |
| CMB Grade:                | 4.08' NGVD*   |
| Base Floor Elevation:     | 8' NGVD   |
| Adjusted Grade Elevation: | 6.04' NGVD  |
| 30" (+2.5') Above:        | + 8.54' NGVD  |
| Parking level Elevation:  | 3.21' NGVD  |
| Finished First Floor:     | 12.62' NGVD   |

\*As indicated on submitted survey.

**EXISTING STRUCTURE:**

1936 L. Murray Dixon | 2-story residential building | 8 units

**Surrounding Properties:**

East: Calvary Chapel of Miami Beach

North: Six-story 1979 residential building "Boni Vista Two Condo"

South: Two-story 1937 residential building

West: Four-story 1978 residential building "Boni Vista Condo"

**THE PROJECT:**

The applicant has submitted plans entitled "7128 Indian Creek Drive", as prepared by **Laure Tirouflet Architecture** dated, signed and sealed June 20, 2017.

The applicant, IC Property Capital Corp., is Design Review Approval for the construction of a four-story hotel with artistic super graphics to replace an existing two-story building, including variances.

The applicant is requesting the following variance(s):

1. A variance to reduce by 5'-0" the minimum required pedestal interior side setback of 10'-0" in order to construct the parking structure at 5'-0" from the north side property line.
2. A variance to reduce by 5'-0" the minimum required pedestal interior side setback of 10'-0" in order to construct the parking structure, entrance steps and elevator at 5'-0" from the interior south side property line.

- Variances requested from:

**Sec. 142-737. Development regulations.**

*(b) Setback requirements: The minimum setback requirements for the TC-1, TC-2 and TC-3 districts are as follows. This includes all buildings, regardless of use, and subterranean parking structures. The minimum setbacks define the buildable area of the lot.*

*District: TC-3 Town Center Residential Office, Interior Side: 7.5 feet for buildings up to 33 feet in height; 10 feet for buildings 33 feet or more in height; 10 feet for lots abutting a TC-1 district*

The project requires 8 parking spaces to be provided on a site with irregular shape. The orthogonal width of the lot is 50' that creates challenges to design the parking spaces and required clearances while maintaining the required setbacks. In this case, the parking structure shall be setback 10' from both side property lines resulting in a remaining width of 30' to design the parking and drives. Based on this, the required parking at the property, basically on any direction would be almost impractical to fit. The parking area is substantially contained within the site and minimally visible from the street. Most of the upper structure complies with the sides and rear setbacks required, except for a portion of the entrance steps and elevator on the south side, part of variance #2. The reduced setbacks of 5' at the ground level should not have any negative impact on the adjacent properties as it is for a reduced number of parking spaces (8 parking spaces). Staff finds that the width and

irregular shape of the lot create the practical difficulties resulting on the need for the variances #1 and #2.

3. A variance to reduce by 6'-8" the required front setback of 32'-0" for the portion of the building above 23'-0" in height in order to construct the 4<sup>th</sup> floor and upper structure at 25'-4" from the front property line facing Indian Creek Drive.

- Variance requested from:

**Sec. 142-737. – Development regulations.**

*(a) The development regulations in the TC-1, TC-2 and TC-3 town center districts are as follows:*

*District: TC-3 Town Center Residential Office, Maximum Building height: The facade of buildings facing the lot front adjacent to streets shall not exceed 23 feet in height to the top of the roof deck. Any portion of the building above 23 feet shall be set back an additional 1 foot for every 1 foot in height above 23 feet.*

As the building is proposed parallel to the side property lines, the irregular shape at the front creates variable front setbacks that conflict with the design of rectangular standard rooms. As proposed, the required 32' front setback above 23' is substantially exceeded on the south east corner of the building, but not at the north corner, where 25'-4" is proposed. The setback reduction is for a triangular shape affecting almost half of the front façade at the 4<sup>th</sup> level. The existing irregular shape of the lot satisfies the practical difficulties associated with this variance request. As the reduction in the setback is not substantial staff is supportive of the variance.

4. A variance to exceed by 3.46' the maximum allowable elevation of 8.54' NGVD (30" above adjusted grade) within the side yards in order to construct access steps up to 12.0' NGVD in the south side yard.

- 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, unless otherwise noted.*

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

The site has a sidewalk elevation or grade of 4.08' NGVD, base flood elevation is established at 8.0' NGVD and the first finish floor is proposed at 12.6' NGVD. There is a difference of more than 7' from the sidewalk elevation and the proposed finish floor. In order to access the building from the front and rear, multiple steps and stairs are proposed on the south side. The Code allows the encroachment of these elements with a limited elevation based on grade and base flood elevations for the site. The side yard portion along the building of the main access steps are part of this variance and the proposed elevations along the 5-foot side yard complies with the high requirements. Staff finds that the need to incorporate freeboard to mitigate sea level rise concerns, and the existing elevations of the site create the practical difficulties that result in the variance requested.

5. A variance to reduce by 2'-0" the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide eight (8) parking spaces with an interior drive aisle of 20'-0".

