

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: March 06, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB17-0195
8701 Collins Avenue

The applicant, 8701 Collins Development LLC, is requesting Design Review Board approval for the construction of perimeter walls and fences including variances to reduce the required pedestal rear, side and sum of the side setbacks, to reduce the required side setbacks within the Oceanfront Overlay District, to exceed the maximum height allowed for a fence within required yards and within the Dune Preservation and Oceanfront Overlay Districts.

RECOMMENDATION:

Approval of the variances with modifications.

LEGAL DESCRIPTION:

See attached Exhibit "A"

HISTORY:

On April 23, 2014, the City Commission adopted an Ordinance creating a new height category in the Residential Multifamily, Medium Intensity (RM-2) Zoning district for Oceanfront lots located within 150 feet of North Shore Open Space Park, which permits a maximum allowable height of up to 21 stories or 200 feet. On October 29, 2014 the City Commission approved the vacation of the portion of 87th Terrace and 87th Street (on the east side of Collins Avenue).

On March 3, 2015, the property received Design Review Board approval for the construction of a new twenty-story residential building to replace an existing hotel building, pursuant to DRB File No. 23129.

At the February 06, 2018 DRB meeting, the item was continued to the March 06, 2018 DRB meeting at the request of the applicant.

SITE DATA:

Zoning:	RM-2
Future Land Use:	RM-2
Lot Size:	101,179 SF
Approved FAR:	1.99 / 202,057 SF
Maximum FAR:	2.0 202,358 SF
Proposed Height:	200'-0"
Maximum Height:	200'-0"

EXISTING STRUCTURE:

Site under Construction

NEIGHBORING LAND USES:

East: Atlantic Ocean

North: City of Surfside

South: North Shore Open Space Park

West: Surface Parking lot

THE PROJECT:

The applicant has submitted revised plans entitled "8701 COLLINS AVE", as prepared by **STANTEC** dated, signed, and sealed 02/12/2018.

The applicant is proposing to construct perimeter walls and fences on the north, south and east sides of the property for which variances are requested.

The following variances are requested for the project:

1. A variance to reduce all required pedestal side setback of 18'-4" in order to construct a perimeter wall along the south side property line and up to 10'-0" (18.0' NGVD) in height as measured from grade elevation of 8.0' NGVD and to construct the adjacent grade up to 13'-0" NGVD.
2. A variance to reduce all required pedestal side setback of 18'-4" in order to construct the adjacent grade on the north side up to 13'-0" NGVD.
3. A variance to eliminate all required sum of the side pedestal setbacks of 36'-8" in order to construct a perimeter wall and the adjacent grade up to the side property lines.
 - Variance requested from:

Sec. 142-218. Setback requirements.

The setback requirements in the RM-2 residential multifamily, medium intensity district are as follows:

Pedestal, Side Facing a Street — Sum of the side yards shall equal 16% of lot width. Minimum — 7.5 feet or 8% of lot width, whichever is greater.

A new perimeter fence is proposed along the south property line facing the beach access at 87th Street. The fence consists of a concrete wall base with approximately 5'-0" of glass on top and a maximum height of 10'-0" as measured from the sidewalk elevation. As the wall exceeds the maximum height the Board can approve for a fence, a setback variance for a structure is required. The project set the first floor slab and adjacent grade on both sides up to 13'-0" NGVD (5'-0" above flood elevation of 8'-0' NGVD) in order to address future sea level rise. The Code allows for this height increase for the finish floor of the building only, not to the required side yards. The side yards slope from the sidewalk elevation of 8'-0" to 13'-0" on the midpoint of the property and then slope down toward the east side to match the beach walk elevation. A setback variance is also required for the elevated structure in the required side yards.

The fence starts with a lower height of 1'-0" from the sidewalk, then increases up to 4'-0", and then 10'-0", which starts at a setback of 69'-0" from the front property line, and continuing at this height up to the Oceanfront Overlay District at the rear. At the higher grade elevation of 13'-0", the fence will be approximately 5-foot in height from the adjacent grade, but perceived taller in areas where the adjacent grade slopes downward. Staff finds that practical difficulties exist when adjusting the allowable fence height which is required to be measured from the sidewalk elevation to higher grade elevations for properties raising the side yards. In this case, the raised yard elevations are consistent with the redevelopment of the adjacent North Shore Open Space Park to the South, for which staff is supportive of the variances requested, conditioned to a modification on the height of the fence to be not higher than 5'-0" as measured from the adjacent grade along the beach walk access on the south side of the fence. Further, staff would also recommend that glass fencing adjacent to the beach access on any portion of the property be eliminated, as this will result in an ongoing maintenance problem.

4. A variance to reduce by 12'-4" the required side setback of 15'-0" within the Oceanfront Overlay District in order to construct a wall at a minimum setback of 2'-8" from the south property line and up to 10'-0" (18.0' NGVD) in height as measured from grade elevation of 8.0' NGVD.
 - 5.A A variance to reduce all required side setback of 15'-0" within the Oceanfront Overlay District in order to construct a wall along the northeast property line up to 11'-0" (19.0' NGVD) in height as measured from grade elevation of 8.0' NGVD.
 - B. A variance to reduce by 6'-0" the required side setback of 15'-0" within the Oceanfront Overlay District in order to construct a wall at 9'-0" from the northeast property line up to 11'-0" (19.0' NGVD) in height as measured from grade elevation of 8.0' NGVD.
- Variances requested from:

Sec. 142-802. - Additional regulations for oceanfront lots.

These regulations apply to buildings and structures located west of the bulkhead line. Oceanfront lots shall have a minimum required rear yard setback of 50 feet at grade and subterranean levels measured from the bulkhead line in which there shall be no construction of any dwelling, hotel, apartment building, commercial building, seawall, parking areas, revetment or other structure incidental to or related to such structure except in accordance with the following provisions:

(3) There shall be a minimum required 15-foot setback from a side lot line and a minimum required ten-foot setback from the bulkhead line.

The perimeter fence along the south side proposed at a height of up to 18'-0" NGVD to the top of wall will extend up to the Oceanfront Overlay District, which ends 50 feet west from the Bulkhead Line. Structures located within this area shall be setback 15'-0" from the side property lines. The proposed fence, part of variance #4, is setback from 2'-8" to 3'-0" from the side property line, and is approximately 10 feet in height from grade (8'-0" NGVD) which exceeds the maximum height the Board can approve for a fence facing the right of way. Therefore, a fence at the proposed height is required to comply with the setback requirements for the Oceanfront Overlay District. As the adjacent grade along this area will be raised to approximately 12'-0" NGVD, and sloping down, the proposed fence is approximately 6'-0" in height as view from the beach walk. Staff is supportive of this variance with the modification that the height of the fence is reduced to no higher than 5'-0" from the adjacent elevation of the beach walk access on the south side.

Variance # 5A and #5B are also for walls located within the Oceanfront Overlay District on the interior northeast side yard. The walls at approximately 11'-0" in height from grade (8'-0" NGVD) exceed the maximum height the Board can approve for a fence, therefore, they are considered structures required to comply with the 15'-0" side setback required in the overlay district. As the exterior grade elevation on the northeast County's property is about 11'-0" NGVD, the walls will be approximately 7'-0" and 8'-0" in height.

The applicant has submitted revised plans showing modifications to the height for variances 5A and 5B. The fence height has been reduced from 19'-0" to 15'-9" at the lowest point and 18'-0" at the highest point. However, with the new proposal variances for a fence are still required as the maximum height for a fence at these locations is 15'-0" NGVD. Staff has no objections to the modifications that would provide a fence not higher than 7'-0", as measured from the adjacent exterior grade which is the maximum fence height acceptable without a variance for a fence on the interior side yards.

