

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: November 06, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB18-0283
8100 Hawthorne Avenue—City Parking Lot

DRB18-0283, 8100 Hawthorne Avenue—City Surface Parking Lot. The applicant, the City of Miami Beach, is requesting Design Review Approval for the installation of a new surface parking lot, landscaping and lighting, including variances to reduce the required setbacks and to reduce the landscape requirements. The variance portions of this application may be withdrawn if the City Commission acts to waive the LDRS.

RECOMMENDATION:

Approval with conditions

Approval of variances #1- #4

LEGAL DESCRIPTION:

All of Block 18 less north 4.25' and south 104.75' of Lot 1 of Block 20 of the "1st Addition to Biscayne Point" according to Plat thereof as recorded in Plat Book 26, Page 63 of the Public Records of Miami-Dade County, Florida.

HISTORY:

On July 25, 2018, the City Commission authorized the scheduling of a Public Hearing to consider the waiver of certain Development Regulations, pursuant to Section 142-425 (d) of the City Code, for the Surface Lot at 8100 Hawthorne Avenue, in the Biscayne Beach Neighborhood. On September 12, 2018, the City Commission deferred the public hearing to the October 17, 2018 City Commission agenda.

This item was continued at the October 02, 2018 DRB meeting at the request of the applicant.

SITE DATA:

Zoning:	GU – Government Use Zoning District
Future Land Use:	P – Parking
Lot Size:	± 17,483 SF
Existing Use:	Vacant/storage and sanitary lift station
Proposed Parking Spaces:	28 spaces (3 accessible)

SURROUNDING PROPERTIES:

North: (RS) One-story 1946 residence
South: (RS) One-story 1946 residence
West: (RS) One-story 1953 residence
East: (RM) One-story residential building (4 units)

THE PROJECT:

The applicant has submitted plans entitled "Surface Parking Lot at Biscayne Beach 8100 Hawthorne Avenue", as prepared by **Schwebke-Shiskin & Associates, Inc.** and signed, sealed and dated August 03, 2018.

The applicant is proposing improvements to an existing City lot in order to provide on-site parking for the immediate area. The subject property includes two lots, a vacant northern portion and an existing sanitary lift station on the southern half.

The proposed scope of work includes resurfacing and striping the lot with pervious concrete, installing new landscaping and new light LED fixtures, new fencing, irrigation and electrical conduits for the coordination of future electrical vehicle charging stations. Other site improvements include an overall raising of the site (5.26 NGVD) and a new elevated seawall (7.26 NGVD).

The proposed surface parking lot will require the following variance(s), unless waived by the City Commission:

LDR Section 142-106:

1. A. A variance to reduce by 6'-6" the minimum required front setback of 20'-0" in order to construct a surface parking lot at 13'-6" from the front (east) property line.
- B. A variance to reduce by 9'-6" the minimum required rear setback of 22'-6" in order to construct a surface parking lot at 13'-0" from the rear (west) property line.
- Variance requested from:

Sec. 130-69. – Commercial and noncommercial Parking Lots *Commercial and noncommercial parking lots as a main use on a separate lot shall be subject to the following regulations, in addition to the other regulations of this article:*

- (1) The required front and rear yards shall be those of the underlying district.

*

Sec. 142-106. - Setback requirements for a single-family detached dwelling.

The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

- (1) Front: The minimum front yard setback requirement shall be 20'-0".
- (2) Rear: The minimum rear setback requirement shall be 15 percent of the lot depth, 20'-0" minimum, 50'-0" maximum.

LDR Section 126-11:

2. (A) A variance to reduce 1'-3" the minimum required 8'-6" width of landscape area for tree planting in order to maximize the parking to construct a surface parking lot with a 7'-3" feet wide landscape area.
- (B) A variance to reduce the required landscaped areas with trees for each row of parking within the first 90 linear feet, and one landscaped area provided with a tree for each additional 90 linear feet, in order to maximize the parking to

construct a surface parking lot with one landscaping area for trees a distance of 96.2 linear feet.

- All variance(s) requested from:

Sec. 126-11. - Landscaped areas in permanent parking lots.

A landscape plan that specifies and quantifies the existing and/or proposed plant material inclusive of mature shade trees, hedge material, ground cover and in-ground irrigation shall be submitted for review and approval by the planning department, according to the following criteria:

