

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: April 07, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB19-0482
409 71st Street, 430 72nd Street, 7124-7140 Abbott Avenue and 7117-7135 Byron Avenue

An application has been filed requesting Design Review Approval for the construction of a new multistory mixed-use residential and retail development, including one or more waivers, and variances to reduce the frontage depth requirement for habitable space on Abbott Avenue, to reduce the frontage depth requirement for habitable space on Byron Avenue, and to reduce the minimum amount of building façade with habitable space along Byron Avenue, to replace existing structures including three 2-story buildings, surface parking lot, and a gas station. This project is proposed to take place in two (2) phases as a phased development project.

RECOMMENDATION:

Approval with conditions

Approval of variance #1 and #2

Denial of variance #3

Continue the details of the garage screening and refinement of the tower's south façade to a future meeting date

LEGAL DESCRIPTION:

See attached Exhibit 'A'

BACKGROUND:

On November 14, 2018, the City Commission adopted the North Beach Town Center—Central Core Land Development Regulations. The ordinance established a **TC-C, Town Center – Central Core** zoning district with a FAR of 3.5, and replaced the TC-1, TC-2, TC-3, and TC-3(c) districts within the boundaries of the area established by the FAR referendum. The TC-C is a balanced approach intended to spur sustainable development to revitalize North Beach.

Throughout a year long process of public engagement, the City Commission approved detailed development standards for the Town Center neighborhood, including increased height, increased density with diverse residential options (co-living) and relaxed parking requirements that continue to encourage thoughtful and engaging mixed use development for this area.

Since the approval of the ordinance, there have been two (2) developments approved by the Design Review Board (DRB) and four (4) more are proposed at this time. This is the third project developed under the new regulations that has aggregated multiple lots within an entire block.

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SITE DATA:

Zoning: TCC Town Center--Central Core
Future Land Use: TCC Town Center--Central Core
Parking District: 8
Lot Size: 53,776 SF
Proposed FAR: 188,216 SF / 3.5 | Phase I: 176,656 Phase II: 11,560
Maximum FAR: 188,216 SF / 3.5
Gross SF: 340,000 SF (incl. outdoor amenities)
Retail: 17,045 SF
Units: 232 units: 141 co-living
Density: 134 under prior FLUM, 232 proposed 141/2 as coliving + 91 = 162, bank 27 from TCC density 500 cap.
Height:
Proposed: **154'-2"** measured from BFE +5', or 13' NGVD | 14-story
Maximum: 125'-0" base | 200'-0" through public benefits program
Highest Projection: 168'-2"
CMB Grade: 4.92' (varies) NGVD
Base Flood Elevation: 8' NGVD
First Floor Clearance: 22'-8" measured from CMB Grade, 15'-8" from BFE +5', or 13' NGVD
Required Parking: **46 required residential spaces | 147 provided**
Parking requirement:
141 units x 0 space for those units below 550 SF
91 units x 1/2 space for those units bet 550 and 850 SF = 45.5, **46 required spaces.**
No retail parking requirement | **29 of the 147 provided for retail**
Required Loading: Total loading: **6 required spaces | 6 provided**
C: Sec130-101(A)(1)(b) Over 10,000 but not over 20,000: Two spaces.
R: Sec130-101(A)(3)(c) Over 100 units but not more than 200 units: Three spaces; and
(d) For each additional 100,000 over 200,000: One space.
Required Short term: 4c + 23r = **27 required.**
Required Long term: 8c (2per 5000) + 232r = **240 required.**

SURROUNDING PROPERTIES:

East: Two, one-story service gas stations
North: North Shore Park and Youth Center
South: P80 City surface parking lot, one story Café Prima Pasta, (DRB19-0424*)
West: 5-story residential building (same block), one- and two-story residential buildings (DRB19-0407*)

*future pending DRB applications

THE PROJECT:

The applicant has submitted plans entitled "7140 Abbott Avenue: Final Submittal" as prepared by **Arquitectonica**, dated signed and sealed February 10, 2020.

The applicant is proposing a new 14-story, 154'-2" high building with 232 residential units, 141 of which are co-living, including one or more waivers and multiple variances.

A breakdown of the project's development plan is delineated hereto:

Ground Floor: ±16,045 SF retail component configured along Byron Avenue, Abbott Avenue and 71st Street
1,892 SF residential lobby configured along 71st Street and BOH

- One, two-way 22'-0" wide driveways (upper parking garage ingress and egress) from Byron Avenue. Waiver needed.
6 internalized ground floor loading spaces accessed from "new alley" to the south. Waiver needed.
20'-0" wide realigned new alley and 18'-0" wide biowswale
- Level 2: 20 residential liner units (studios to 1 br) ranging in size 375 SF – 617 SF
55 parking spaces
- Level 3: 20 residential liner units (studios to 1 br) ranging in size 375 SF – 617 SF
56 parking spaces
- Level 4: 20 residential liner units (studios to 1 br) ranging in size 375 SF – 617 SF
36 parking spaces
- Level 5: 12 residential units (studios to 1 br) ranging in size 380 SF – 621 SF
7,552 Outdoor areas, terrace occupiable space, planters, pool
1,072 fitness area
2,265 coworking lounge
Soccer pitch
- Levels 6-8: 18 residential units (studios to 2 br) ranging in size 418 SF – 839 SF
- Level 9: 16 residential units (studios to 2 br) ranging in size 405 SF – 839 SF
- Levels 10-15: 18 residential units (studios to 2 br) ranging in size 405 SF – 839 SF
- Rooftop Level: Mechanical equipment / dogrun / exercise path

The applicant is requesting the following design waiver(s):

1. **Sec 142-745(a)(12)(b) LOADING:** Loading for nonresidential uses that are on lots over 45,000 SF shall provide for loading spaces that do not require vehicles to reverse into or out of the site, unless waived by the Design Review Board.
2. **Sec 142-745(a)(12)(c) LOADING:** Along all frontages where loading is permitted, it shall be designed as follows, in addition to the requirements for driveways: Driveways for parking and loading shall be combined, unless waived by the Design Review Board.
3. **Sec 142-745(g)(3)(b) DRIVEWAYS:** Driveways on Class C frontages shall be limited as follows: Driveways shall be spaced no closer than 30 feet apart, unless waived by the Design Review Board.

