

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: Chairperson and Members
Design Review Board

DATE: April 07, 2020

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **DRB19-0430**
1311 15th Terrace

An application has been filed requesting Design Review Approval for the construction of a new residential townhouse development to replace an existing building including one or more waivers and variances to reduce both side and sum of the setback requirements.

RECOMMENDATION:

Approval with conditions
Denial of variances #1-#3

LEGAL DESCRIPTION:

Lot 8 and the east ½ of Lot 9, Block 67-A, a resubdivision of Blocks 67 and 79 Alton Beach Realty's Co's. Bay Front 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: 7,500 SF (75'x100')
Proposed FAR: 9,322.67 SF/ 1.25*
Permitted FAR: 9,375 SF/ 1.25

*As represented by the applicant

Height:

Proposed: 50'-8" / 4-Story
Maximum: 55'-0" / 5-Story
Highest Projection: 54'-8" (+4')

Residential Units: 4 Units
Required Parking: 8 Spaces
Provided Parking: 8 Spaces
Lot Coverage: **53.4% (4004 SF)***
Max Lot coverage: 45% (3375 SF)

***DRB WAIVER**

Grade: +4.2' NGVD

Flood: +8.00' NGVD

Difference: 3.7' NGVD

Adjusted Grade: +6.1' NGVD

30" Above: +6.7' NGVD

Proposed Garage Elev. Clearance: **13'-1"**

Required Garage Elev. Clearance: **12'-0"**

Finished Floor Elevation: +21'-72" NGVD

Surrounding Properties:

East: 2-story, 8-unit 1937 Residential Building

North: 5-story 1972 Residential Building

South: 2-story 1929 Residence

West: 2-story 4-unit 1961 Residential Building

THE PROJECT:

The applicant has submitted plans entitled "15th Terrace Condominium", as prepared by **TAI Architecture, Inc.** dated 2/10/2020.

The applicant is proposing to construct a new four-unit residential development including waivers and a variances to reduce both side and sum of the setback requirements, to replace an existing two-story residential building.

The applicant is requesting the following waiver(s):

1. The maximum lot coverage for lots greater than 65 feet in width shall not exceed 45%. **The applicant is proposing a lot coverage of 53% (+8%).**

The applicant is requesting the following variance(s):

1. A variance to reduce by 2'-6" from the minimum required 10'-0" interior side (west) setback in order to construct a four story building with a 7'-6" side setback

- Variance requested from:

Sec. 142-156. – Setback Requirements.

Single lots equal or greater to 65 feet in width: Minimum 10' feet or 8% of the lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width.

2. A variance to reduce by 2'-6" from the minimum required 10'-0" interior side (east) setback in order to construct a four story building with a 7'-6" side setback.

- Variance requested from:

Sec. 142-156. – Setback Requirements.

Single lots equal or greater to 65 feet in width: Minimum 10' feet or 8% of the lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width.

3. A variance to reduce by 5'-0" from the required 20'-0" sum of the yards in order to construct a four story building with a 15'-0" sum of the side setback.

- Variance requested from:

Sec. 142-156. – Setback Requirements.

Single lots equal or greater to 65 feet in width: Minimum 10' feet or 8% of the lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width.

The subject property is a rectangular interior site on a block that within was historically platted as a series of twelve rectangular blocks with a standard lot width of 50'-0" for interior lots and 60'-0" for the four corner lots. The site currently contains a two-story structure built in 1925 as a private residence. According to the City's building card, the residence was built on lot 8 and half of lot 9, within block 67-A.



Portion of the 1925 Plat of ReSubdivision of Blocks 67 and 79 (subject property Lot 8 and the east ½ of Lot 9, Block 67-A)

Among the changes to the RM-1 and RM-2 development regulations adopted in 2017, Section 142-156 modified the RM-1 district side setback requirements for lots equal or greater than 65'-0" in width to have an increased setback of a minimum of 10'-0" along both side yards. Whereas, lots with 65'-0" or less of frontage have a minimum of 7'-6" required side setback. The subject site has a lot width of 75'-0" and the development of the subject property must meet the increased interior setback of 10'-0".

The properties on the opposite side of 15th Terrace, also zoned RM-1, reflect an original plat mirroring that of the north side of the street in terms of lot widths and depths; however, across the street from the site is a two-story MiMo residential development constructed in 1959 as a courtyard building that straddles three 50'-0" lots, and was constructed with nonconforming 5'-0" side setbacks. Further, the abutting 50'-0" wide property to the west, which contains the other "half" of lot 9, contains an existing two-story, four-unit multifamily building built in 1961 with a 5'-0" side setback. Also, the abutting 60'-0" wide property to the east, contains an existing two-story, eight-unit multifamily building built in 1937 with a 5'-0" side setback. The applicant has indicated that they prepared plans utilizing the prior setbacks of 7'-6" for the RM-1 site due to municode not being updated with the new regulations. Staff met with the team in February of 2019 and identified the setback oversight in the applicant's plans (and in Municode). The applicant elected to pursue the variances to keep the site plan that had been in development, as opposed to modifying the plans.

The City Code was modified with a concerted effort that focused on changes needed to ensure the resiliency of new construction and properties located in the RM-1 and RM-2 districts. The code changes addressed resiliency and sustainability efforts and coordinated with the city's ongoing public investments in sea level rise risk reduction and neighborhood street improvements. In fairness, the reduced setbacks proposed would not be out character with the immediate area in terms of existing buildings. However, as buildings along the block are replaced, there is an opportunity to comply with the new regulations. Going forward, it

was always anticipated that the new construction would comply with the current regulations. Staff finds that the variances proposed are self-imposed, and design driven; therefore, it does not satisfy the minimum criteria for the granting of the variances. As such, staff recommends denial of variance requests #1-3.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that DO NOT satisfy Article 1, Section 2 of the Related Special Acts, as noted above 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 DO NOT indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, as noted above:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.
- 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 CODEA preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. Trash chutes on every floor shall count towards FAR.
2. Side walkways to access trash room shall be provided and shall be included in lot coverage calculations.

