

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: October 03, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB17-0155
1414 West Avenue

The applicant, 1414 West Avenue LLC, is requesting Design Review Approval for the construction of a new 5-story multifamily building with mechanical parking on a vacant site, including one or more waivers.

RECOMMENDATION:

Approval with conditions

LEGAL DESCRIPTION:

Lots 4, 5, and 6, Block 79C, of Alton Beach Realty Company's Bay Front Subdivision, According to the Plat Thereof, as Recorded in Plat Book 16, Page 1, of the Public Records of Miami-Dade County, Florida.

BACKGROUND

On October 19, 2004, the Design Review Board reviewed and approved a new five-story, fourteen-unit multi-family residential structure, pursuant to DRB File No. 18002. Prior to this, on May 20, 2003 the DRB reviewed and approved the same multi-family residential structure, pursuant to DRB File No. 16959. However, the applicant failed to obtain a Full Building Permit within the required one (1) year time frame, and an extension of time was not requested. A foundation permit was approved on December 24, 2003, and construction had commenced in this regard but again the applicant failed to obtain a building permit in the allocated timeframe; as such both the DRB orders and original permit expired.

On November 01, 2011 the Design Review Board reviewed and approved a new four-story multifamily building, pursuant to DRB File No. 22876. A building permit (B1202545) had been issued for that project. After several exterior changes to the design were conceived by the applicant, the architect met with staff who then determined that the proposed modifications were significant enough, particularly the alterations to the height and the proposed activation of the rooftop, to require the review and approval of the DRB. On October 07, 2014, the DRB approved modifications to the building, including the incorporation of an additional floor and active roof deck. Additional modifications were approved on April 07, 2015. The applicant failed to obtain a building permit in the allocated timeframe; as such both the DRB orders and original permit expired.

The final design and configuration, last shown and approved by the DRB, is very similar to the application herein.

SITE DATA:

Zoning: RM-1 (Multifamily, Low Intensity)
Future Land Use: RM-1 (Multifamily, Low Intensity)
Lot Size: 15,952 SF
Proposed FAR: 19,851 SF / 1.24 as represented by the applicant
Maximum FAR: 19,940 SF / 1.25
Proposed Lot Coverage: **60% (9550 SF)***
Maximum Lot coverage: 45% (7,178 SF)
***DRB WAIVER**
Proposed Height: 46'-3" from BFE +1 (55'-3" NGVD to top of roof slab)
(58'-3" NGVD to top pool deck)
(71'-9" NGVD to highest projection)
Maximum Height: 50'-0" / 5 stories
Proposed Use: Multi-Family Residential
Residential Units: 14 units
Parking Spaces: 14 spaces (+11 mechanical lifts)

SURROUNDING PROPERTIES:

East: Surface parking lot
North: Five-story multifamily building
South: Two-story multifamily / office building
West: Five-story multifamily building

THE PROJECT:

The applicant has submitted plans entitled "Fourteen 14 Final Submittal", as prepared by **Urvan X** signed, sealed and dated August 11, 2017.

The applicant is poposing a new five-story, fourteen-unit residential building, with mechanical parking lifts.

The appicant is requesting the following design waiver(s):

1. The lot coverage of the proposed structure is **60%** in accordance with Section 142-155.

CONSISTENCY WITH COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

A preliminary review of the project indicates that the proposed **residential use** appears to be **consistent** with the Future Land Use Map of the CDMP.

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):

- Apartment buildings with 20 apartment units or less may utilize mechanical lifts, in accordance with the review criteria of Section 138-38(5).
- The West Avenue Overlay District restricts lot aggregation to no more than two lots

in the RM-1 district. The recently adopted amendments to the RM1 zoning regulations limits lot aggregation to no more than two lots in all RM-1 districts, with an exception for affordable and workforce housing. **The applicant has a title deed recorded in Miami Dade Records dated April 15, 2003, identifying the subject property as lots 4, 5, and 6 of Block 79C.**

- **Sec. 142-155. - Development regulations and area requirements (3)(e) Lot Coverage.** The maximum lot coverage for a lot or lots greater than 65 feet in width shall not exceed 45%. In addition to the building areas included in lot coverage, as defined in section 114-1, Impervious parking areas and impervious driveways shall also be included in the lot coverage calculations. The design review board or historic preservation board, as applicable may waive the lot coverage requirements in accordance with the design review or certificate of appropriateness criteria, as applicable. The applicant is requesting a lot coverage of 60%.