The applicant is requesting the following variance(s):

1. A variance to reduce the required 45'-0" of the habitable depth requirement along Abbott Avenue (Class B) for a limited area of the trash room.
 - Variance requested from:

Sec. 142-745(f)(2)(b) Class B Frontage: Habitable Depth

Except where required for driveways and utility infrastructure, the ground floor shall contain habitable space for residential, hotel, or commercial uses with a minimum depth of 45 feet from the building façade for the minimum required length along the setback line.

All of the streets within the TCC District have been designated with street class ranging from Class A (72nd Street), B (Abbott Avenue), and C (Byron Avenue). Each class has various requirements for habitable space, liner depth, allocation of uses, and fenestration requirements. The regulations for each class vary, linked to their hierarchy as a traveled corridor within the district. Each street class designation has various design requirements for transparency, depth and habitable space in order to fulfill the vision of a walkable and vibrant town center by creating active ground floor retail and restaurant components, with added emphasis on the pedestrian experience.

Pursuant to Section 142-745(f)(2)(b), the ground floor retail space must contain 45'-0" of habitable depth for Class B (Abbott Avenue) frontages. In reviewing the ground floor site plan, the Abbott Avenue frontage contains continuous and uninterrupted commercial space for the entire 136'-8" of frontage and comports with the transparency requirement for visual display into the space. However, because of internal design constraints specifically pertaining to vertical trash chute access, an extremely limited area of this ground floor commercial space will include an enclosed air conditioned trash room servicing the residential units located in the tower above. This trash room is located approximately 31'-5" into the commercial space when measured from the exterior storefront along Abbott Avenue, and measures only 14'-4" wide (185 SF in the rear portion of this 5,960 SF commercial venue). Staff notes that solid elevator bays and fire stairwells that provide vertical circulation to the tower above are permissible elements within the habitable depth. Once the retail or restaurant space is "built out" with the interior design features, the trash room wall will be indiscernible from the outside. As such staff recommends approval of the reduced amount of habitable space to accommodate a limited portion of the trash room (variance #1).

2. A variance to reduce the required 85% of the length of the building façade requirement along Byron Avenue (Class C) for driveway access.

- Variance requested from:

Sec. 142-745(g)(2)(c). – Class C Frontage

(2) Buildings shall have a minimum of one (1) floor located along a minimum of 85 percent of the length of the setback line pursuant to the following regulations.

Along Byron Avenue, the building frontage is 157'-0". Once the 24'-0" driveway is subtracted from that linear measurement, the remaining length for the building façade is 133'-0". The TCC requires that Class C frontages contain a minimum of one floor located along a minimum of 85 percent of the length of the structure. Based on the 133'-0" length, the required ground floor would be 113'-0" of linear active frontage. The applicant is proposing 106'-0". It is important to note that along this street, the dedication of the bioswale and alley re-alignment along this portion of the site has eliminated a significant portion of the overall project's Class C Street frontage of Byron Avenue. The intent of the regulation is to ensure that the design creates active ground floor retail and restaurant components. The design complies with the other requirements for transparency, height, depth and habitable space along this portion of the development, and successfully anchors the retail component as it wraps around onto 72nd Street. Additionally, by not providing the full building length requirement, the reduced frontage actually increases the buffer from the potential discordant use conflict between the project and the existing multifamily structure located on the

southwest portion of this block. As such, staff is supportive of the reduced frontage (variance #2).

3. A variance to reduce the required 20'-0" minimum habitable depth requirement along Byron Avenue (Class C) in order to provide for necessary utility equipment (back flow preventer).

- Variance requested from:

Sec. 142-745(g)(2)(c). - Allowable Encroachments.

Except where required for driveways and utility infrastructure, the ground floor shall contain habitable space for residential, hotel, or commercial uses with a minimum depth of 20 feet from the building façade for the minimum required length along the setback line.

The proposed back flow preventer is setback 10'-0" from the building edge along Byron Avenue and concealed in a recess. While the placement of these devices along alleys and away from the right-of-way is typically ideal, staff is not supportive of the location in this instance due to the highly visible nature of this portion of the corner building abutting the dedication of the bioswale and alley. Staff recommends relocation further eastward within the alley and outside of the required 20'-0" habitable depth requirement along Byron Avenue. As such, staff recommends denial of variance #3.

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, with the exception of variance #3.

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, with the exception of variance #3, 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):

1. Currently, the available reserve in the TCC co-living CAP is 3. The proposed plans and program indicates a development with 141 proposed co-living; unless legislation is adopted to increase the limit of 312 co-living units of **Sec. 142-741 (b)(2)(a) (iv) iv. Co-living units.**
4. **Sec 142-745(a)(12)(b) LOADING**
5. **Sec 142-745(a)(12)(c) LOADING**
6. **Sec 142-745(g)(3)(b) DRIVEWAYS**
2. **Sec 142-741(b)(2)(a)(ii) APARTMENTS** *There shall be a limit of 500 apartment units built within the TC-C district over and above the maximum allowable density and intensity, prior to the adoption of the FAR increase approved on November 7, 2017.*
3. Co-Living Units – 375 SF with a minimum of 20 percent of the gross floor area of the building consisting of amenity space on the same site. Amenity space includes the following types of uses, whether indoor or outdoor, including roof decks: restaurants; bars; cafes; kitchens; club rooms; business center; retail; screening rooms; fitness center; spas; gyms; pools; pool decks; and other similar uses whether operated by the condo or another operator. Bars and restaurants shall count no more than 50 percent of the total co-living amenity space requirements. These amenities may be combined with the amenities for Micro-Hotels, provided residents and hotel guests have access. No variances are permitted from these provisions.
4. **FAR.** FAR drawings shall be revised. Level 5. The covered area on pool deck adjacent to residential units and adjacent to amenity rooms count in FAR. These areas are not considered balconies as they are not cantilever from the building. They are part of the roof of the parking below. In addition, the cantilever area on the north side of the amenity rooms are not private balconies, therefore, they also count in FAR, unless they are open above. A0-11 FAR Bicycle racks along south drive aisle determined to count towards FAR. A0-13 FAR Outdoor area south and west of enclosed amenity level rooms covered from above and area west of units 9-12 on level 5 covered from above determined to count towards FAR.

