

MIAMI BEACH

PLANNING DEPARTMENT

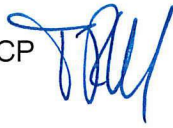
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: September 04, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB18-0294
355 76th Street

DRB18-0294, 355 76th Street. The applicant, Nord Developers LLC, is requesting Design Review Approval for the construction of a new three-story townhouse building to replace a one-story duplex building, including one or more waivers, and variances to exceed the maximum elevation and maximum projection for allowable encroachments into required yards and to exceed the maximum height for railings in required yards.

RECOMMENDATION:

Approval with conditions

Approval of the variances #1, #2, and #3

HISTORY:

On April 11, 2018, the City Commission adopted the North Beach National Register Conservation District Overlay, which approved modifications to the RM -1 zoning district for those properties within the North Beach National Register District. One of the primary purposes of the zoning overlay district was to ensure that the scale and massing of new development would be consistent with the established context of the existing residential neighborhoods and maintain the low-scale, as-built character of the surrounding neighborhoods. The subject property falls within the North Shore area of the Conservation Overlay District.

LEGAL DESCRIPTION:

Lot 6 of Block 11, of "Altos Del Mar No.3", according to Plat thereof as recorded in Plat Book 8, Page 41, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RM-1
Future Land Use: RM-1
Lot Size: 5,546 SF*

***according to applicant**

Proposed FAR: 6,901 SF/ 1.24
Permitted FAR: 6,940 SF/ 1.25

Height:
Proposed: 40'-6" / 3-Story*
Maximum: 45'-0" / 3-Story
Highest Projection: 40'-6"

***waiver required**

Existing Units: Duplex
Proposed Units: 7 Units

Required Parking: 0
Provided Parking: 6 Spaces
Grade: +4.3' NGVD
Flood: +8.00' NGVD
Difference: 3.7' NGVD
Adjusted Grade: +6.15' NGVD
30" Above: +6.8' NGVD
Garage Clearance: 10'-0" from BFE+1*
***waiver required**
Finished Floor Elevation: +9.00' NGVD

EXISTING STRUCTURE:

Year: 1953
Architect: Gilbert Fein

SURROUNDING PROPERTIES:

East: 3-story 1936 Residential Building
North: 1-story 1936 Residential Building

South: VACANT (2-story 2017 Residential Building: DRB17-0163)
West: 1-story 1937 Residential Building

THE PROJECT:

The applicant has submitted plans entitled "Proposed New3 Story Townhouse Building with 7 units and 6 Parking Spaces Final Submittal 07/06/18", as prepared by **Gustavo J. Ramos Architecture** dated, signed, and sealed 07/06/18.

The applicant is proposing to construct a new seven-unit townhome development on a corner site that currently contains a one-story duplex structure.

The applicant is requesting the following waiver(s):

- 1- WAIVER: A minimum height of twelve (12) feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable may waive this height requirement by up to two (2) feet, in accordance with the design review or certificate of appropriateness criteria, as applicable. **The applicant is providing a clearance of 10'-0" from BFE+ 1'-0" freeboard.**
- 2- WAIVER: The maximum building height for new construction shall be 32 feet for the first 25 feet of building depth, as measured from the minimum required front setback, and a maximum of 45 feet for the remainder of the building depth. The Design Review or Historic Preservation Board, as applicable, may allow for up to the first 32 feet in height to be located within the first 20 feet of building depth, as measured from the minimum required front setback. **The applicant is providing the first 32 feet in height to be located within the first 20 feet of building depth.**

The applicant is requesting the following variance(s):

1. A variance to exceed by 7" (12%) the maximum allowed projection of 1'-3" (25%) for ornamental features within the rear (east) yard of 5'-0" in order to construct a new fin ornamental feature with an overhang projection of 1'-10" (37%) into the rear (east) yard.

- Variance requested from:

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

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

(5) Ornamental features

The Code allows for certain elements such as balconies, roof overhangs and ornamental

features, to encroach within required yards. The architect is proposing a 1'-10" overhang and an ornamental frame, which would be an allowable encroachment 25% of the previous required rear yard of 7'-6". At staff's design recommendation, the architect "pushed back" the structure from 7'-6" to 5'-10' in order to alleviate the massing from both street sides. In doing so, the architectural element no longer comports with the allowable encroachment projection amount. The design of the rectangular structure is sited parallel to the front and side street property lines. The subject site's geometry has a slight taper to it, resulting in a rear setback that varies from 5'-10" at the northern portion to 5'-0" at the southern edge of the building. Staff is supportive of this minor setback encroachment of less than 7" for a minor portion of the architectural ornamental element. The proposed element is consistent with the defining architectural features commonly found on the existing MiMo buildings in the area, and as such, staff is supportive of variance #1.