- Variance requested from:

**Sec. 130-63. Interior aisles.**

Interior aisles shall meet or exceed the following minimum dimensions permitted:

90° parking—22'-0"

The Code allows parking spaces with a length of 16' instead of the typical 18' length for lots with a width of 50' or less. The site has a parallelogram shape at the front and because the lot width is measured at 20' setback parallel to the front property line, the technical lot width of the site is 58.8', although the orthogonal portion of the site has a width of 50'. This requires that the parking spaces shall be 18' in length instead of 16' resulting in a reduction of 2' to the driveway for perpendicular parking. The reduction of the driveway is created by the shape and lot width of the property. Staff believes that the reduced driveway associated with 8 parking spaces would not have a negative impact on the operation of the parking area or on the adjacent neighboring properties. Staff recommends that this variance request be approved.

**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 satisfy compliance 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, aside from the requested variances.

- The conditional uses in the TC-3 district are **hotel**, adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; and commercial or noncommercial parking lots and garages.

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.

**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.  
**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.  
**Not Satisfied; the project requires several variances**
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 project requires several variances**
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.  
**Not Satisfied; the project requires several variances**
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.  
**Not Satisfied; the project requires several variances including the reduction of the required 22'-0" width for perpendicular parking**
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; lighting plans not included**
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.

**Satisfied**

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 will be provided as part of the submittal for a demolition permit to the building department.**

- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

**Satisfied**

**All windows will be replaced with hurricane proof impact windows.**

- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

**Not Satisfied**

**A plan identifying passive cooling systems has not been provided.**

- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

**Satisfied**

**All new landscaping will consist of Florida friendly plants.**

- (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.

**Satisfied**

**Sea Level Rise projections were taken into account. The site is not in an area that will be significantly impacted by Sea Level Rise within the adopted projection timeframes.**

- (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.

**Not Satisfied**

**The project contains below grade parking.**

- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

**Satisfied**

**All critical mechanical and electrical systems will be located on the roof of the structure, including the air-conditioning units.**

- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

**Satisfied**

- (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**

**The building will not contain any habitable space located below the base flood elevation.**

- (10) Where feasible and appropriate, water retention systems shall be provided.

**Not Satisfied**

**STAFF ANALYSIS:**  
**DESIGN REVIEW**



The applicant is proposing the construction of a new four-story hotel with parking on a semi-underground floor that will replace an existing two-story eight unit apartment building. The subject property is a 6,500 SF parallelogram-shaped lot with angled front and rear property lines along the terminus of Indian Creek Drive, two properties south of the canal. It is located in the Town Center Residential Office District, or TC-3, of North Beach, two blocks east of Normandy Isle. The TC-3 district is intended as a transition district between high-intensity town center core and low-intensity residential multi-family districts. While the main permitted uses in this district are single-family detached dwellings, townhomes, apartments and offices, the district allows for hotels as a conditional use. The applicant has submitted an application to the Planning Board, PB17-0115, and is scheduled for the September 26, 2017 Planning Board meeting.

The project consists of a sixteen room hotel designed in a compact, contemporary manner. The four story hotel is comprised of an open below grade ground floor dedicated to parking and accessed by a drive located in the north portion of the front property line, three levels of rooms, and an amenity roof deck with a swim spa and lounge area. The main entrance to the hotel is accessed by a terraced walkway along the south side of the property, as well as by an elevator within the level 1 garage. The south elevation contains a glazed curtain wall that is encased in an operable, folding sunscreen that reads similarly to breeze block screens popular in mid-century architecture. With a central double-loaded circulation corridor, the hotel rooms are planned along the perimeter of the building.

With an angular front and rear yard setback, the hotel is massed to address with the lot's unique shape, as the four-story rear façade follows its setback at an angle to the corners, where curved walls and staircases transition to the side facades. The front façade is treated differently. Aside from the restriction imposed by the oddly shaped lot, the front façade also additional setbacks: a pedestal setback and a tower setback.

The façade is composed of two dominant volumes. The first volume measures 23'-0" high and cantilevers over a ground floor that is detailed with a solid mosaic wall and a garage entry. Stepping back to comport to the shape of the site, the protruding portion of the volume is glazed in glass and veiled with the same folding sunscreen as the side elevation. The recessed portion of the 23'-0" high volume is modestly detailed in stucco with large windows set to the side along the north edge. The secondary front façade volume is set back to comport with Code's regulations for tower heights and setbacks, and rises to the building's ultimate height of 40'-1". The applicant is requesting a variance to reduce the required setback of the second front façade volume from 32'-0" to 25'-0".

Additionally, the applicant is proposing the installation of a series of super graphics on the south and east elevations. Along Indian Creek Drive, the most prominent façade element of the hotel is a unique architectural surface—a folding sunscreen inspired by the Emiliano Hotel in Rio de Janeiro. The folding sunscreen is a powder coated white cast metal system that can be opened and closed in accordion-like ways at varying times and locations. This screen continues along the side (east) façade and becomes the major face of the hotel at this interior location. Beneath the screen on the front façade is an artistic mosaic at the base of the building. Composed in a palette of white and blue glass and ceramic tiles, the design intent is to recall the allegory of the ocean. The abstract design of the waves and the ocean amplifies the floating effect of the cantilever of the building above. Along the side façade, the architect has clad the vertical elevator shaft in a similar choice of white and blue glass

and ceramic tiles. The architect has artistically realized the façade treatment as a series of cascading tropical leaves and palm frawns, unmistakably inspired from Miami native flora, and directly applied to the vertical element. All of the proposed artistic super graphics applied to the façades are artistically done and heighten the architecture of the building.