5. Utility infrastructure shall be concealed from public view and may be placed within required habitable space (20'-0") or behind if access from the street is required. In this case, demonstrate that access from the street is required by the Florida Building Code or other applicable regulations for the Fire Pump room.
6. Clear Pedestrian Path. A minimum 10 foot wide "Clear Pedestrian Path," free from obstructions, including but not limited outdoor cafes, sidewalk cafes, landscaping, signage, utilities, etc.
7. Identify intended compliance with Section 142-747 North Beach Public Benefits Fund. Fee per unit public fund benefit. Contribution to public benefits fund. A contribution to the public benefits fund, in the amount identified in appendix A shall be required for each square foot of floor area located above the 125 feet. Provide information and details of how the project will satisfy this requirement.
8. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
9. Project shall comply with Urban Heat Island Ordinance, roofing.
10. Clarify location and type of required bicycle (long vs short term) parking on plans.
11. 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.
12. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
13. All overhead utility lines and poles adjacent to the subject property shall be placed underground. Applicant to engage FPL, block development south of site (6900 block Byron, DRB19-0424) also being redeveloped and will have to underground poles and lines.
14. Sec. 142-746(b) Notwithstanding the requirements of subsection (a) above, if said nonconforming building has a tenant with a lease that prevents the structure from being made conforming as part of the land use board approval, then the following shall apply:
 - A phased development permit, pursuant to section 118-259, shall be applied for as part of the land use board approval process. The phased development approval shall require the nonconforming building to be redeveloped into a conforming building. The phasing time limit shall be the minimum necessary to allow for the completion of the lease.
 - A certified copy of the lease shall be provided as part of the Land Use Board application.
 - The minimum required floor area to be reserved for PHASE II is 11,560 SF.

15. **STREET FRONTAGE COMMENTS**

CLASS A frontage (72nd Street)

- i. Although the project complies with the 70% glass frontage, the elevation drawing, and calculations are not accurate. The length of the glazing required cannot include the structural columns. Elevation drawing and calculations shall be revised
- ii. Café shall be extended to include the required 50'-0" fronting 72nd Street. Storage uses are not considered habitable space desired to be within the required frontage depth
- iii. Utility infrastructure shall be concealed from public view and may be placed within required habitable space (50'-0") or behind if access from the street is required. In this case, demonstrate that access from the street is required by the Florida Building Code or other applicable regulations for the Fire command room.

CLASS B frontage (Abbott Ave)

- i. Doors cannot swing into the 10'-0" pedestrian path
- ii. Frontage does not comply with minimum depth of 45'-0" for habitable space (Trash room is not habitable space). **Variance requested**

CLASS C frontage (Byron Ave)

- i. A variance to reduce the required 85% length for habitable space fronting Byron Avenue **Variance requested**
- ii. A variance to not provide 20'-0 depth of habitable space for 85% of the façade fronting Byron Avenue **Variance requested**
- iii. Waiver to not combine driveways **Waiver requested**
- iv. Waiver to reduce minimum distance between driveways **Waiver requested**
- v. Waiver to not maneuvering inside the property. **Waiver requested**

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 **residential / mixed 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 applicant is requesting three waivers and three 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 applicant is requesting three waivers 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 applicant is requesting three waivers 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.
Not Satisfied; the applicant is requesting three waivers and three 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 applicant is requesting three waivers 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 applicant is requesting three waivers 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.
Not Satisfied; additional details are needed for the south façade facing the bioswale and neighboring residential building.
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 applicant is requesting three waivers 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; details of the parking structure have not been sufficiently detailed.
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.
Not Satisfied; Not Satisfied; the applicant is requesting three waivers and three variances from the Board.
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Satisfied

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.**

Consistent- The applicant has indicated that a recycling and salvage plan will be provided at permitting.

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

Consistent- The applicant has indicated that hurricane proof impact windows will be provided.

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

Consistent- The applicant has indicated that passive cooling systems will be provided where feasible and appropriate.

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

Consistent- Resilient landscaping will be provided.

- (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.**

Partially Consistent- The applicant has indicated that sea level rise projections were considered.

- (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.**

Consistent- The ground floor of the development will be adaptable to the raising of public rights-of-way and adjacent land.

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

Consistent- Electrical and mechanical systems will be located above base flood elevation. Any mechanical and electrical systems located below base floor elevation will be floodproofed in accordance with Florida Building Code requirements.

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

Not Applicable- The subject site currently consists of surface parking lots.

- (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.**

Consistent- When habitable space is located below base flood elevation, wet or dry flood proofing systems will be provided.

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

Partially Consistent- According to the applicant's letter of intent, the design architect will study various water retention systems for the Project.

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

Consistent- The applicant has indicated that such materials will be utilized.

- (12) **The design of each project shall minimize the potential for heat island effects on-site.**

Not Consistent- The applicant has provided no information regarding any efforts to minimize heat island effects.

ANALYSIS:

DESIGN REVIEW

The subject site is a 1.235 acre unified development located within the boundaries of the TC-C, Town Center – Central Core District. The applicant is proposing a new 14-story, 155'-0" high building with 232 residential units (141 of which are designated as co-living) above a ground floor retail component. The site is generally bound by 72nd Street to the north, Byron Avenue to the west, 71st Street to the south and Abbott Avenue to the east. Encompassing nearly all of the properties within entire block, with the exception of the one existing five-story condominium on the southwest corner that is not part of the application. On July 31, 2019, pursuant to Resolution 2019-30928, the City Commission approved the vacation of the northern portion of the alley (Abbott Court) bisecting the block in the north-south direction, conditioned upon the applicant dedicating a rerouted alley connection to Byron Avenue off of 71st Street, as well as provide a stormwater retention area improved as a

bioswale. Bioswales are typically long, channeled depressed or trenched areas that receive rainwater runoff and has vegetation (such as grasses, flowering herbs, and shrubs) and organic matter (such as mulch) to slow water infiltration and filter out pollutants.

The project consists of a 14-story, I-shape tower, straddling the intersection of 72nd Street and Abbott Avenue, and a four-story pedestal along the Byron Avenue street frontage and into the remainder of the site. The parking is hidden within the pedestal and screened along the west side of the building; the north and east sides of the pedestal are camouflaged with residential units. The primary façade faces 72nd Street and North Shore Park and Youth Center. The ground floor is comprised of retail that fronts 72nd Street and spills around the blocks to Byron Avenue and Abbott Avenue. The residential lobby is notched into the 72nd Street façade and is detailed in glazing that rises eight stories, flanked on either side by projecting volumes that are delineated with thick stucco bands that navigate vertically and horizontally along the façade, rendering the tower as intersecting cubes.

