

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: March 05, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB18-0349
1425 Bay Road

DRB18-0349, 1425 Bay Road. An application has been filed requesting Design Review Approval for the construction of a new residential townhouse development to replace a one-story single-family residence, including one or more waivers and variances to reduce the width of a two-way drive aisle and a variance to exceed the maximum height for allowable encroachments within required yards.

RECOMMENDATION:

Continue to a future meeting date

LEGAL DESCRIPTION:

Lot 12, Block 79B, "Alton Beach Bay Front Re-subdivision", according to the Plat thereof, as recorded in Plat Book 16, at Page 1 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RM-1
Future Land Use: RM-1
Lot Size: 5,952 SF
Proposed FAR: 7,440 SF (1.25 FAR) as represented by the applicant
Maximum FAR: 7,440 SF (1.25 FAR)
Maximum Height: 50'-0"
Proposed Height: 50'-10" measured from BFE + 1' (four-story)
Residential Units: 3 Townhouse units
Parking spaces provided: 6 spaces | Parking spaces required: 0
Grade: + 3.34' NGVD
Base Flood Elevation (BFE): +8.00' NGVD
Difference: + 4.66' NGVD
Adjusted Grade: 5.67' NGVD
30" Above: +8.17' NGVD
First Floor Elevation: +9.00' NGVD Entry Lobby | +21.00' NGVD residential units
Garage Elevation Clearance: 13' from BFE | 12' required

SURROUNDING PROPERTIES:

East: One-story 1934 residence
North: One-story 1947 residence (DRB0516-0027 new five-story residential building)
South: Five-story 1999 residential building "The Sails Condominium"
West: Three-story townhouses | 32-story residential building "Flamingo South Beach Towers"

THE PROJECT

The applicant has submitted plans entitled "1425 Bay Road Townhouses", as prepared by

THE PROJECT

The applicant has submitted plans entitled "1425 Bay Road Townhouses", as prepared by **McKenzie Design Build Craft**, dated, signed and sealed January 31, 2019.

The proposal consists of a new four-story, multifamily building comprised of three (3) townhouse units and six (6) on-site parking spaces on a corner parcel in the West Avenue Overlay District.

Since the original submittal, the applicant has revised the design to no longer require the garage clearance waiver.

The applicant is requesting the following variance(s):

1. A variance to reduce 3'-0" from the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide parking spaces at 90° with an interior drive aisle of 19'-0".

- Variance requested from:

Sec. 130-63. Interior aisles.

Interior aisles shall meet or exceed the following minimum dimensions permitted:
90° parking—22'-0"

Although parking on site is not required for this project when providing storage for alternative transportation such as scooters, bikes, peds, etc., the applicant is proposing six (6) parking spaces on the premises. The 60'-0" lot width of the property and its corner location, creates practical difficulties for parking design in the building due to required maneuvering clearances and drive aisle minimum width. In this case, the drive aisle/back-up width is proposed at 19'-0" where 22'-0" is required. The project complies with all of the required setbacks for the building. It also provides the minimal residential liner along both street (Bay Road and 14th Terrace) sides.

It has been recognized before by the Board that in some instances a lot width of 60'-0" can create practical difficulties to provide the required parking. In other similar properties, variances to eliminate the residential component along the street or a side setback variance for the parking have been approved. This type of variance has been previously approved in several properties in the RM-1 district with similar lot width and corner lot location conditions.

However, in this case parking is not required for a 60-foot wide lot. As such, staff would normally not be supportive of this variance request, as it is a self-imposed variance. However, based on the letter and maneuvering diagram provided by Biscayne Engineering for a standard vehicle with 16'-2" in length and 6'-7" in width, staff is not opposed to the approval of the variance conditioned to the limitation in vehicle size, as noted in the report. Staff finds that the lot size and the corner location restriction on access driveway location, create the practical difficulties for the variance requested. Staff finds that the applicant's request meets the criteria for the granting of variance #1.

2. A variance to exceed by 0.25' NGVD the maximum allowable elevation for a porches, platforms and terrace projection of +8.17 NGVD (30" above adjusted grade) in order to construct entrance steps and porch at +8.42' NGVD at the front and street side yards.

- 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.

(6) Porches, platforms and terraces (up to 30 inches above the elevation of the lot).