- (a) A landscaped area with a tree shall be required at the end of all parking rows, particularly when abutting an aisle or building. Planting areas for each tree shall have a minimum width of eight feet, six inches, exclusive of the curb dimension, and shall be planted or covered with other landscape materials.
- (b) For each row of parking there shall be landscaped areas with trees within the first 90 linear feet, and one landscaped area provided with a tree for each additional 90 linear feet. When a minimum eight-foot, six-inch clear landscape area is provided between two rows of parking, the landscape areas with trees every 90 linear feet is not required. This eight-foot, six-inch wide landscape area shall be planted with trees no greater than 20 feet on-center.
- (c) For each row of parallel parking there shall be a minimum of two landscape areas, such as in a curbed bulb out, for every three parking spaces. The landscape areas shall be equally spaced wherever possible. Parallel parking landscape area/tree place details such as curbed bulb outs shall be approved by the public works department.
- (d) All required trees shall be of an approved shade tree variety which shall attain a minimum mature crown spread greater than 20 feet.
- (e) Landscaped areas shall require protection from vehicular encroachment. Car stops shall be placed at least two feet, six inches from the edge of the paved area.
- (f) All parking stalls, access aisles and driveways in residential uses shall be separated from any building by a minimum of 30 inches and landscaped with shrubs, ground cover, or other suitable plant materials.
- (g) All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting layer of trees, shrubs, and ground cover.
- (h) A landscape area that is a minimum of five feet in width shall be provided when parking stalls, access aisles, or driveways are located along any side or rear lot line. The landscape areas shall be planted with a continuous hedge and with trees spaced a maximum of 20 feet on center. In certain instances, a solid and continuous masonry six-foot high wall may be approved and used in lieu of a landscape area. The approved wall surface shall be stucco, painted, tiled, or textured in such a way to provide a decorative effect.
- (i) These requirements are in addition to any applicable required open space as provided in these regulations.
- (j) All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of

an occupational license for a temporary parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to, cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.

The subject parcel is zoned GU, Government Use, which follows the development regulations of the surrounding zoning districts. This lot is surrounded by the single family residential zoning district RS-4, for properties to the north, south and to the west across the canal, and by the multi-family zoning district RM-1 to the east. Within these districts, the minimum front setback is 20'-0" and the minimum rear setback is 15% of the lot depth, or 22'-6" in this instance. Further, permanent parking lots have their own regulations regardless of their zoning classification for side setbacks which is based on the lot width of the parcel and in this case the minimum side setback is 10'-0". The proposed parking lot complies with this requirement.

Regarding the setback variances, due to the parking lot configuration, the eastern property line can only accommodate a 13'-6" front setback. The reduction in the front setback is needed to accommodate a portion of a driving lane for traffic circulation. The reduced setback will allow the City to provide eight (8) angled parking spaces as well as accommodate the existing City's sanitary sewer pump station infrastructure.

Regarding the landscaping variances, in order to maximize the desired parking for the residential area by accommodating five (5) parking spaces and the driving lane, the area along the southeast parking right of way can only accommodate a 7'-3" wide landscape area. Further, along the west parking row, in order to obtain eight (8) parking spaces, the design can only accommodate one (1) landscaping area for trees a distance of 96.2 linear feet.

Staff is supportive of the requested variances number 1A, 1B and number 2A and 2B since these variances provide for setbacks that are consistent with the neighborhood context. In addition, there is landscaping along and within all required yards that helps in shielding possible light spillage and noise into the adjacent properties. In order to maximize the parking area and obtain 28 parking spaces on this lot, staff recommends approval of variances #1 through #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 submitted 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:

The application, as proposed, may be inconsistent with the following requirements of the City Code:

1. Per Section 142-1131 (k): *Lightpoles*. In all districts:
 - (1) Lightpoles shall have a maximum height of ten feet. Lightpoles shall be located seven and one-half feet from any property line except when such property line abuts a public right-of-way, or waterway, there shall be no required setback.
 - (2) All light from lightpoles shall be contained on-site or on any public right-of-way as required by the city Code.
2. The electrical panels shall be visibly screened from Public view.
3. The future charging stations may require additional variances depending on the height of the stations. Section 142-1132 (o) (12) Electric vehicle charging stations and fixtures, located immediately next to an off-street parking space, shall be permitted where driveways and parking spaces are located.

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.

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 applicant requires several variances unless waived by the City Commission.
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 applicant requires several variances unless waived by the City Commission.
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 applicant requires several variances unless waived by the City Commission.
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 applicant requires several variances unless waived by the City Commission.
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 applicant requires several variances unless waived by the City Commission.
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 Applicable
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.
Not Satisfied; the applicant requires several variances that limits the amount of landscaping within the required yards.
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; see staff analysis.

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

Not Satisfied; the applicant requires several variances unless waived by the City Commission.

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 Satisfied; see staff analysis.

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).

Not Applicable

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).

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.

Not Applicable

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:
DESIGN REVIEW

This item was continued to November during the October 02, 2018 DRB meeting, at the request of the applicant. The applicant is proposing improvements to an existing City double-wide lot that is located on the northwest corner of Hawthorne Avenue, and the street end of North Biscayne Point Road, along the eastern edge of the Canal separating Biscayne Point. These improvements include reconfiguring a portion of the site in order to increase the number of parking spaces, new landscaping, new light fixtures, and a new circulation layout. The lot is owned by the City of Miami Beach and will require four (4) variances from the board, unless waived by the City Commission. The Capital Improvement Project Office has been working closely with Planning staff to create the best possible improvements for the site.

