

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: July 5, 2016

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB0416-0016
1747 Bay Road—Tremont Towing parking structure with retail and offices

The applicant, 1747 Bay Road Properties LLC, is requesting Design Review Approval for the construction of a new four-story main use valet-operated parking garage to replace an existing surface parking lot for a tow yard and one-story office building, including a variance to exceed the maximum allowed building height. This item will also require a Conditional Use application to be reviewed and approved by the Planning Board.

RECOMMENDATION:

Approval with conditions

Approval of the variance

LEGAL DESCRIPTION:

Unit 2 of the 1747 Bay Road Condominium of Island View Subdivision, as recorded in Official Records Book 28357, pages 2554-2650 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning:	I-1, Urban Light Industrial District
Future Land Use:	I-1
Lot Size:	16,000 SF (100x160)
Proposed FAR:	78,493 gross SF 16,984 SF (accessory uses)
Permitted FAR:	25% maximum of gross SF (20,000SF)
Proposed Height:	43'-0" *
	*Variance required
Permitted Height:	40'-0" / 4 stories
Existing Uses:	Surface parking lot for a tow yard
Proposed Uses:	
Retail:	1,631 SF
Office (upper lvls):	11,734 SF
Tremont office:	560 SF
Parking	165 spaces (valet 45@roof, 30@floors 2-4 Tremont 30@ground)

THE PROJECT:

The applicant has submitted plans entitled "1747 Bay Road", as prepared by **Urban Robot Associates**, dated signed and sealed May 13, 2016.

The applicant is proposing to construct a new four-story main use valet-operated parking garage with accessory office and retail space.

In accordance with section 142-483 of the City Code, new construction of structures 50,000 SF and over in the Industrial, I-1, zoning district must receive a Conditional Use approval from the

Planning Board, whose review shall be the first step in the approval process prior to the review of the Design Review Board. The item is scheduled to be reviewed by the Planning Board on June 28, 2016 (**PB 0416-0010, f.k.a., File No. 2324.**). Additionally, at the same meeting, the applicant is requesting a modification to conditions of approval for a previously issued Division of Land/Lot Split. Specifically, the applicant is requesting to remove the condition regarding the prohibition of variances, pursuant to Section 118, Article IV of the City Code. (**PB 0416-0005, f.k.a., File No. 2114.**)

The applicant is requesting the following variance(s):

1. A variance to exceed by 3'-0" the maximum building height allowed of 40'-0" for the construction of a building up to 43'-0" in height.
 - Variance requested from:

Sec. 142-486. - Development regulations.

There are no lot area, lot width or unit area or unit size requirements in the I-1 light industrial district. The maximum floor area ratio, building height and story requirements are as follows: (2) Maximum building height is 40'-0".

The applicant is requesting a 3'-0" height variance. The additional height is reflected at the ground level with a ceiling height of 13'-0", while the upper levels are configured with 10'-0" floor to floor heights. The requested increase is triggered by the need to develop a higher ground floor in order to accommodate the height of towing vehicles accessing the garage and ramping system while still allowing the applicant to develop the site with a four-story building. Further, as a retail space is also proposed at the ground level, a 13 foot ceiling height would also result in a more desirable space for retailers. This condition associated with the operation and functionality of the building, creates the practical difficulties that result in the variance requested. The existing and proposed use of the property is unique in the City, as it is only limited to the Industrial, I-1, zoning district. The project, as proposed, will have a favorable impact in the urban context of the area as it is an improvement to the existing conditions, especially at the pedestrian level. Additionally, the added height on the ground floor will allow for the ground floor to be successfully adapted for resiliency when streets are raised in the future while still maintaining a functioning ground floor retail space. For these reasons, staff is supportive of the requested variance.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of the requested 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:

- 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.

CONSISTENCY WITH COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **parking garage use** is **consistent** with the Future Land Use Map of the 2025 Comprehensive 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:

- Section 142-483 of the City Code, new construction of structures 50,000 SF and over in the I-1 zoning district and in accordance with section 130-38 the use of the mechanical parking systems must receive a Conditional Use approval from the Planning Board, whose review shall be the first step in the approval process prior to the review of the Design Review Board.
- Section 133-6 of the City Code, new construction of structures 7,000 SF shall be required to obtain LEED certification.

This shall not be considered final zoning review or approval. All zoning matters shall require final review and verification by the Zoning Administrator.