The Code allows for walkways, steps and platforms to encroach within required yards, specifically to provide access into and from the building with a maximum height of 30" above adjusted grade. As the building code now requires the finished first floor to be at a minimum of +1' above the base flood elevation, the 30" allowances prescribed under 142-1132(o) 'Projection' no longer is sufficient in some cases when grade is very low, such as this case, to compensate for the difference between the proposed finish floor, allowed with a range of up to 5' (freeboard) in height and sidewalk elevation. Grade for the site is 3.34' NGVD and finish floor is proposed at 9.0' NGVD with a difference of + 5.66'. To compensate the difference in elevation a series of steps are necessary. The relatively small side yard of 7'-6" also creates challenges for access from the exterior grade to the building. Although the finish floor is proposed at the required minimum elevation of 9.0', the top portion of each individual access still exceeds by 0.25', or 4 inches, the maximum elevation allowed. Staff is supportive of this minor increase in elevation based on the fact that these elements are open to the sky and that in the future, when the street is elevated to the minimum 5.26' NGVD, the proposed steps would be in compliance with the maximum elevation allowed. In advance of the city's initiative towards more resilient building design, staff has no objections to the approval of variance #2.

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.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

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):

- **142-155(a)(3)d.2.(A):** the height of the retaining wall within the first 4'-0" from the property line on the front and street side yards cannot exceed 30" above sidewalk elevation, or 5.84' NGVD. The retaining wall shall be reduced in height and then the yard elevation can slope up to meet the higher elevation.
- Walkways: Maximum 44". May be increased to a maximum of 5'-0" for those portions of walkways necessary to provide Americans with Disabilities Act (ADA) required turn around areas and spaces associated with doors and gates. Walkways in required yards may exceed these restrictions when approved through the design review or certificate of appropriateness procedures, as applicable.

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 **residential** use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

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 two variances 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 two variances 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 two variances 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 two variances 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 two variances 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 two variances 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).
Not 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) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
- (5) The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
- (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 and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Satisfied
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
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) In all new projects, water retention systems shall be provided.

Not Satisfied

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Not Satisfied

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Not Satisfied

STAFF ANALYSIS:

DESIGN REVIEW

The subject site is a corner parcel located within the boundaries of the West Avenue Bay Front Overlay District. The applicant is proposing to develop the site with a contemporary residential townhouse building. The design features three residential units, each with private entrances along Bay Road. Associated parking has been provided on-site and is accessed from 14th Terrace. The design has been programmed with three floors of living area above a ground floor programmed for private entrance terraces and two covered parking space, as well as a private outdoor terrace on the fourth floor covered with a solar panel trellis element.

While the project is proposed to reach the maximum permissible height of 50'-0" for RM-1 properties, the applicant has limited the program to a four-story triplex with required parking spaces at street level. The subject property is a corner lot across from the Flamingo Resort Residence - a 32-story building with three-story townhouse units lining Bay Road - and neighbored to the east by a one-story single-family home and to the north by another one-story 1947 residence. It should be noted that the DRB reviewed and approved a new five-story residential building proposed for the neighboring lot on November 01, 2016, pursuant to DRB0516-0027.

Staff's primary design concern pertains to the elevations facing Bay Road; specifically, the overall flatness of the prominent façade. As proposed, the ground floor of each townhouse unit is defined by a stucco wall with two large windows and an entry door camouflaged within a wood slat wall. Staff believes that the design needs further refinement, potentially through additional fenestration, changes in plane, or softening with landscape. Staff further recommends incorporating higher quality materials (see below) for improved exterior architectural richness. As designed the proposed ground floor terraces sufficiently screen the parking level along Bay Road and 14th Terrace. However, the two dominant volumes of architecture need to be further refined and the contrast between the two further explored. This can be achieved with the introduction of changes in plane, whether it is overhangs, balconies, recesses, or projecting bay windows. As proposed, the portions of the elevations clad in wood appear applied and not engaged with the architecture.

Additionally, the proposed exterior material selection is designed with a simple material palette of primarily contrasting tones of smooth stucco with a wood cladding material emphasized on portions of each townhouse unit. Staff recommends that architect incorporate on the elevations a robust natural material to emphasize the architecture's shifting volumes and architectural elements, as evidenced on the perimeter wall with the proposed oolite ledge stone. Given the simplicity of the architecture's massing, staff would note that the success of its design will depend on the high quality and diversity within the selection of the proposed materials and finishes.

Finally, although compliant with the height requirements of the code, the proposed cantilevered trellis system at the top level, which incorporates solar skylights, unnecessarily dominates Bay Road along the side street. Staff recommends a further setback of 5'-0" from the edge of building to allow for a line of sight to minimize this element at the rooftop level.

In summary, staff is confident that with further study and refinement of the ground floor elevation along Bay Road a more successful architectural relationship will be established with the immediate streetscape, as well as allow those end areas to be exempt from FAR inclusion. Based on this analysis, and due to the substantial changes recommended to both street façades, staff recommends continuance of the application to a future date in order to address staff concerns.