Staff is satisfied with the retention of the overall green space. Staff would further recommend replacing the metal picket fence along the north property line outside of the required front and rear yard and replacing that portion of the barrier with a 6'-0" high concrete block wall in order to shield from the abutting single-family residence any potential light spillage and vehicular noise from the adjacent nine perpendicular spaces and vehicular entrance drive.

Overall, staff is supportive of the improvements to the lot and recommends approval.

VARIANCE REVIEW

On September 13, 2017, the Mayor and City Commission directed the administration to explore the opportunity to further increase parking in the Biscayne Beach Neighborhood at the property located at 81 Street and Hawthorne Avenue and gain 25 to 30 parking spaces. As such, staff is supportive of the variances as these variances provide for setbacks that are consistent with the neighborhood context. In addition, there is a 6'-0" high fence and abundant landscaping along the north and west property lines that helps in shielding possible light spillage and noise into the adjacent single-family properties.

The future Biscayne Beach surface parking lot is currently zoned Government Use (GU), open to the general public and, pursuant to Section 142-425(d) of the City Code, the City Commission may waive by five sevenths vote (5/7ths), development regulations "pertaining to governmental owned or leased buildings, uses and sites which are wholly used by, open and accessible to the general public, or used by not-for-profit, educational, or cultural organizations, or for convention center hotels, or convention center hotel accessory garages, or city utilized parking lots, provided they are continually used for such purposes." The public hearing is scheduled for the October 17, 2018 City Commission meeting to waive the development regulations of the City's Code. If the CC waives the regulations the need for the variances will be eliminated.

RECOMMENDATION:

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

TRM/JGM/IV/FSC

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 06, 2018

FILE NO.: DRB18-0283

PROPERTY: **8100 Hawthorne Avenue**

APPLICANT: City of Miami Beach

LEGAL: All of Block 18 less north 4.25' and south 104.75' of Lot 1 of Block 20 of the "1st Addition to Biscayne Point" according to Plat thereof as recorded in Plat Book 26, Page 63 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the installation of a new surface parking lot, landscaping and lighting, including variances to reduce the required setbacks and to reduce the landscape requirements. The variance portions of this application may be withdrawn if the City Commission acts to waive the LDRS.

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 1-5, 7 and 10 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 if the following conditions are met:
 - 1. A revised site plan for the proposed parking lot at 8100 Hawthorne Avenue shall be submitted. At a minimum, such plan shall incorporate the following:
 - a. The proposed metal picket fence along the north property line outside of the

required front and rear yard, shall be replaced with a 6'-0" high concrete block wall in order to shield any possible light spillage from headlights and vehicular noise into the abutting single-family residence from the nine perpendicular spaces and vehicular entrance drive. The approved wall surface shall be stuccoed, painted, tiled, or textured in such a way to provide a decorative effect, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

- b. The light poles shall comply with the required height regulations of 10'-0" within any required yard, otherwise light poles shall be limited to 15'-0", 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 electrical panels and all other mechanical equipment proposed outside shall be screened from view, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. The final Design details of the exterior materials and finishes 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.
 - e. 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.
 - f. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
- a. 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 improvements, 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. Additionally, no trenching shall be allowed around the existing trees' roots.
- e. The utilization of Silva Cells may be required around the larger trees, subject to staff review and approval of staff.
- f. Decorative pavers, where feasible, shall be utilized in all pedestrian walkways and crosswalks on the drive aisles instead of markings on asphalt, 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. 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.
- i. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. 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.

- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- l. 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) A variance to reduce by 6'-6" the minimum required front setback of 20'-0" in order to construct a surface parking lot at 13'-6" from the front (east) property line.
 - (B) A variance to reduce by 9'-6" the minimum required rear setback of 22'-6" in order to construct a surface parking lot at 13'-0" from the rear (west) property line.
 - 2. (A) A variance to reduce 1'-3" the minimum required 8'-6" width of landscape area for tree planting in order to maximize the parking to construct a surface parking lot with a 7'-3" feet wide landscape area.
 - (B) A variance to reduce the required landscaped areas with trees for each row of parking within the first 90 linear feet, and one landscaped area provided with a tree for each additional 90 linear feet, in order to maximize the parking to construct a surface parking lot with one landscaping area for trees a distance of 96.2 linear feet.
- 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), 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 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. 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.
- B. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy, a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- E. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. Nothing in this order authorizes a violation of 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 "Surface Parking Lot at Biscayne Beach 8100 Hawthorne Avenue", as prepared by **Schwebke-Shiskin & Associates, Inc.** and signed, sealed and dated August 03, 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 the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____ 20____ by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

NOTARY PUBLIC

Miami-Dade County, Florida

My commission expires: _____

Approved As To Form:

City Attorney's Office: _____ ()

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

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