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 is 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.
Satsifed
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Satisfied
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; a height variance is being requested 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.
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; a height variance is being requested 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.
Satisfied

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Partially Satisfied; the loading area and one-way drive aisle as well as the valet operations shall be reviewed by the Planning Board. Four bicycle racks have been provided.
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 and photometric plan have 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.
Partially Satisfied; the depth of the rooftop planters has not been detailed. Decorative pavers have been utilized along the outdoor ground floor areas, including the entrance area to the parking garage. Additionally, the rooftop drive aisle incorporates pigmented concrete patterning.
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; the rooftop has been designed with attention on the birds eye aesthetics.
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Satisfied

STAFF ANALYSIS:
DESIGN REVIEW

The applicant is proposing to construct a new four-story main use valet-operated parking garage to replace a surface tow yard operation. The proposed design will allow Tremont Towing to enclose the towing yard on site and improve the site with a contemporary parking garage structure with ancillary retail and office uses. The garage has been configured with commercial space at the ground level, including office space for Tremont Towing, along Bay Road and three floors of office space above. The vehicular entrance to the garage is located along the southern portion of the site. There is parking provided at the ground floor with parking on levels two through four, as well as the roof, for a total of 165 spaces. Additionally, the applicant is requesting a height variance to be granted by the Design Review Board. The existing radio tower is proposed to remain; the layout of the new garage and the distribution of the uses have been configured around the tower, which will project above the building.

The proposal is a noteworthy design with focused attention on the front façade and roof plan design, the two most visible elevations. The applicant has addressed staff's concerns regarding the detailing of the angled screening of the west front elevation by proposing a geometric diagonal brise-soleil that covers the upper three floors of office space, creating a faceted effect for the open air loggia that serves the office space beyond. The ground floor façade has been finished in a ribbed stone cladding that produces an active juxtaposition of geometries when contrasted with the upper floors' diagonal screening.

The rooftop parking area has been proposed with canopy shading devices to cover most of the parking spaces, 18 out of 24, in order to ensure that the vehicles are a reduced eyesore when viewed from above. Additionally, the central drive aisle is proposed to be improved with a graphic pigmented concrete patterning that recalls the geometry of the front brise-soleil to further enhance the plan.

Staff would recommend minor additional design development of the south and north side elevations, including further articulation in the form of diagonal scoring of the stucco to continue

the geometry of the front façade's angled screening for those portions of the elevations that contain enclosed office space.

Finally, the applicant is scheduled to appear before the Planning Board on June 28, 2016 for review of the operations of the structure (as it is a structure over 50,000 SF), as well as for the modification to the previously approved Division of Land/Lot Split. The decision of the Planning Board could impact upon both the plan and the design of the building and possibly necessitate design revisions to be approved by the Design Review Board. At the meeting, the Planning Board will review the valet operations of the site, such as the how the tow vehicles, valet operated cars, and loading and delivery vehicles will be maneuvered to and from the garage without causing blockages on Bay Road. The potentially challenging 12'-0" wide "one-way" ramping system of the valet garage will also be addressed at that meeting. The Planning Board may choose to impose additional noise, hours and operating conditions based on this operational matter.

VARIANCE REVIEW

As identified under the 'Project' description, the one variance being requested is 3'-0" of additional height. The proposal to create an enclosed garage that houses a towing facility will be a visual improvement to the Sunset Harbour neighborhood. The requested height is needed in order to allow for the ground floor to operate as a tow facility and still facilitate the site to be developed with a four story building including a desirable retail space at the ground level. The applicant has utilized the additional 3'-0" on the ground floor retail areas which will allow for the future adaptation of this space when the roads and streets are further modified for sea level rise. Further, the taller structure will obscure the existing freestanding radio tower at the pedestrian level. Staff also finds that the request for the additional height meet the criteria for practical difficulty and, as such, staff recommends approval of the variance.

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.

TRM/JGM

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: July 5, 2016

FILE NO: DRB0416-0016

PROPERTY: 1747 Bay Road

APPLICANT: 1747 Bay Road Properties LLC

LEGAL: Unit 2 of the 1747 Bay Road Condominium of Island View Subdivision, as recorded in Official Records Book 28357, pages 2554-2650 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new four-story main use valet-operated parking garage to replace an existing surface parking lot for a tow yard and one-story office building, including a variance to exceed the maximum allowed building height. This item will also require a Conditional Use application to be reviewed and approved by the Planning Board.

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 a 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 3, 5, 8, 9 and 10 in Section 118-251 of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:
 1. The application shall obtain approval for a Conditional Use Permit (CUP) from the Planning Board (PB 0416-0010, f.k.a., File No. 2324) and shall be subject to all conditions imposed therein.
 2. The applicant shall obtain approval for the modification of the previously issued Division of Land/Lot Split (PB 0416-0005, f.k.a., File No. 2114).