VARIANCE REVIEW

Variance #1 pertains to the parking area at the ground level that provides six spaces, two for each of the 2,480 sf three-bedroom units. The width of the building after complying with the required setbacks is limited to 45'-0" on a corner site. Without the variance, which is internal to the site, it is not possible to park cars (of any number) at 90 degrees in the rear of the lot and maintain enough space at the ground floor to satisfy the ground floor residential liner use along both Bay Road (in this case, the entrances and stair lobbies for each of the three townhomes) and 14th Terrace. Staff is supportive of this variance, based on the engineering report submitted, as noted in the project portion of this report.

Variance #2 is triggered by the conflict between the existing low site elevations and the minimum building standard 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—front entry steps and porches.

Staff finds that the variances requested are associated with the site conditions. These variances are the minimum required to develop the site with a more resilient structure consistent with the City's direction. Further, these variances have been previously approved numerous times by the Design Review Board and the Board of Adjustment for properties with similar lot size and site conditions within the RM-1 district. In summary, staff recommends that the Board approve both variances requested.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **continued**, 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/IV

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: March 05, 2019

FILE NO: DRB18-0349

PROPERTY: **1425 Bay Road**

APPLICANT: Bay West 1 LLC

LEGAL: Lot 12, Block 79B, "Alton Beach Bay Front Re-subdivision", according to the Plat thereof, as recorded in Plat Book 16, at Page 1 of the Public Records of Miami-Dade County, Florida.

IN RE: An application has been filed requesting Design Review Approval for the construction of a new residential townhouse development to replace a one-story single-family residence, including one or more waivers and variances to reduce the width of a two-way drive aisle and a variance to exceed the maximum height for allowable encroachments within 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, 2, 3, 4, 5, 6, 9, 12, and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with the Sea Level Rise Criteria 1, 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. 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.
2. Revised elevation, site plan, and floor plan drawings for the proposed new development at 1425 Bay Road shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed plans shall be revised to fully comport with the FAR requirements of the City Code.
 - b. The minimum clearance height of the parking garage **shall be** waived as proposed up to 2'-0".
 - c. A minimum of three (3) high quality contrasting finishes shall be required as shown on the final submittal plans, 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 coral stone cladding proposed along the wall of the building shall consist of a natural stone and shall be introduced into the architecture 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.
 - e. 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.
 - f. The proposed cantilevered trellis system at the top level that incorporates solar skylights shall be setback a minimum of 5'-0" along the western edge (Bay Road) of the building.
 - g. The final design and details including samples and color selection of the proposed horizontal wood fundemax slat elements 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 roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be configured to be as close to the center of the roof as possible and screened from view on all sides, in a manner to be approved by staff.
 - i. The final design and details including samples of the proposed exterior ground floor screening 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.

- 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. 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.
 - l. 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 proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- f. Street trees shall be required within the swale at the front and side facing street of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- g. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of 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 variance to reduce 4'-0" from the minimum required width of 22'-0" interior drive aisle in order to provide six (6) parking spaces at 90° with an interior drive aisle of 18'-0".
 2. A variance to exceed by 0.25' NGVD the maximum allowable elevation for a porches, platforms and terrace projection of +8.17 NGVD (30" above adjusted grade) in order to construct entrance steps and porch at +8.42' NGVD at the front and street side yards.
- 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 hereby **Approves** the Variance request(s), and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the

applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

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

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

- A. The applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the width of the drive aisles internal to the site.
- B.
- C. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- D. 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.
- E. If required, the applicant shall obtain a revocable permit from the Public Works Department for the proposed street improvements and paving within the public right-of-way, subject to approval of the City Commission, prior to the issuance of a building permit. Prior to the issuance of a building permit for any work approved by the Design Review Board, as it relates to the subject development project, the applicant shall enter into and record a restrictive Maintenance Agreement and Covenant running with the land, form approved by the Miami Beach City Attorney and Planning Director and Public Works Director, which runs with the land, confirming the applicant's agreement to design, permit, construct and maintain the proposed sidewalk and paving, in perpetuity, and confirming public access to such sidewalk, in accordance with the conditions herein. The restrictive covenant shall be recorded in the public records, at the expense of the applicant.
- F. 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.

- G. 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
- H. 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.
- I. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- J. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- K. 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.
- L. 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.
- M. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- N. 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 "1425 Bay Road Townhouses", as prepared by **McKenzie Design Build Craft**, dated, signed and sealed January 07, 2019, and as approved by the Design Review Board, as determined by staff.

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 _____ ())