Glass balconies, with staggered rhythm, provide movement along the expansive facades. Service spaces, including loading and vehicular drop-off, are internalized within the ground floor, and the parking ramp is accessed from Byron Avenue. From levels two (2) to four (4), the parking is recessed into the project, screened behind a residential liner the runs the entire length of the block facing 72nd Street and corners Abbott Avenue. The fifth level is composed of units and amenities, including an open-air outdoor deck, a pool and spa, and soccer pitch. The I-shape of the tower commences at this level and rises 11 stories.

The four-story pedestal elevation facing Byron Avenue, as well as the south elevation, inclusive of the tower, lacks transparency and movement. These elevations feature a homogeneous pattern of staggered project window frames, infilled with glazing at the tower and perforated metal at the garage, as well as racked stucco finish walls.



As Phase I of the development of the site, it will have an unintended presence along the south portion of the site, adjacent to the realigned alley and bioswale and behind the two-story gasoline station. The design effect across the expansive south façade is corporate and static, while at the shorter west elevation it appears incongruous with the tower. Staff

recommends further refinement of the four-story portion of the podium, as well as a new design expression for the southern edge of the tower.

CO-LIVING

Consistent with modern trends in the housing industry, the applicant is proposing a co-living residential tower. In order to develop more housing options, these types of units have been introduced into the regulations for the TCC. A co-living unit provides for smaller unit square footages than what has been traditionally required; however, additional, new required common amenity areas are mandated which provide opportunities for social interaction, with greater common areas that all residential tenants may utilize. In this proposal, of the 232 units, 141 are of a more compact, smaller nature. The total gross square footage of the project contains 201,024 SF, which includes outdoor amenity areas but not the parking facility. Both indoor and outdoor amenities have been provided totaling approximately 45,032 SF which is consistent with the minimum requirements. Staff would note that the total area of the amenity deck needs to be revised, as it is not consistent throughout. Page 1-18 and page A0-10 show different numbers. The required 20% amenity area is based on the gross floor area, not on the FAR area. A corridor in front of the service area is not part of the amenity area required. Based on the gross area provided and the area of the amenities provided, the project does not comply.

DRIVEWAYS AND LOADING

While the three separate waivers are individual sections of the code, they are inter-related. Within the boundaries of the TCC, there are only two alleys, Harding Court and Abbott Court (subject site). As such the Code does not contemplate access from alleyways in the regulations pertaining to driveways, frontages, curb cuts, or loading in the Class frontage requirements. In preparing off-street loading development within a site plan, access from an alley is always the best integrated solution for ensuring a complete public street class system by avoiding additional curb cuts and removing swaths of street facing loading berths. Though providing a direct loading area off of the alley, as opposed to one of the street frontages, the applicant's proposed site plan is still requesting two waivers from the Board. The first waiver requested is to permit loading spaces that require the vehicles to reverse into or out of the site, and the second is to permit non-combined driveways for parking and loading.

Alleys that provide access to parking, trash pick-up, and deliveries at the rear of lots, hidden from direct pedestrian view, are generally widely encouraged as a basic urban design principle when allocating such uses away from streets designed to encourage a more active pedestrian design. The 20'-0" alley has been configured with minimum width to allow bypassing of vehicles stopped in the alley and allow for vehicular movements into and out of the internalized loading docks within the building envelope. This configuration ensures that there are no adverse aesthetic, safety, and/or practical consequences on the public way. Again, loading areas that require a backing maneuver to or from a public right-of-way, Class C and/or Class B, should generally be avoided for a multitude of reasons, including pedestrian safety. Additionally, the blocking of sidewalks and exposed loading areas when deliveries are in service are conditions that should be avoided in the TCC District. As such, in this instance, staff is supportive of the configuration of providing loading areas directly off of the alley and separate from the main driveway of the project off of Byron Avenue (waiver #1 and waiver #2).

In this instance, the separate driveways are necessary for the efficient vehicular operation of the loading and parking needs of the development. A singular 22'-0" wide, two-way drive is proposed as the sole, vehicular entry point into the structure along Byron Avenue (Class C). This driveway leads to the dedicated parking for the residential and retail component on levels two through four. However, since the loading vehicles also exist onto Byron Avenue as well, via the new alley and bioswale, the two "drives" must be reviewed for distance separation as regulated by the Class C street frontage requirements. Individual driveways are required to be spaced no closer than 30'-0" apart unless waived by the Design Review Board, to minimize vehicular breaks in the sidewalk in order to prevent excessively wide curb cuts and minimize conflicts with pedestrians. The new alley/driveway and main driveway are separated by a 16'-9" wide stairwell. The parking component of the project is intentionally hidden from the Class A (72nd Street) and Class B (Abbott Avenue) street sides of the site in accordance with the frontage design requirements and located as far away as allowable from the Class A frontages to allow the retail extension to remain uninterrupted and provide a more active pedestrian area. While alleys are encouraged to be used, the use of the alley for loading triggers the classification as an alternate driveway and the need to modify distance separation between the alley (which is used by the public and is not a designated private driveway) and the private driveway (waiver #3). As previously mentioned, providing the six loading areas to be accessed directly through the alley configuration is the ideal method for loading. As such, staff is supportive of the reduced distance separation between the two.

The proposed loading area for project has been configured away from all street frontages within the TCC in the most ideal scenario, off of an alley. The loading area will be buffered from the neighboring residential building by the dedicated 20'-0" wide new alley, as well as the 18'-0" wide bioswale, providing for an approximate 40'-0" buffer from the loading façade to the abutting property to the south. Staff supports the waiver to separate the loading and parking driveways, to allow for reverse into or out of the site, as well as the reduced separation of curb cuts.

PARKING

Pursuant to the regulations for Parking District No. 8, no parking is required for retail uses; however, required parking can be provided up to the level required in Parking District No. 1 without counting against the project's maximum FAR. The 29 of the 147 provided for retail spaces satisfy the parking requirements for the proposed commercial space, and do not count towards the project's FAR. Additionally, the applicant's proposal incorporates 141 out of the 232 total as co-living residential units. A co-living unit provides for smaller units than what has been traditionally seen and provide many amenities and opportunities for social interaction which may be more attractive to some people than a larger living space. Amenities may include community gourmet kitchens, business centers, gyms, community rooms, pools, restaurants, etc. Additionally, there is no parking requirement for these units and the parking requirement for the other 91 units is also reduced as a result of the TCC regulations. While the code requires 46 required residential spaces, the applicant has provided 147 spaces throughout the three floors of parking.