6. A variance to exceed by 3'-0" the maximum permitted height of 5'-0" for a wall/fence facing a public right-of-way in order to construct a perimeter fence up to 8'-0" in height (16'-0" NGVD) as measured from grade elevation of 8'-0" NGVD on the north, south and east sides of the property within the Oceanfront and Dune Overlay Districts.
7. A variance to exceed by 2'-0" the maximum permitted height of 7'-0" for a wall/fence within the interior side yard in order to construct a wall up to 9'-0" in height (17'-0" NGVD) as measured from grade elevation of 8'-0" NGVD on the northeast side of the property within the Oceanfront Overlay District.
8. A variance to exceed by 3'-0" the maximum permitted height of 7'-0" for a wall/fence within the rear yard in order to construct a glass wall and portions of a concrete wall up to 10'-0" in height (18'-0" NGVD) as measured from grade elevation of 8'-0" NGVD on the northeast side of the property.
9. A variance to exceed by 3'-0" the maximum permitted height of 5'-0" for a wall/fence within the side yard facing a right-of-way in order to construct glass walls up to 8'-0" in height (16'-0" NGVD) as measured from grade elevation of 8'-0" NGVD on the south side yard of the property.

- Variances requested from:

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

(h) Fences, walls, and gates. Regulations pertaining to materials and heights for fences, walls and gates are as follows:

(1) All districts except I-1:

b. Within the required rear or side yard, fences, walls and gates shall not exceed seven feet except when such yard abuts a public right-of-way, waterway or golf course, the maximum height shall not exceed five feet.

Variance #6 is related to a cable fence along the east property line and along the north and south sides of the Overlay Districts at the rear of the site. The maximum height allowed for a fence facing a right of way and measured from the sidewalk elevation is 5'-0" or in this case up to 13'-0" NGVD. The finish yard elevations adjacent to the fence will range from approximately 8'-0" NGVD to 10'-0" NGVD. Based on these elevations, the proposed fence with a constant elevation of 16'-0" NGVD will be approximately 6'-0" to 8'-0" in height as

viewed from the adjacent elevations. A modification to lower the height of the fence from 16'-0" to 15'-6" has been submitted; however, the proposal does not contemplate the changes in elevation along the beach walk. In addition, the grading plan (page 13), as noted in the index of drawings on page 2 has not been submitted in the latest submittal as a reference and staff is not clear whether a change in elevation is conceived along the north, south or beach walk sides. Staff again, acknowledges the practical difficulties related to the height requirements for a fence based on the sidewalk elevation and the relative elevations of the finish surfaces at the specific fence location for which staff is supportive of the variance with a minor modification that the total height of the fence does not exceed the maximum 5'-0" allowed from the adjacent elevation along the beach walk along the east side.

Similarly, variances #7 and #8 relate to fences located on the interior and rear north yards have the same issues with a higher adjacent grade than the sidewalk elevation. In this case the adjacent grade will be approximately 11'-0" NGVD and the fences proposed are 6'-0" and 7'-0" in height from the adjacent grade. The Code allows up to 7'-0" in height for fences within the rear and interior yards. Therefore, staff is supportive of the variances #7 and #8 as requested.

Variance #9 is related to a glass fence and glass railing within the south side yard with a top elevation of 16'-0" NGVD. Based on the sidewalk elevation they exceed the maximum 5'-0" allowed at the property line and also the maximum 7'-0" when setback 4'-0" from the property line. However, as measured from the adjacent grade of 11'-0" NGVD and 13'-0" NGVD, the fences comply with the maximum height allowed. Again, based on the difference between the sidewalk elevation and the finish grade along the elements, staff is supportive of the variance requested, provided the glass railing be replaced with an open metal fence.

10. A variance to reduce all required rear setback of 7'-6" in order to construct portions of a wall up to the rear (northeast) property line and up to 11'-0" (19'-0" NGVD) in height as measured from grade elevation of 8'-0" NGVD.

- Variance requested from:

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

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

This variance pertains to a concrete wall within the non-oceanfront northeast rear yard. The fence is proposed at 19'-0" NGVD and the maximum allowed is 15'-0" NGVD. As the Board can only approve a height variance of up to 3'-0", the proposed wall requires a setback variance for an accessory building. The fence will be approximately 7.7' in height, as measured from the elevated adjacent exterior grade of 11.3' NGVD. Staff is supportive of the variance, again based on the difference between the sidewalk elevation of 8'-0" and the adjacent exterior grade elevation of 11.3' NGVD. However, staff would recommend that the

fence be reduced in height to 7'-0" as measured from the adjacent exterior grade of 11.3' NGVD.