2. A variance to exceed by 1.01' the maximum height of 8.65' NGVD for allowable encroachments within the front yard in order to construct steps and landing platform at 9.66' NGVD within the front yard of 10'-0" facing Abbott Avenue.
3. A variance to exceed by 1.01' the maximum height of 8.65' NGVD for allowable encroachments within the street side yard in order to construct steps and landing platform at 9.66' NGVD within the street side yard of 5'-0" facing 76th Street.

- Variances requested from:

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

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

(6) Porches, platforms and terraces (up to 30 inches above the elevation of the lot, as defined in subsection 142-105(a)(1)e.

The variances pertain to the top portion of the stairs at 9.66' NGVD located within the 10'-0" front yard and within the 5'-0" street side yard. The lower portions are below the maximum height and are considered as a walkway as they do not exceed the threshold for projections. As the building code now requires the finished first floor to be at a minimum of +1' above the minimum base flood elevation, the 30" high allowance prescribed under 142-1132(o) 'Projection', in this case, is no longer sufficient to compensate for the difference between the minimum required finish floor elevation at 9.00' NGVD, and the existing sidewalk elevation at 4.3' NGVD. The finish floor is proposed slightly higher at 9.66' with a difference of 5.3' in reference to the sidewalk elevation. This condition imposes practical difficulties when designing the access to the building within the limited yards of 10' at the front and 5' on the street side. Staff would note that the proposed finish floor is allowed up to 5'-0" above the flood elevation of 8.0' resulting in a finish floor elevation of 13.0' NGVD.

Because the building finish floor is set at a minimum height (9.66' NGVD) and the grade elevation is an existing site condition, staff is supportive of these variances. Staff would also note that the steps at the front yard and the steps on the street side yard are well below the maximum 25% projection allowed. Staff again is supportive of these variance requests as they satisfy the practical difficulties criteria for the granting of a variance.

4. A variance to exceed by 1'-11" the maximum height of 7'-0" (10.3' NGVD) for a fence located within the front and street side yards in order to construct guard rails at a height of 8'-11" (13.16' NGVD) as measured from grade of 4.3' NGVD.

- Variance 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:

a. Within the required front yard, fences, walls and gates shall not exceed 5'-0". The height may be increased up to a maximum total height of 7'-0" if the fence, wall or gate is setback from the front property line. Height may be increased 1'-0" for every 2'-0" of setback.

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

Guardrails for steps and landings are required when the difference in elevation between two adjacent surfaces are higher than 30", as per the Florida Building Code. In this case, the difference between the sidewalk elevation and the finish floor elevation is 5.3', which requires additional railings for safety reasons. In this case, again, the existing grade elevation and the finish floor elevation create the practical difficulties that result in the variance requested. This type of variance has been previously approved by the DRB and BOA in other projects with similar site conditions. As such, staff recommends approval of the variance #4.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

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

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the

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

- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

COMPLIANCE WITH ZONING CODE:

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

1. **Section 142-155(3)(f)(A):** A minimum height of twelve (12) feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable may waive this height requirement by up to two (2) feet, in accordance with the design review or certificate of appropriateness criteria, as applicable.
2. **Section 142-882(c)(1):** The maximum building height for new construction shall be 32 feet for the first 25 feet of building depth, as measured from the minimum required front setback and a maximum of 45 feet for the remainder of the building depth. The Design Review or Historic Preservation Board, as applicable, may allow for up to the first 32 feet in height to be located within the first 20 feet of building depth, as measured from the minimum required front setback.
3. Apartment buildings with 20 apartment units or less may utilize mechanical lifts, in accordance with the review criteria of Section 138-38(5) provided the parking area is accessed from a rear alley and secure storage for alternative transportation such as scooters, bicycles, and motorcycles is provided on site.
4. **STAIRWAY:** Proposed stairway on ground floor, underside of Unit 6 and 7, must be included towards FAR (**slab and each riser**).

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

CONSISTENCY WITH 2025 COMPREHENSIVE PLAN

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

ACCESSIBILITY COMPLIANCE

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

CONCURRENCY DETERMINATION:

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

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

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the proposed project requires several variances and waivers from the Board.
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the proposed project requires several variances and waivers from the Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the proposed project requires several variances and a design waiver from the Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.

Not Satisfied; the proposed project requires several variances and waivers from the Board.

5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.