HEIGHT

The applicant is proposing a 14-story structure measuring 154'-2" to the top of the main roofline of the tower from BFE +5, or 13' NGVD. The TCC requires participation in the Public Benefits Program (Sec. 142-747) for all floor area located above 125 feet up to the maximum building height. The fees are established in Appendix A of the City Code and is

currently \$3 per square foot located above 125 feet; the fee is paid prior to obtaining a building permit. The applicant intends on utilizing the public benefits for the portions of the Project above 125' in height pursuant to Section 142-747(g)(1)—expedited development option.

PHASED DEVELOPMENT REVIEW

The subject property consists of all the platted lots within Block 6 of the Normandy Beach South Plat/Subdivision, with the exception of lots 5 and 6. Additionally the property contains the northern portion of the prior Abbott Court and the redirected new alley and bioswale. The area of the realigned alley and the bioswale have not been utilized for calculation of available FAR to the site.

The subject site contains the following uses and existing structures:

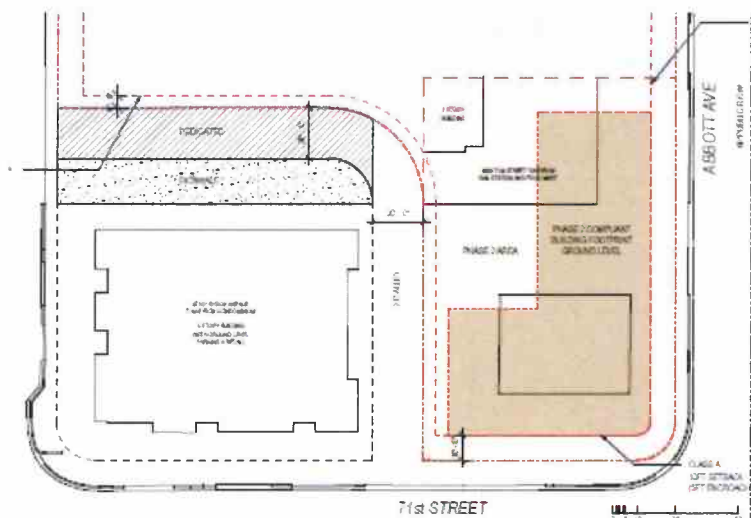
- (i) a 2- story commercial/office building (7140 Abbott Avenue);
- (ii) a 2-story multifamily structure (430 72nd Street);
- (iii) surface parking lots (7134 Abbott Avenue, 7315 Byron Avenue and 7117 Byron Avenue);
- (iv) a 2-story commercial building (7124 Abbot Avenue); and
- (v) a 2-story gas station with ancillary services (409 71st Street).

Additionally, there are existing utility easements and facilities located on the block that the applicant will relocate as part of the construction permitting of the development and will work with the City and respective utility companies to resolve before construction permitting. This includes the undergrounding of overhead FPL lines and the removal of the structural poles along the entire block of Abbott Avenue.

Due to the size of the subject property and the expansive nature of the project, as well as challenges with the current lease holder of the gas station, the applicant seeks a phased development permit, pursuant to Section 142-746 and 118-259 of the Code, to complete the renovations in two (2) phases.

Although not present within this application, the subject property also includes the existing gas station and ancillary services on the southern portion of the Property (along 71st Street) that is subject to a lease agreement with a third party that is not set to expire in the immediate future. In accordance with Section 142-746 of the LDRs, the applicant has reserved approximately 11,560 +/- square feet of floor area for the Phase II development. Upon the expiration or earlier termination of the lease, the Applicant will request design review approval and related entitlements from the Design Review Board for the Phase II development of the existing gas station portion of the Property.

| | |
|---------------|----------------------|
| Lot Size: | 53,776 SF |
| | Phase I: ±38,693 SF |
| | Phase II: ±15,083 SF |
| Proposed FAR: | 188,216 SF / 3.5 |
| | Phase I FAR: 176,656 |
| | Phase II FAR: 11,560 |



Phase I - North sites and residential tower project 430 72nd Street, 7124-7140 Abbott Avenue and 7117-7135 Byron Avenue. Phase I consists of all proposed development for the residential tower as defined and depicted in the submitted plans, north of the realigned alley and bioswale. The project site includes the replacement of all one- and two-story existing buildings, except for the existing gas stations. The phased development approval requires the nonconforming building to be redeveloped into a conforming building. The phasing time limit shall be the minimum necessary to allow for the completion of the lease.

Phase II – Chevron Gas Station (409 71st Street). The southern portion of the subject block currently contains an existing two-story recently renovated building with ancillary service station uses and associated gas station and pumps. In the event the facility terminates its lease and relocates, the applicant will submit an application for Phase II of the development to the Design Review Board. The applicant has allocated approximately 11,560 SF of FAR to the future redevelopment of the site in accordance with the TCC frontage requirements of Class A street (71st Street) design guidelines.

OVERALL DESIGN

While supportive of the location of the proposed new structure, as well as the contemporary design language that incorporates variations in surface materials and changes in plane, staff is recommending a number of design modifications in order to ensure a successful integration of the new development within the established context: these modifications include the following:

- a. *Screening along the garage: The architect shall continue to refine the proposed parking garage screening.*
- b. *Residential tower: Additional design details / further refinement of the south façade of the residential tower walls to incorporate a more articulated architectural treatment, including adding balconies, modifying the window openings, introducing a contrasting material and finish changes, or introduction of changes in elevation to break up coplanar expanse, in order to minimize the stark appearance from the rights-of-ways (71st Street) and further differentiate the façade from the parking podium and have a less “institutional” appearance from the rest of the building elevations.*
- c. *Retail layout: Additional design details / further refinement of the ground retail tenant build out, including all interior fixtures, shelving, lighting, partitions, and checkout*

counters, if parallel to the exterior wall, shall be setback a minimum of ten (10') feet from the exterior glass storefront walls of the ground floor along and Abbott Avenue. Additionally, the architect shall refine the south façade ground floor component to allow the storefront glass fenestration to "wrap" around the corner westward in order to provide a more transparent retail condition.