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.

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.

Satisfied

2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Satisfied
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the proposed design is seeking a lot coverage waiver of 60%.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Satisfied
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Satisfied
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
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 have not been provided.

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

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.
N/A
- (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.
Satisfied; All windows will be operable.
- (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.
Satisfied; Plans reflect adopted sea level rise projections in the SE FL Regional Climate Plan by raising yard elevations and building elevations above base flood levels.
- (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; Design has taken into consideration the projected public right-of-way heights and will not create "bath tub" effect.
- (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.
N/A

- (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 Satisfied; Elevator pits will be designed with flood proofing

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

Not Satisfied; as part of the civil engineering design will provided at time of permit.

STAFF ANALYSIS:
DESIGN REVIEW

The subject site is a vacant corner parcel, consisting of three lots, located within the boundaries of the West Avenue Overlay District. The applicant is proposing to construct a contemporary five-story, fourteen-unit residential building with private active roof decks. The building incorporates the use of mechanical parking lifts. The architect has modified a prior design configuration that was previously approved by the DRB in 2015, while incorporating new RM-1 zoning requirements and standards. Having worked with the architect on numerous occasions, the proposal herein is a concise plan with all of the units facing the street, active pedestrian activity at ground level, and the parking area has been adequately concealed within the shell of the building. Through the multiple meetings with the project architect, significant changes have been made to the design of the building, including relocating the elevator shaft from the north face of the building to its current location set back to the south side of the open corridors.

The applicant has also provided generally good movement within the mass of the structure and the contemporary architectural language is consistent with new building construction in the immediate area. The surrounding neighborhood is comprised of a variety of building types, ranging from older single family homes and two-story apartment buildings to more recently constructed five-story multifamily buildings. Although the subject site is large (3 lots), there are a number of ways that the architecture of the proposed new structure has addressed the built context of the immediate area and broke up the massing of the building.

A breakdown of the floor plan is delineated hereto:

Level One:	Garage entrance and lobby entrance along 14 th Terrace mail, trash and 2 dwelling units along West Avenue, sized 658 SF and 870 SF
Level Two:	4 dwelling units ranging in size 1,058SF-1,326SF
Level Three:	4 dwelling units ranging in size 1,058SF-1,326SF
Level Four:	4 dwelling units ranging in size 1,058SF-1,326SF
Rooftop:	4 private decks for level below units and pooldeck amenity level for all units

Staff notes the architect has incorporated the resysta wood cladding system to complement the smooth white stucco finish, which does help minimize the overall massing of the building and provided much needed scale.

The parking scheme has been reviewed by Planning staff and meet the requirements of the design standards of the city code—14 spaces provided for 14 units on a RM-1 zoned lot greater than 65'-0" with units less than 1,600SF in size. 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. Further, the interior garage utilizes mechanical lifts with a 13'-0" 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". Staff is supportive of the use of mechanical lifts.

Finally, the applicant is requesting a lot coverage of 60% where 45% is now required as part of the RM-1 zoning regulations. Ordinance amendments to the RM-1 zoning regulations were recently adopted, which modified many aspects of the multifamily zoning requirements, including a lot coverage limitation. This lot coverage restriction takes into consideration the proposed increases in building and parking setbacks, as well as the decrease in parking requirements that were also part of the new code amendments. The DRB may waive this requirement in accordance with the Design Review Criteria. As previously mentioned in the 'Background' portion of the analysis, the proposed project has been in design development since 2003 in various architectural iterations, but more or less, consistent in massing, scope, density and height. The lot coverage maximum is proposed to be exceeded as the design of the project was carried over from the previous code. The extra lot coverage is being used to provide the enclosed garage. Additional landscape areas are being provided on the second level deck to compensate for the additional lot coverage. In this particular instance, staff is supportive of the waiver for lot coverage since the architect complies with the remaining aspects of the amended ordinance since the first submittal deadline.