#### **VARIANCE REVIEW**

The subject property is an irregular rhomboid-shaped interior lot containing an existing two-story, eight unit apartment building front loaded with surface parking. The applicant is proposing a new compact sixteen-unit hotel building including a pool and accessible roof deck as the principal amenity. As part of the project, several variances are requested for the construction of the four-story structure.

Variances #1, #2 and #5 are related to the parking area at the ground floor. Due to the irregular configuration of the property, and the fact that there is only one street access, parking is typically the most affected area when designing a building with the existing site conditions. The applicant is proposing a reduction of the side setbacks for the parking structure and the drive aisle width.

Variance #3 is also triggered by the lot configuration, specifically the parallelogram portion of the front. As the Code requires additional front setback above 23' in height, a portion of the fourth floor closer to the lot line does not comply with the setback required. The southeast side of the front façade however, exceeds the setback required.

As the project also incorporates freeboard to mitigate any negative impact of future sea level rise, conflicts are found with the existing low site elevations that create the need for variance #4 to exceed the maximum elevation allowed in required yards. The front features the vehicular entry and elevated pedestrian access from the street is located at the south side away from the street. This variance is directly related to the difference in elevation between the site elevations and the proposed finish floor.

Staff is supportive of all the variances as they are the minimum necessary to develop the site and make a reasonable use of the land. The existing site conditions create the practical difficulties that justify the granting of the variances

#### **RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **approval** of the design and variances #1, #2, #3, and #4, subject to the following 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, as applicable.

TRM/JGM/IV

**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: September 05, 2017

FILE NO: DRB17-0149

PROPERTY: 7128 Indian Creek Drive

APPLICANT: IC Property Capital Corp.

LEGAL: Lot 10 of Block 2 of "Normandy Beach South", according to the plat thereof filed for record and recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a four-story hotel with artistic super graphics to replace an existing two-story building, including one or more waivers and variances to reduce the minimum required front, and both side setbacks for the building, to reduce the required width for a drive aisle, and to exceed the maximum elevation allowed within 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 2, 3, 5, 8, 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, 2, 3, 5, 6, 9, and 10 in Section 133-50(a) of the Miami Beach Code
- D. The project would remain consistent with the criteria and requirements of Section 118-251 and/or Section 133-50(a) if the following conditions are met:

1. The proposed hotel use shall be subject to a Conditional Use Permit (PB17-0115) approval by the Planning Board and subject to the conditions enumerated in the Final Order for the conditional use.
2. The artistic super graphics along the east and south façades shall be permitted as proposed. Any minor change to incorporate such imagery may be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. Any substantial alterations or deviations from the artistic imagery approved herein either now or in the future shall be reviewed by the Design Review Board as a new application., in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board:
  - a. The artistic super graphics shall be maintained by the applicant, 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 design details of all the folding sunscreen 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.
  - c. The final design details of all the folding ceramic and glass tile 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. The final exterior surface color scheme of the artistic super graphics, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
3. Revised elevation, site plan and floor plan drawings for the proposed hotel 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. A fully enclosed, air-conditioned trash room shall be provided, which is sufficient to handle the maximum uses intended for the proposed structure. External dumpsters shall not be permitted.
  - 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.
4. 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 by 5'-0" the minimum required pedestal interior side setback of 10'-0" in order to construct the parking structure at 5'-0" from the north side property line.
  - 2. A variance to reduce by 5'-0" the minimum required pedestal interior side setback of 10'-0" in order to construct the parking structure, entrance steps and elevator at 5'-0" from the interior south side property line.
  - 3. A variance to reduce by 6'-8" the required front setback of 32'-0" for the portion of the building above 23'-0" in height in order to construct the 4th floor and upper structure at 25'-4" from the front property line facing Indian Creek Drive.
  - 4. A variance to exceed by 3.46' the maximum allowable elevation of 8.54' NGVD (30" above adjusted grade) within the side yards in order to construct access steps up to 12.0' NGVD in the south side yard.

5. A variance to reduce by 2'-0" the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide eight (8) parking spaces with an interior drive aisle of 20'-0".

- B. The applicant has submitted plans and documents with the application that satisfies 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. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.
- F. 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.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. 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 "7128 Indian Creek Drive", as prepared by **Laure Tirouflet Architecture** dated, signed and sealed June 20, 2017 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.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
JAMES G. MURPHY  
CHIEF OF URBAN DESIGN  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

Approved As To Form:

City Attorney's Office: \_\_\_\_\_ ( )

Filed with the Clerk of the Design Review Board on \_\_\_\_\_ ( )

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