- d. Alley: Additional design details / further refinement of the south area of the project including the parking garage/screening elevations, ground floor loading area, design details, lighting, ground cover, screening mechanisms, etc
- e. Bioswale: Additional design details / further refinement of the bioswale area of the project including the slopes, ground cover, filtration mechanisms, etc. The environmental and water management components of this area shall be subject to the review of the Environmental and Sustainability Department and the Public Works Department.
- f. Amenity deck/soccer pitch: Additional design details / further refinement of the proposed soccer pitch including details of the fencing and lighting, location, height, configuration and specifications.
- g. Green roof: Additional design details / further refinement for a true "green" roof incorporated that encompasses a minimum of 50% of the rooftop area(s) of the building's rooftop at the NE corner of 72nd Street and Abbott Avenue with plant beds of sufficient size to accommodate trees and landscaping.
- h. Utility poles / lines: All overhead utility lines and poles adjacent to the subject property along Abbott Avenue shall be placed underground. Applicant to engage FPL, block development south of site (7000 block Abbott, DRB19-0424) also being redeveloped and will have to underground poles and lines
- i. Other: Additional modifications, where necessary, to fully comply with all of the other deficiencies identified under compliance with zoning code section of this recommendation.

Staff is confident most of these proposed changes can be reviewed and approved administratively, with the exception of the details of the garage screening and refinement of the tower's south façade. Accordingly, staff recommends approval of the application, and that the details of the garage screening and the south façade of the building be continued to allow the architect to continue to refine the elements.

VARIANCE REVIEW

As identified under the 'Project' description of the analysis, two of the variances are consistent with intent of the frontage requirements of the TCC. Staff recommends approval of variance #1 and #2 and denial of variance #3.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the requested variances #1 and #2 be **approved**, and variance #3 be **denied** without prejudice, and the overall design inclusive of the waivers be **approved**, with the exception of the garage screening and refinement of the tower's south façade which shall be continued to a future meeting date, 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.

Exhibit 'A'

LEGAL DESCRIPTION:

Lots 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, in Block 6, Normandy Beach South, according to the plat thereof as recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida.

AND:

All of a 10' Alley also known as Normandy Beach Court lying adjacent to Lots 7, 8, 9 10 and 11, Block 6, NORMANDY BEACH SOUTH, according to the plat thereof, as recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Northeast corner of said Lot 10; thence S 87°34'52" W along the North line of said Lots 7, 8, 9 and 10 for 100.01 feet to the Northwest corner of said Lot 7; thence N 02°21'31" W along the Northerly projection of the East right right of way line of a 20' Alley also known as Abbott Court for 10.00 feet to the Southwest corner of said Lot 11; thence N 87°34'52" E along the South line of said Lot 11 for 100.01 feet to the Southeast corner of said Lot 11; thence S 02°21'42" E along the Southerly projection of the West right right of way line of Abbott Avenue for 10.00 feet to the Point of Beginning.

AND:

A portion of a 20' Alley also known as Abbott Court lying adjacent to Lots 1, 2, 3, 4, 11, 12, 13, 14, 15, 16, 17 and 18, Block 6, NORMANDY BEACH SOUTH, according to the plat thereof, as recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Northeast corner of said Lot 1; thence S 02°21'31" E along the East line of said Lots 1, 2, 3 and 4, also being the West right of way line of a 20' Alley also known as Abbott Court for 166.44 feet to a point on a circular curve concave to the Southwest and whose radius point bears S 25°49'29" W; thence Southeasterly along a 37.90 foot radius curve leading to the right through a central angle of 61°49'00" for an arc distance of 40.89 feet to a non-tangent point; thence N 02°21'31" W along the West line of said Lots 11, 12, 13, 14, 15, 16, 17 and 18, also being the East right of way line of said 20' Alley also known as Abbott Court for 199.87 feet to the Northwest corner of said Lot 18; thence S 87°35'51" W along the Westerly projection of the South right of way line of 72nd Street for 20.00 feet to the Point of Beginning.

LESS AND EXCEPT THE FOLLOWING:

A portion of Lot 4, Block 6, NORMANDY BEACH SOUTH, according to the plat thereof, as recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Southwest corner of said Lot 4, thence N 02°21'18" W along the West line of said Lot 4, also being the East right of way line of Byron Avenue for 38.00 feet; thence N 87°34'53" E along the North line of Normandy Beach Court for 107.07 feet to a point of curvature; thence Southeasterly along a 37.90 foot radius curve leading to the right through

a central angle of $28^{\circ}14'36''$ for an arc distance of 18.68 feet to a non-tangent point; thence $S\ 02^{\circ}21'31''\ E$ along the East line of said Lot 4, also being the West right of way line of a 20' Alley also known as Abbott Court for 33.49 feet to the Southeast corner of said Lot 4; thence $S\ 87^{\circ}34'53''\ W$ along the South line of said Lot 4 for 125.01 feet to the Point of Beginning.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: April 07, 2020

| | | |
|------------------|-----------------------------|------------------|
| PROPERTY/ FOLIO: | 7140 Abbott Avenue | 02-3211-002-0470 |
| | 7136 Abbott Avenue | 02-3211-002-0460 |
| | 7124 Abbott Avenue | 02-3211-002-0440 |
| | 7120 Abbott Avenue | 02-3211-002-0430 |
| | 409 71 st Street | 02-3211-002-0410 |
| | 7117 Byron Avenue | 02-3211-002-0390 |
| | 7135 Byron Avenue | 02-3211-002-0380 |
| | 7134 Abbott Avenue | 02-3211-002-0370 |
| | 430 72 nd Street | 02-3211-002-0360 |

FILE NO: DRB19-0484

IN RE: An application has been filed requesting Design Review Approval for the construction of a new multistory mixed-use residential and retail development, including one or more waivers, and variances to reduce the frontage depth requirement for habitable space on Abbott Avenue, to reduce the frontage depth requirement for habitable space on Byron Avenue, and to reduce the minimum amount of building façade with habitable space along Byron Avenue, to replace existing structures including three 2-story buildings, surface parking lot, and a gas station. This project is proposed to take place in two (2) phases as a phased development project.

LEGAL: See attached Exhibit 'A'

ORDER

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

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not a individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 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, 10, 11, and 12 in Section 133-50(a) of the Miami Beach Code.

