

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

MEETING DATE: October 03, 2017

FILE NO: DRB17-0165

PROPERTY: **6881 Indian Creek Drive**

APPLICANT: 6881 Indian Creek LLC

LEGAL: All of Block K of "Atlantic Heights", according to the plat thereof filed for record and recorded in Plat Book 9 at Page 14 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for exterior alterations and modifications to an existing two-story building and the construction of a new outdoor bar and storage area and pool, including variances to reduce the minimum required front and side facing a street setbacks, from the maximum projection allowed for a porch and roof overhang, from the minimum hotel unit size required, and to allow encroachments closer to property lines adjacent to streets than permitted.

**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**

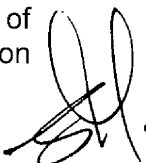
- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information 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, 9, and 19 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, 7, 8, 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 and the accessory bar shall be subject to a Conditional Use Permit approval by the Planning Board and subject to the conditions enumerated in the Final Order for the conditional use.
2. Revised elevation, site plan and floor plan drawings for the proposed hotel building located at 6881 Indian Creek Drive 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 final color selection of the exterior elements shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
  - c. 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.
  - d. The color of the monument sign shall not be the brightly colored or lit and that the base of the monument should have landscaping, No exterior disconnect switches shall be allowed. Any required electric switchbox shall be placed inside the structure not visible from the right-of-way
  - e. The final details and material of the pool decking shall consist of a wood or coral stone and 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.
  - f. The final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - g. All 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.
  - h. The architect shall further refine the street side elevation of the accessory building and shall be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - i. The final design details and material sample of the trash room security door/gate located at the street side of the accessory building shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.



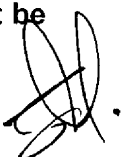
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- j. All exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
  - k. 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.
  - l. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
  - m. 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.
3. 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 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.
- f. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- g. 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.
- h. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- i. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- j. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- l. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- m. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

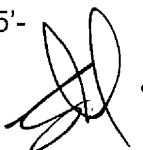
**In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or 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 from the minimum required hotel unit size: 15% of the hotel units shall be between 300-335 s.f. and 85% of units shall be 335 s.f. or larger, in order to permit 29 hotel units (96.6%) at less than 300 s.f. (the smallest at 203 s.f.), and 1 hotel unit between 300 s.f. and 335 s.f. (3% of the units).
2. A variance to reduce by 11'-8" the minimum required front setback of 15'-0" in order to construct a new exterior stair at 3'-4" from the front property line facing Byron Avenue.
3. A variance to reduce by 14'-9" the minimum required front setback of 15'-0" in order to construct a new exterior stair at 3" from the front property line facing Indian Creek Drive.
4. A. A variance to reduce by 4'-10" the minimum required street side setback of 10'-0" in order to construct a new exterior stair at 5'-2" from the street side property line facing 69th Street.  
  
B. A variance to reduce by 4'-9" the minimum required street side setback of 10'-0" in order to construct a new detached accessory structure at 5'-3" from the street side property line facing 69th Street.
5. A variance to reduce by 4'-6" the minimum required front setback of 10'-0" in order to construct a new detached monument sign at 5'-6" from the front property line facing Byron Avenue.
6. A variance to reduce by 4'-3" the minimum required front setback of 10'-0" in order to construct a new detached monument sign at 5'-9" from the front property line facing Indian Creek Drive.
7. A. A variance to exceed by 6" (12.5%) the maximum allowed projection of 1'-0" (25%) for roof overhangs within the existing front yard of 4'-0" in order to construct a new roof with a roof overhang of 1'-6" (37.5%) into the front yard facing Indian Creek Drive.  
  
B. A variance to exceed by 3" (4%) the maximum allowed projection of 1'-3" (25%) for roof overhangs within the existing front yard of 5'-2" in order to construct a new roof with a roof overhang of 1'-6" (29%) into the front yard facing Byron Avenue.
8. A variance to reduce by 14'-0" 5'-0" the minimum required side setback of 15'-0" in order to construct a pool deck at 4'-0" 10'-0" from the front property line facing Indian Creek Drive. (Modified Variance)
9. A variance to allow the construction of new stairs encroaching within the first 5'-0" from the property lines facing Byron Avenue and Indian Creek Drive.



- 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 submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the proximity of the building structures and monument sign to the public right-of-way.
- B. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. 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.
- E. 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.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "The Devon Hotel", as prepared by **DNB Design Group** dated, signed and sealed 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 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.

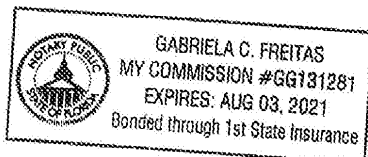
Dated this 06 day of October, 2017.

DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]  
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 6 day of October, 2017 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.



[Signature]  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: 8-3-21

Approved As To Form: [Signature] (10/6/17)  
City Attorney's Office: [Signature]

Filed with the Clerk of the Design Review Board on [Signature] (10/6/17)

[Signature]