Not Satisfied; the proposed project requires several variances and waivers from the Board.

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.

Not Satisfied; the proposed project requires several variances and waivers from the Board.

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

Satisfied

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

Satisfied

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

Not Satisfied; a lighting plan has not been submitted

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

Satisfied

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

Satisfied

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied; see below

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

- (1) A recycling or salvage plan for partial or total demolition shall be provided.

Not Satisfied

A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.

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

Satisfied

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

Satisfied

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

Satisfied

- (5) Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.

Not Satisfied

Sea Level Rise projections were not taken into account.

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.

Satisfied

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

Satisfied

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

Not Applicable

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

Not Applicable

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

Not Satisfied

STAFF ANALYSIS:

DESIGN REVIEW

The subject site is located within the boundaries of the newly adopted North Beach National Register Conservation (NBNRC) District Overlay. The proposed NBNRC District Overlay is composed of area specific regulations that are intended to incentivize the retention of existing 'Contributing' buildings, as well as ensure that new infill buildings are compatible with their surroundings. The applicant is proposing to replace an existing one-story duplex

structure with a contemporary (3) three-story, (7) seven-unit residential townhouse building with private active roof decks. The parking requirements were recently eliminated for residential development on RM-1 lots with less than 65'-0" of lot width. However, should an applicant choose provide on-site parking, any enclosed parking would not count towards the overall FAR of the building. The applicant is proposing six enclosed parking spaces on the ground floor that are accessed from a 10'-0" curb cut off of 76th Street.

Each residential unit has been designed with individual entrances accessed from a common outdoor porch walkway. The porch is flush with the first finish floor of the townhomes. The porch slab cantilevers beyond the primary massing of the building, exposing a base detailed with mosaic tile. The shared porch promotes walkability, safety, and social integration at the ground level.

The front elevation is designed in a contemporary style with shifting volumes and architectural elements that differentiate the individual townhomes, as well as provide movement across a predominately long, rectangular façade. Each townhome unit is bookended by a slender, smooth stucco tower wall that rises beyond the main building volume to the roof terrace. Recessed from the stucco wall, bronze clad windows, at times accented with partial stucco brise-soleils, dominate each unit's façade. The side elevations of the building are modest with scored stucco walls and varied types of window and door openings. The proposed townhouse building is compatible and consistent with the scale and massing of the surrounding residential area.

With an intent to minimize potential conflict with the existing streetscape, and to allow for new buildings to blend seamlessly into the MIMO fabric of the area, the new ordinance regulates that buildings along the front property line step back in increased setback tiers to create variable front setbacks. The maximum building height for new construction is limited to 32 feet for the first 25 feet of building depth, as measured from the minimum required front setback, and a maximum of 45 feet for the remainder of the building depth. The proposal herein includes a stairwell element within the first 20 feet of building depth. As such, the applicant is requesting a waiver to allow for the first 32 feet in height to be located within the first 20 feet of building depth. The setback reduction is for a nominal rooftop element that affects about 10'-0" of the rooftop façade at the 3rd level. As the reduction in the setback is not substantial and the overall design is well-harmonized with the area, staff is supportive of the waiver.

The interior garage been designed with a 10'-0" ceiling clearance from the base flood elevation plus minimum freeboard to the underside of the first floor slab. The code requires this non-habitable transition area to have a minimum of 12'-0" clearance height, with the DRB having the authority to waive this height requirement by up to 2'-0". Staff is supportive of the waiver, particularly because the garage area, as designed, provides the necessary clearance height required for a future incorporation of mechanical parking lifts, which would need to go through the Planning Board approval process, and in turn double the amount of available on-site parking.

Staff would note that on September 05, 2017, the DRB reviewed and approved a new 7-unit, 3-story townhouse project requiring multiple variances on the corner site directly across the street to the south, pursuant to DRB17-0163. The architecture has similar elements. Staff recommends that the exterior paint color selection and metal framing elements be different

from the project approved in 2017. The project should incorporate a more modern color finish selection with vivid paint hues for the stucco. In this regard, staff would recommend that the architect choose dissimilar paint colors and window metal elements to further differentiate the designs. Additionally, the architect should consider modifying the mosaic tile accent underneath the balconies since it is the same tile proposed for the 2017 project. Staff recommends a different tile format and texture, or possibly a different material altogether.

Staff would also recommend that the architect incorporate an additional triangular corner of landscaping area at the southwest corner of the building where the two stair porches meet and perhaps incorporate some green creeping vine or other vertical landscaping to further soften the structure. In summary, staff commends the applicant for proposing another noteworthy design solution for a corner building. Further, the architect should designate an area for additional bicycle racks, a minimum of 8 in total, to be installed adjacent to the building. Staff would recommend approval of the design along with the above noted modifications and color selection concerns.