1. The Phased Development plan shall be approved as proposed. Phase I of the project site includes the replacement of all one- and two-story existing buildings, except for the existing two-story gasoline and service center. The phased development approval requires the nonconforming building to be redeveloped into a conforming building. In the event that the Chevron Gas Station terminates its lease, the applicant will submit an application for Phase II to the Design Review Board. Sec. 142-746(b) Notwithstanding the requirements of subsection (a) above, if said nonconforming building has a tenant with a lease that prevents the structure from being made conforming as part of the land use board approval, then the following shall apply: The phasing time limit shall be the minimum necessary to allow for the completion of the lease; A certified copy of the lease shall be provided as part of the Land Use Board application; The minimum required floor area to be reserved for Phase II is 11,560 SF.
2. The architect shall provide additional design details / further refinement of the bioswale area of the project including the slopes, ground cover, filtration mechanisms, etc. The environmental and water management components of the bioswale shall be modified to incorporate significant and measurable resilience and sustainability components, subject to the review of the Environmental and Sustainability Department and the Public Works Department.
3. Revised elevation, site plan and floor plan drawings for the proposed mixed-use development at 7140 Abbott Avenue shall be submitted to and approved by staff; 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. FAR diagrams and calculations shall be revised and to be reviewed and approved by staff as part of the building permit plans.
 - b. **FAR.** FAR drawings shall be revised. Level 5. The covered area on pool deck adjacent to residential units and adjacent to amenity rooms count in FAR. These areas are not considered balconies as they are not cantilever from the building. They are part of the roof of the parking below. In addition, the cantilever area on the north side of the amenity rooms are not private balconies, therefore, they also count in FAR, unless they are open above. A0-11 FAR Bicycle racks along south drive aisle determined to count towards FAR. A0-13 FAR Outdoor area south and west of enclosed amenity level rooms covered from above and area west of units 9-12 on level 5 covered from above determined to count towards FAR.
 - c. The loading spaces that require vehicles to reverse into or out of the site, **shall be** waived as proposed (Sec 142-745(a)(12)(b)).
 - d. The separation of driveways for parking and loading **shall be** waived as proposed. (Sec 142-745(a)(12)(c))

- e. The reduced separation distance between the driveways on Class C frontage **shall be** waived as proposed.(Sec 142-745(g)(3)(b))
- f. The architect shall comply with the street frontage requirements for the Class A frontage (72nd street):
 - i. Although the project complies with the 70% glass frontage, the elevation drawing, and calculations are not accurate. The length of the glazing required cannot include the structural columns. Elevation drawing and calculations shall be revised
 - ii. Café shall be extended to include the required 50'-0" fronting 72nd Street. Storage uses are not considered habitable space desired to be within the required frontage depth
 - iii. Utility infrastructure shall be concealed from public view and may be placed within required habitable space (50'-0")" or behind if access from the street is required. In this case, demonstrate that access from the street is required by the Florida Building Code or other applicable regulations for the Fire command room.
- g. A minimum 10'-0" foot wide "Clear Pedestrian Path," free from obstructions, including but not limited outdoor cafes, sidewalk cafes, landscaping, signage, utilities, door swings, etc., shall be maintained on the ground floor along all street frontages.
- h. Utility infrastructure shall be concealed from public view and may be placed within required habitable space (20'-0")" or behind if access from the street is required. In this case, demonstrate that access from the street is required by the Florida Building Code or other applicable regulations for the Fire Pump room.
- i. The architect shall clarify location and type of required bicycle (long vs short term) parking on a revised site plan.
- j. The architect shall further refine the architecture along the alley realignment elevation, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the direction from the Board. Additional design details / further refinement of the south area of the project including the parking garage/screening elevations, ground floor loading area, design details, lighting, ground cover, screening mechanisms, etc, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- k. The architect shall provide additional design details / further refinement of the south façade of the residential tower walls to incorporate a more articulated architectural treatment, including adding balconies, modifying the window openings, introducing a contrasting material and finish changes, or introduction of changes in elevation to break up coplanar expanse, in order to minimize the stark appearance from the rights-of-ways (71st Street) and further differentiate the façade from the parking podium and have a less "institutional" appearance from the rest of the building elevations, in a manner

to be reviewed and approved by staff consistent with the Design Review Criteria and/or the direction from the Board.

- l. The architect shall provide additional design details / further refinement of the ground retail tenant build out, including all interior fixtures, shelving, lighting, partitions, and checkout counters, if parallel to the exterior wall, shall be setback a minimum of ten (10') feet from the exterior glass storefront walls of the ground floor along and Abbott Avenue. Additionally, the architect shall refine the south façade ground floor component to allow the storefront glass fenestration to "wrap" around the corner westward in order to provide a more transparent retail condition.
- m. The architect shall provide additional design details / further refinement of the proposed soccer pitch including details of the fencing and lighting, location, height, configuration and specifications, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the direction from the Board.
- n. The applicant shall further refine the proposed parking garage screening. The final design details and color selection of the "parking garage podium screening" proposed at portions of the parking podium 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.
- o. 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.
- p. All interior fixtures, including, but not limited to, shelving, partitions, and checkout counters, if parallel to the exterior wall, shall be setback a minimum of ten (10') feet from the exterior walls 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. This shall not prohibit substantially transparent fixtures for display purposes; however, shelving, partitions, and checkout counters, or similar objects, shall not be permitted to be flush to the exterior walls of the building facing any right-of-way.
- q. The final design and details of all exterior and interior lighting shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. Interior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding area. No florescent or intensive 'white' lighting (or similar intensive lighting) visible from the adjacent public rights or way or adjacent properties shall be permitted.
- r. Any future kitchen ventilation or mechanical venting shall be chased through the interior of the building to the roof. No exhaust ducts or vents shall be permitted on any building elevations.