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 consistent with the City Code, aside from the requested variance(s). The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

CONSISTENCY WITH COMPREHENSIVE PLAN:

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

ACCESSIBILITY COMPLIANCE

Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building

Construction). These and all accessibility matters shall require final review and verification by the Building Department prior to the issuance of a Building Permit.

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 proposed project requires a variance from the Design Review Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the proposed project requires a variance from the Design Review Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
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 proposed project requires a variance from the Design Review Board.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the proposed project requires a variance from the Design Review Board.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.

Satisfied.

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

Satisfied

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

Not Applicable

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.

Not Applicable

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; the proposed fence is a transparent picket style design.

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.

Not Applicable

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

Not Applicable

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).

Satisfied

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied.
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Applicable

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 Applicable
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Not Applicable
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Not Applicable
- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.
Not Applicable
- (5) Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.
Not Applicable
- (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 Applicable
- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

Not Applicable

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

Not Applicable

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

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

Not Applicable

STAFF ANALYSIS:

The site is located in the northernmost portion of the city, and previously received Design Review approval for the construction of a 20-story residential building on March 3, 2015, pursuant to DRB File No. 23129. The property contains the former right-of-way of 87th Terrace east of Collins Avenue. The project obtained a building permit under BC1703668, approved on June, 2017.

As part of the development agreement with the City, a beach access to the north, east and south of the site are provided with perimeter walls and fences that separate the residential function from the public pedestrian access. The project has been approved with the incorporation of a freeboard of 5'-0" for a raised structure and the applicant is raising the required side yards up to same elevation of the first floor for which variances are also requested. As the height of perimeter walls or fences located within required yards shall be measured from the sidewalk elevation, the raising of the building structure and yards to ensure minimal impact with future sea level rise create practical difficulties when constructing walls or fences close to higher grade elevations, as it results in lower fence structures at specific locations. In order to provide adequate privacy and security for the property, walls and fences are required higher than those on properties with lower elevations.

The revisions submitted to lower the fence height for variances #5A, #5B and #6 are slight modifications and although staff is supportive of all variances requested, we strongly recommend that the proposed structures incorporate variations in height, as the grade slopes up and down to not exceed the maximum height allowed based on the adjacent exterior grade, as noted in the project section of this report.

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 and Practical Difficulty and Hardship criteria.

Exhibit "A"

LEGAL DESCRIPTION:

The land referred to herein below is situated in the County of Miami-Dade, State of Florida, and is described as follows:

All of Block 1; all of Block 10; and that portion of what was known as Airoso Way lying and including between the West line of said Block 1, and the East line of said Block 10; all of ALTOS DEL MAR NO. 2, according to the Plat thereof, recorded in Plat Book 4, Page 162, of the Public Records of Miami-Dade County, Florida; together with all right, title and interest in that land lying between the Easterly boundary of Block 1, of ALTOS DEL MAR No. 2, according to the Plat thereof, as recorded in Plat Book 4, Page 162, of the Public Records of Miami-Dade County, Florida, and the Erosion Control Line, according to the Plat thereof, recorded in Plat Book 105, Page 62, of the Public Records of Miami-Dade County, Florida.

TRM/JGM/IV

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: March 06, 2018

FILE NO: DRB17-0195

PROPERTY: **8701 Collins Avenue**

APPLICANT: 8701 Collins Development LLC.

LEGAL: See Attachment "A"

IN RE: The Application for Design Review Approval Design Review Board approval for the construction of perimeter walls and fences including variances to reduce the required pedestal rear, side and sum of the side setbacks, to reduce the required side setbacks within the Oceanfront Overlay District, to exceed the maximum height allowed for a fence within required yards and within the Dune Preservation and Oceanfront Overlay Districts

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, and 6 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 not applicable with Sea Level Rise Criteria in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met
 1. Revised elevation, site plan and floor plan drawings for the proposed fencing at 4000 Alton Road shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

- a. The final finished color of the fence shall be limited to natural aluminum or silver or grey.
- b. Final details of all fencing shall be required, 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 proposed 'curly' detailing at the top of the fence shall be removed and substituted with a standard picket detail, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- d. No 'points' or 'spearheads' shall be permitted on top of the vertical pickets.
- e. Any new 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.
- f. 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.
- g. 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.

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.

I. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 1. A variance to reduce all required pedestal side setback of 18'-4" in order to construct a perimeter wall along the south side property line and up to 10'-0" (18.0' NGVD) in height as measured from grade elevation of 8.0' NGVD and to construct the adjacent grade up to 13'-0" NGVD.
 2. A variance to reduce all required pedestal side setback of 18'-4" in order to construct the adjacent grade on the north side up to 13'-0" NGVD.
 3. A variance to eliminate all required sum of the side pedestal setbacks of 36'-8" in order to construct a perimeter wall and the adjacent grade up to the side property lines.
 4. A variance to reduce by 12'-4" the required side setback of 15'-0" within the

Oceanfront Overlay District in order to construct a wall at a minimum setback of 2'-8" from the south property line and up to 10'-0" (18.0' NGVD) in height as measured from grade elevation of 8.0' NGVD.

- 5.A A variance to reduce all required side setback of 15'-0" within the Oceanfront Overlay District in order to construct a wall along the northeast property line up to 11'-0" (19.0' NGVD) in height as measured from grade elevation of 8.0' NGVD.
- B. A variance to reduce by 6'-0" the required side setback of 15'-0" within the Oceanfront Overlay District in order to construct a wall at 9'-0" from the northeast property line up to 11'-0" (19.0' NGVD) in height as measured from grade elevation of 8.0' NGVD.
- 6. A variance to exceed by 3'-0" the maximum permitted height of 5'-0" for a wall/fence facing a public right-of-way in order to construct a perimeter fence up to 8'-0" in height (16'-0" NGVD) as measured from grade elevation of 8'-0" NGVD on the north, south and east sides of the property within the Oceanfront and Dune Overlay Districts.
- 7. A variance to exceed by 2'-0" the maximum permitted height of 7'-0" for a wall/fence within the interior side yard in order to construct a wall up to 9'-0" in height (17'-0" NGVD) as measured from grade elevation of 8'-0" NGVD on the northeast side of the property within the Oceanfront Overlay District.
- 8. A variance to exceed by 3'-0" the maximum permitted height of 7'-0" for a wall/fence within the rear yard in order to construct a glass wall and portions of a concrete wall up to 10'-0" in height (18'-0" NGVD) as measured from grade elevation of 8'-0" NGVD on the northeast side of the property.
- 9. A variance to exceed by 3'-0" the maximum permitted height of 5'-0" for a wall/fence within the street side yard in order to construct glass walls up to 8'-0" in height (16'-0" NGVD) as measured from grade elevation of 8'-0" NGVD on the south side yard of the property.
- 10. A variance to reduce all required rear setback of 7'-6" in order to construct portions of a wall up to the rear (northeast) property line and up to 11'-0" (19'-0" NGVD) in height as measured from grade elevation of 8'-0" NGVD.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, as it relates to Variances II.A.1A and II.A1B allowing the granting of the variances 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 also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, as it relates to the variances as noted above:

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.
2. All fences and walls part of the variances requested shall not exceed the maximum height allowed by the Code, as measured from the adjacent exterior grade, in a manner to be reviewed and approved by staff.
3. All glass on fences and walls adjacent to the beach access on any portion of the property shall be replaced with an open metal fence, in a manner to be reviewed and approved by staff.

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 final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

- C. 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.
- D. 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. 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 "8701 COLLINS AVE", as prepared by **STANTEC** dated, signed, and sealed 02/12/2018, 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

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

Exhibit "A"

LEGAL DESCRIPTION:

The land referred to herein below is situated in the County of Miami-Dade, State of Florida, and is described as follows:

All of Block 1; all of Block 10; and that portion of what was known as Airoso Way lying and including between the West line of said Block 1, and the East line of said Block 10; all of ALTOS DEL MAR NO. 2, according to the Plat thereof, recorded in Plat Book 4, Page 162, of the Public Records of Miami-Dade County, Florida; together with all right, title and interest in that land lying between the Easterly boundary of Block 1, of ALTOS DEL MAR No. 2, according to the Plat thereof, as recorded in Plat Book 4, Page 162, of the Public Records of Miami-Dade County, Florida, and the Erosion Control Line, according to the Plat thereof, recorded in Plat Book 105, Page 62, of the Public Records of Miami-Dade County, Florida.

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