Since the previous meeting, the applicant has addressed all of staff's design concerns pertaining to the roofdeck and staff is supportive of the overall design of the project and the modifications executed by the architect. Specifically, the new architectural team has eliminated the redundant second stairwell that flanked the front façade and re-oriented many of the rooftop elements so that cohesively, the design modifications since the prior approval, alleviate the "top-heavy" feel of the building that was previously seen in the design.

Staff recommends approval of the design as proposed, including the lot coverage waiver.

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.

TRM/JGM

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: October 03, 2017

FILE NO: DRB17-0155

PROPERTY: **1414 West Avenue**

APPLICANT: 1414 West Avenue LLC

LEGAL: Lots 4, 5, and 6, Block 79C, of Alton Beach Realty Company's Bay Front Subdivision, According to the Plat Thereof, as Recorded in Plat Book 16, Page 1, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new 5-story multifamily building with mechanical parking on a vacant site, including one or more waivers.

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. 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 9 in Section 118-251 of the Miami Beach Code.
- 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 Sea Level Rise Criteria 9 and 10 in Section 133-50(a) of the Miami Beach Code.
- C. 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. Revised elevation, site plan and floor plan drawings shall be submitted to and reviewed by staff, at a minimum, such drawings shall incorporate the following:
 - a. Any fence or gate at the front and street side of the property shall be designed in a manner consistent with the architecture of the new structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. All covered portions of the exterior spiral stair(s) shall be included towards the total FAR of the project. Revised FAR drawings shall be required to reflect this increase as part of the building permit plans.

- c. The proposed lot coverage of **60% shall be** waived as proposed and shall not be increased at time of building permit.
- d. Further details of the railings and handrails shall be provided for all balconies and terraces in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and shall require a separate permit
- e. The final design and detailing of the exposed stairwells shall be fully developed, including the selection of high-quality, durable materials and finishes.
- f. The final design and details for all railings and grillwork shall be provided, including materials and finishes.
- g. Bike racks shall be required.
- h. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required.
- i. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from pedestrian view, in a manner to be reviewed and approved by staff, consistent with the Design Review Criteria and/or the directions from the Board..
- j. 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
- k. 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
- l. 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
- m. 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

- n. 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
 - o. 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
 - p. 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. Street trees, including irrigation and up-lighting shall be required both on West Avenue and 14th Terrace, within the public right-of-way, in a manner to be reviewed and approved by staff.
 - b. All exterior walkways shall consist of decorative pavers, set in sand or other semi-pervious material, subject to the review and approval of staff.
 - c. All landscape areas abutting driveways and parking areas shall be defined by decorative bollards.
 - d. 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.
 - e. The utilization of root barriers and/or structural soil, as applicable, shall be clearly delineated on the revised landscape plan.
 - f. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow prevention devices. Backflow prevention devices shall not be permitted within any required yard or any area fronting a street or sidewalk, unless otherwise permitted by the Land Development Regulations. The location of all backflow prevention devices, and how they are screened 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. The fire department shall require a post-indicator valve (PIV) visible and accessible from the street. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all post-indicator valves (PIV), fire department connections (FDC) and all other related devices and fixtures, which shall be clearly indicated on the site and landscape plans.

- g. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms; such transformers and vault rooms, and all other related devices and fixtures, shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of any exterior transformers, 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.
- h. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect for 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)

- II. No variance(s) were filed as part of this application.

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 or ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area 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. During construction work, the Applicant will maintain gravel at the front of the construction site to mitigate disturbance of soil and mud by related personal vehicles existing and entering the site and with an 8'-0" high fence with a wind resistant green mesh material along the front of the property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The Applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- D. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.

- E. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- F. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- G. 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.
- H. 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.
- I. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- J. 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 "Fourteen 14 Final Submittal", as prepared by **Urvan X** signed, sealed and dated August 11, 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