- s. All internal garage lighting shall be shielded to buffer views of all direct light sources from outside of the structure, as well as on the roof deck, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - t. All rooftop lighting shall consist of a lighting fixture that is affixed to, and no higher than, the rooftop parapet wall. All roof-top lighting fixtures shall be designed to preclude light from spilling over to adjacent properties, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - u. The final design details and pattern of the hardscape and exterior walkways 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.
 - v. Any exterior ground floor 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.
 - w. The interior walls of the first level of the parking garage entrance, ramps and loading areas, shall be fully detailed on revised plans. Such interior areas shall consist of high quality, non-stucco surface materials which have a well finished appearance commensurate with the primary façade of the building, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - x. All building signage shall require a separate permit. A uniform sign plan for the new building shall be required. Such sign plan shall be consistent in materials, method of illumination and sign location, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - y. Final details of all proposed storefront systems and associated details shall be provided for all ground floor elevations on the project site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - z. 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.
 - aa. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
4. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted

to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:

- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
- b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed application, 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. A true "green" roof shall be incorporated that encompasses 50% of the rooftop area(s) of the building's rooftop at the NE corner of 72nd Street and Abbott Avenue with plant beds of sufficient size to accommodate trees and landscaping.
- e. All overhead utility lines shall along Abbott Avenue adjacent to the subject property be relocated underground. All utility poles shall be removed.
- f. All exterior walkways and drives shall consist of decorative pavers, set in sand or other semi-pervious material, with the exception of a small portion of slab to accommodate loading in the alley, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- g. 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.
- h. The Backflow prevention device shall not be permitted within any area fronting a street or sidewalk, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board

- i. Street trees shall be required within the sidewalk 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.
- j. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- k. 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.
- l. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- m. 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.
- n. 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.
- o. 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 approved by the Board:

1. A variance to reduce the required 45'-0" of the habitable depth requirement along

Abbott Avenue (Class B) for a limited area of the trash room

2. A variance to reduce the required 85% of the length of the building façade requirement along Byron Avenue (Class C) for driveway access

The following variance was **denied** by the Board:

3. A variance to reduce the required 20'-0" minimum habitable depth requirement along Byron Avenue (Class C) in order to provide for necessary utility equipment (back flow preventer).
- 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.

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 **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.
 2. If required, the applicant shall obtain a revocable permit from the Public Works Department for the proposed improvements within the public right-of-way, subject to approval of the City Commission, prior to the issuance of a building permit.
 3. The architect shall revise the ground floor site plan to comply with the minimum required 20'-0" habitable depth requirement along Byron Avenue (Class C) and relocate the back flow preventer further eastward adjacent to the alley.

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. Currently, only three (3) co-living units remain available in the TC-C zoning district. Unless the City Commission adopts legislation amending City Code Sec. 142-741(b)(2)(a)(iv) to increase the total number of co-living units available in the district, the plans for the project and program of uses shall be revised to reduce the number of co-living units proposed.
- B. There shall be a limit of 500 apartment units built within the TC-C district over and above the maximum allowable density and intensity, prior to the adoption of the FAR increase approved on November 7, 2017 of **Sec 142-741(b)(2)(a)(ii) Apartments**.
- C. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- D. 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.
- E. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- F. Project shall comply with Urban Heat Island Ordinance, roofing.
- G. Identify intended compliance with Section 142-747 North Beach Public Benefits Fund. Fee per unit public fund benefit. Contribution to public benefits fund. A contribution to the public benefits fund, in the amount identified in appendix A shall be required for each square foot of floor area located above the 125 feet. Provide information and details of how the project

will satisfy this requirement.

- H. 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.
- I. The Applicant agrees that a project manager will be retained to ensure that all aspects of the development permitting and licensing processes are coordinated and consistent with the approved plans. The applicant agrees to submit the name and contact information for the project manager to the Planning Department within 90 days of the May 3, 2016 meeting. Failure to comply with this condition within the specified time shall result in notice and a hearing before the Board to extend the timeframe.
- J. 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 proximity of the new building to the proposed alley re-alignment.
- K. 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.
- L. 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.
- M. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- N. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- O. 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.
- P. 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.

- Q. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- R. 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 "7140 Abbott Avenue: Final Submittal" as prepared by **Arquitectonica**, dated signed and sealed February 10, 2020, signed, sealed, and dated February 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

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

Exhibit 'A'

LEGAL DESCRIPTION:

Lots 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, in Block 6, Normandy Beach South, according to the plat thereof as recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida.

AND:

All of a 10' Alley also known as Normandy Beach Court lying adjacent to Lots 7, 8, 9 10 and 11, Block 6, NORMANDY BEACH SOUTH, according to the plat thereof, as recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Northeast corner of said Lot 10; thence S 87°34'52" W along the North line of said Lots 7, 8, 9 and 10 for 100.01 feet to the Northwest corner of said Lot 7; thence N 02°21'31" W along the Northerly projection of the East right right of way line of a 20' Alley also known as Abbott Court for 10.00 feet to the Southwest corner of said Lot 11; thence N 87°34'52" E along the South line of said Lot 11 for 100.01 feet to the Southeast corner of said Lot 11; thence S 02°21'42" E along the Southerly projection of the West right right of way line of Abbott Avenue for 10.00 feet to the Point of Beginning.

AND:

A portion of a 20' Alley also known as Abbott Court lying adjacent to Lots 1, 2, 3, 4, 11, 12, 13, 14, 15, 16, 17 and 18, Block 6, NORMANDY BEACH SOUTH, according to the plat thereof, as recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Northeast corner of said Lot 1; thence S 02°21'31" E along the East line of said Lots 1, 2, 3 and 4, also being the West right of way line of a 20' Alley also known as Abbott Court for 166.44 feet to a point on a circular curve concave to the Southwest and whose radius point bears S 25°49'29" W; thence Southeasterly along a 37.90 foot radius curve leading to the right through a central angle of 61°49'00" for an arc distance of 40.89 feet to a non-tangent point; thence N 02°21'31" W along the West line of said Lots 11, 12, 13, 14, 15, 16, 17 and 18, also being the East right of way line of said 20' Alley also known as Abbott Court for 199.87 feet to the Northwest corner of said Lot 18; thence S 87°35'51" W along the Westerly projection of the South right of way line of 72nd Street for 20.00 feet to the Point of Beginning.

LESS AND EXCEPT THE FOLLOWING:

A portion of Lot 4, Block 6, NORMANDY BEACH SOUTH, according to the plat thereof, as recorded in Plat Book 21 at Page 54 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Southwest corner of said Lot 4, thence N 02°21'18" W along the West line of said Lot 4, also being the East right of way line of Byron Avenue for 38.00 feet; thence N 87°34'53" E along the North line of Normandy Beach Court for 107.07 feet to a point of curvature; thence

Southeasterly along a 37.90 foot radius curve leading to the right through a central angle of $28^{\circ}14'36''$ for an arc distance of 18.68 feet to a non-tangent point; thence $S\ 02^{\circ}21'31''\ E$ along the East line of said Lot 4, also being the West right of way line of a 20' Alley also known as Abbott Court for 33.49 feet to the Southeast corner of said Lot 4; thence $S\ 87^{\circ}34'53''\ W$ along the South line of said Lot 4 for 125.01 feet to the Point of Beginning.