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 2040 COMPREHENSIVE PLAN

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

ACCESSIBILITY COMPLIANCE

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

CONCURRENCY DETERMINATION:

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

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

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.

Not Satisfied; the proposed project seeks one design waiver and three 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 seeks one design waiver and three 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.

Satisfied

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

Not Satisfied; the proposed project seeks one design waiver and three 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 seeks one design waiver and three 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; the proposed project seeks one design waiver and three variances from the Board.

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 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.

Satisfied

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

Satisfied

ANALYSIS:

DESIGN REVIEW

The subject site is a 75'-0" wide interior parcel with an existing residence located in the West Avenue Overlay District. The applicant is proposing to construct a new four-unit residential multifamily building with ground floor parking and three levels of enclosed living area above.

The immediate surrounding area consists of predominantly two-story multi-family buildings, ranging in years of construction from the 1930's through to 1950's, a couple of contemporary four- and five-story buildings, and a few 1920's buildings that were originally single family homes also remain. The project is requesting one design waiver and three variances.

The proposal contains four townhouse-like units facing the south side (front) of the property. The ground floor consists of formal entrances and staircases facing the street, as well as a single, central driveway that leads to covered parking. Each unit features a non-airconditioned foyer at the ground floor, detailed with vertical wood slates spaced apart to allow transparency, with a staircase that leads to a second level terrace and the entry door. The units are composed of three floors with the communal areas on the first floor, two bedrooms on the third floor, and a master bedroom on the fourth floor with its respective terrace. The four units have been designed with approximately 2,100 SF of enclosed area.

Designed in a contemporary language, the rectilinear massing of the development is softened on the lower two levels with the entrance foyer softened by vertical louvers with a recessed second level. The upper floors project forward with glazing at the third floor and a robust, concrete trellis shading the top floor terrace. The design contrasts white stucco structural elements against a bronze window system and wood-like cladding. Overall, staff is supportive of the design and simple articulated architecture.

The one design waiver requested pertains to the structure's lot coverage. For multifamily lots greater than 65'-0" in width, the code requires that the lot coverage shall not exceed 45 percent of the lot, inclusive of impervious pavements, unless waived by the DRB. The applicant is proposing a lot coverage of 53%. Staff is not supportive of the lot coverage waiver as it is directly linked to the proposed enlarged footprint linked and reduced variance requests associated with the side setback reductions. Staff recommends a lot coverage that is commensurate with a structure that complies with all required setbacks. In this regard, if the project was propped with a building envelope configured with the minimum front, rear and side required setback requirements, a 3,850 SF (55'x70') footprint would result in a lot coverage of 51.3% on the 7,500SF lot. Staff would be supportive of a modified lot coverage waiver.

VARIANCE ANALYSIS:

As noted in the 'Project' section of this report, as presently configured staff is not supportive of the requested variances as they do not satisfy the Practical Difficulty and Hardship Criteria.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the requested variance be **denied**, and the design inclusive of the reduced lot coverage waivers be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise, and Practical Difficulty and Hardship criteria, as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: April 07, 2020

PROPERTY/FOLIO: **1311 15th Terrace 02-3233-016-0050**

FILE NO: DRB19-0430

IN RE: An application has been filed requesting Design Review Approval for the construction of a new residential townhouse development to replace an existing building including one or more waivers and variances to reduce both side and sum of the setback requirements.

LEGAL: Lot 8 and the east ½ of Lot 9, Block 67-A, a resubdivision of Blocks 67 and 79 Alton Beach Realty's Co's. Bay Front Subdivision, according to the Plat Thereof as recorded in Plat Book 16 at page 1, of the public records of Miami-Dade County Florida.

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 Sea Level Rise Criteria 1, 10, 11 and 12 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 1. Revised elevation, site plan, and floor plan drawings for the proposed addition at 1311 15th Terrace shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed lot coverage **shall not** be waived as proposed; a maximum of 51.3% lot coverage shall be waived.

- b. The proposed plans shall be revised to fully comport with the FAR requirements of the City Code. Trash chutes on every floor shall count towards FAR. FAR diagrams and calculations shall be revised and to be reviewed and approved by staff as part of the building permit plans.
 - c. 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.
 - d. The final design and details including samples and color selection of the proposed vertical beam 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.
 - 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 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) which were either approved by the Board with modifications, or denied:

The following variance was denied by the Board:

1. A variance to reduce by 2'-6" from the minimum required 10'-0" interior side (west) setback in order to construct a four story building with a 7'-6" side setback.
 2. A variance to reduce by 2'-6" from the minimum required 10'-0" interior side (east) setback in order to construct a four story building with a 7'-6" side setback.
 3. A variance to reduce by 5'-0" from the required 20'-0" sum of the yards in order to construct a four story building with a 15'-0" sum of the side setback.
- B. The applicants have submitted plans and documents with the application that DO NOT 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 applicants have submitted plans and documents with the application that DO NOT 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.

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.

C. The Board hereby **Denies** variance requests #1-3 and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. The architect shall redesign the building to comply with the underlying side and sum of the side setback requirements.

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. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- B. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- C. If applicable, 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.

- D. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. 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.
- I. 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.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. 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 "15th Terrace Condominium", as prepared by **TAI Architecture, Inc.** dated 2/10/2020 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 _____ ()