VARIANCE REVIEW

Variances #1 is related to the second level balcony and ornamental feature that defines the upper level opening in the rear (east) yard. The North Beach National Register Conservation District Overlay reduced all of the zoning setback requirements for principal structures in the North Shore area. The modified rear setback is 5'-0" and while this is consistent with the established context of the existing residential neighborhoods and extent of the allowable encroachment projections of Section 114-1132 within this required yard. The architect is proposing a 1'-10" overhang and ornamental frame which would be 25% of 7'-6". The proposed architectural element is consistent with the defining architectural features commonly found within the existing fabric of the existing MiMo buildings in the area.

Variances #2, #3 and #4 are triggered by the conflict between the existing low site elevations and the minimum requirements to mitigate sea level rise impact. The building's design is challenged by the lot size, width and shape in relation to the building code standards of higher finished floor elevations requiring additional encroachments for elements typically permitted under allowable projections.

Staff finds that all variances requested are created by the site conditions associated with area, shape, and lot width in the neighborhood context. These variances are the minimum required to develop the site with a more resilient structure consistent with the City's direction. In summary, staff recommends that the Board approve all variances requested.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria.

TRM/JGM

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: September 04, 2018

FILE NO: DRB18-0294

PROPERTY: **355 76th Street**

APPLICANT: Nord Developers LLC

LEGAL: Lot 6 of Block 11, of "Altos Del Mar No.3", according to Plat thereof as recorded in Plat Book 8, Page 41, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new three-story townhouse building to replace a one-story duplex building, including one or more waivers, and variances to exceed the maximum elevation and maximum projection for allowable encroachments into required yards and to exceed the maximum height for railings in required yards.

ORDER

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

I. Design Review

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

1. If approved by the Planning Board, the incorporation of mechanical parking lifts shall not require a return to the Design Review Board.
2. Revised elevation, site plan and floor plan drawings for the proposed residential building shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department, in a manner to be reviewed and approved by staff.
 - b. The minimum clearance height of the parking garage **shall be** waived as proposed.
 - c. The first 32 feet in height of the building **shall be** waived to be located within the first 20 feet of building depth.
 - d. The architect shall incorporate a minimum of 8 bicycle racks along the exterior of the building.
 - e. The slab(s) of the proposed new stair(s) in Unit 6 and 7 shall be counted towards the overall FAR of the project.
 - f. The architect incorporate an additional triangular corner swath of landscaping area at the southwest corner of the building where the two stair porches meet and perhaps incorporate some green creeping vine or other vertical landscaping to further soften the structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - g. The 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.
 - h. 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.
 - i. 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.
 - 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 amount of paving within the required front yard shall not be greater than 50% of the required front yard.
- f. The proposed landscape buffer within the (south) interior side yard shall be further enhanced in order to provide a continuous landscape buffer in the form of bamboo or fish tail palms or similar planting materials that will adequately screen the massing of the proposed structure in order to mitigate the impact of the proposed structure on the neighboring property in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- 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-way 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 to exceed by 7" (12%) the maximum allowed projection of 1'-3" (25%) for ornamental features within the rear (east) yard of 5'-0" in order to construct a new fin ornamental feature with an overhang projection of 1'-10" (37%) into the rear (east) yard.
 2. A variance to exceed by 1.01' the maximum height of 8.65' NGVD for allowable encroachments within the front yard in order to construct steps and landing platform at 9.66' NGVD within the front yard of 10'-0" facing Abbott Avenue.
 3. A variance to exceed by 1.01' the maximum height of 8.65' NGVD for allowable encroachments within the street side yard in order to construct steps and landing platform at 9.66' NGVD within the street side yard of 5'-0" facing 76th Street.
 4. A variance to exceed by 1'-11" the maximum height of 7'-0" (10.3' NGVD) for a fence located within the front and street side yards in order to construct guard rails at a height of 8'-11" (13.16' NGVD) as measured from grade of 4.3' NGVD.
- B. The applicant has submitted plans and documents with the application that satisfies Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

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

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

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

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

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

applicant;

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

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

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

C. The Board hereby **Approves** the Variance request(s), and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

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

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

- F. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- G. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- I. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Proposed 3 Story Townhouse Building with 7 units and 6 Parking Spaces Final Submittal 07/06/18", as prepared by **Gustavo J. Ramos Architecture** dated, signed, and sealed 07/06/18, 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.