3. Revised elevation, site plan and floor plan drawings for the proposed garage at 1747 Bay Road shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The final design details, including samples, of the proposed 'ribbed stone cladding' shall be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. The architect shall incorporate further articulation for those portions of the north and south elevations that contain enclosed office space in the form of diagonal scoring of the stucco in order to continue the geometry of the front façade's angled screening, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - c. If any signage is projecting above or suspended below the proposed canopy, the signage shall be composed of individual pin-mounted lettering and all electrical conduits and exterior lighting elements shall be hidden from view. No exterior raceways shall be permitted.
 - d. All building signage shall require a separate permit. A uniform sign plan for the new building shall be required. Such sign plan shall be consistent in materials, method of illumination and sign location, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. The final design and details of all exterior and interior lighting shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. Interior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding area. No florescent or intensive 'white' lighting (or similar intensive lighting) visible from the adjacent public rights of way or adjacent properties shall be permitted.
 - f. All interior fixtures, including, but not limited to, shelving, partitions, and checkout counters, shall be setback a minimum of 10'-0" from the walls of the building on the first level, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. This shall not prohibit substantially transparent fixtures for display purposes only.
 - g. The final design details of the rooftop shading devices, including fabric and color material samples, shall be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - h. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view on all sides, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - i. Any rooftop light poles located along the perimeter of the building edge shall be eliminated or replaced with a lighting fixture that is affixed to, and no higher

- than, the rooftop parapet wall. All rooftop light poles shall be limited to a maximum height of 10'-0". All roof-top lighting fixtures shall be designed to preclude light from spilling over to adjacent properties, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- j. Pavers and concrete banding shall be utilized for the entire entry drive and valet area, including alternate colors of concrete banding in place of painted striping, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - k. The roof plan shall incorporate pigmented concrete patterning within the central drive aisle, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - l. The internal garage lighting shall be shielded to inhibit direct views of all internal light sources.
 - m. All exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff.
 - n. Any future kitchen ventilation shall be chased through the interior of the building to the roof. No exhaust ducts or vents shall be permitted on any building elevations.
 - o. The interior walls of the first level of the parking garage entrance, ramps and loading areas, shall be fully detailed on revised plans. Such interior areas shall consist of high quality, non-stucco surface materials which have a well finished appearance commensurate with the primary façade of the building, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - p. A fully enclosed, air-conditioned trash room shall be provided, which is sufficient to handle the maximum uses intended for the proposed structure. External dumpsters shall not be permitted.
 - q. 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.
 - r. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
4. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the

review and approval of staff. At a minimum, such plan shall incorporate the following:

- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
- b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed garage, 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
- d. The applicant shall install and additional 6 city-wide standard bicycle racks at the middle portion of the property, adjacent to the storefront.
- e. The proposed planters at the roof shall contain plant beds of sufficient size (minimum 42" of depth) to accommodate trees and landscaping and the overall planting area shall be increased by a minimum of 50% of the proposed planter area. The half-circle area at the end of the parking area adjacent to the ramp shall contain a planter, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. 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.
- g. 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.
- h. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- i. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow prevention devices. Backflow prevention devices shall not be permitted within any required yard or any area fronting a street or sidewalk, unless otherwise permitted by the Land Development Regulations. The location of all backflow prevention devices, and how they are screened from the right-of-way, shall be clearly indicated on the site and landscape plans

and shall be subject to the review and approval of staff. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all post-indicator valves (PIV), fire department connections (FDC) and all other related devices and fixtures, which shall be clearly indicated on the site and landscape plans.

- j. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect for the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.
- k. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect for the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 - 1. A variance to exceed by 3'-0" the maximum permitted building height of 40'-0" in order to construct a new four-story building up to 43'-0" in height.
- B. The applicant has submitted plans and documents with the application that satisfy 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 also indicate the following, as they relate to the requirements of Section 118-353(d), of the 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 and imposes the following conditions based on its authority in Section 118-354 of the 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. 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.
- B. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- C. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board
- 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.
- J. A traffic mitigation plan, which addresses all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, if required, shall be submitted prior to the issuance of a Building Permit and the final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- K. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy

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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "1747 Bay Road", as prepared by **Urban Robot Associates**, dated signed and sealed May 13, 2016 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 set forth in this Order. No building permit may be issued unless and until all 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 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 set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting

