

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: October 06, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB19-0424
6948-6988 Abbott Avenue and 6957-6965 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 one or more variances from the street class frontage requirements to replace existing surface parking lots.

RECOMMENDATION:

Approval with conditions

Denial with prejudice of the variances

LEGAL DESCRIPTION:

Lots 3, 4, 5, 7, 8, 9, 10 of Block 13, and lots 11 and 12 as less the west 50 feet thereof, of Normandy Beach South, according to the plat thereof, as Recorded in Plat Book 21, Page 54, of the Public Records of Miami-Dade County, Florida.

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.

This is the second project developed under the new regulations that has aggregated multiple lots within an entire block and the first development in the area to require Planning Board approval for a conditional use permit since it contains a retail establishment that is over 25,000 SF. The project received CUP approval on February 25, 2020, pursuant to PB19-0303.

SITE DATA:

Zoning:	TC-C Town Center--Central Core
Future Land Use:	TC-C Town Center--Central Core
Parking District:	8
Lot Size:	49,820 SF
Proposed FAR:	171,870 SF / 3.5
Maximum FAR:	174,370 SF / 3.5
Gross SF:	286,732 SF (incl. outdoor amenities)
Retail:	+25K One 30,010 SF (PB19-0303)
Units:	170
Density:	Density 109 under prior FLUM, 170 proposed, bank 61 from 500 cap.
Height:	
Proposed:	129'-2" measured from BFE +5', or 13' NGVD 12-story
Maximum:	125'-0" base 200'-0" through public benefits program
Highest Projection:	148'-2"

CMB Grade: 5.25' NGVD
Base Flood Elevation: 8' NGVD
First Floor Clearance: 15'-6" measured from BFE +5', 13' NGVD
Required Parking: **94 required residential spaces | 175 provided**
Unit size: 170 units: between 550-912SF
Parking requirement: 134 units x ½ space for those units bet 550 and 850SF= **67 required spaces.**
36 units x ¾ space for those units greater than 851SF and 1250 = **27 required spaces**
No retail parking requirement | **56 of the 175 provided for retail +25k**
Required Loading: Total loading: **6 required spaces | 6 provided**
C: Sec130-101(A)(1)(c) Over 20,000 but not over 40,000: Three spaces.
R: Sec130-101(A)(3)(c) Over 100 units but not more than 200 units: Three spaces.
Required Bicycle Short term: 4c +17r = **21 required | not identified**
Required Bicycle Long term: 12c + 170r = **182 required | not identified**

SURROUNDING PROPERTIES:

East: Surface parking, two-story Gidney Building, and six-story City National Bank Building (DRB19-0462*)
North: 71st Street, one-story service station (DRB19-0482*)
South: Two-story residential building and one-story office (AT&T)
West: P80 City surface parking lot (same block), one story Café Prima Pasta (same block), Byron Carlyle Theatre and two-story residential buildings

*future pending DRB applications

THE PROJECT:

The applicant has submitted revised plans entitled "Design Review Board 6988 Abbott Avenue" as prepared by **cube3, LLC** dated signed and sealed August 10, 2020.

The applicant is proposing a new 12-story, 129'-2" high building with 170 residential units above a 30,000 SF ground floor retail component and two floors of parking, including one or more waiver requests. Within the TC-C district, there is a limit of two (2) retail establishments over 25,000 square feet permitted through the conditional use process. After a lengthy discussion, an application for Conditional Use Permit approval was approved by the Planning Board on February 25, 2020, pursuant to PB19-0303.

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

Ground Floor: ±30,010 SF retail component configured along Abbott Avenue and 71st Street
4,905 SF residential lobby configured along Byron Avenue and BOH
Two, two-way 22'-0" wide driveways (loading area and upper parking garage ingress and egress) from Byron Avenue - Waiver needed
3 internalized ground floor loading spaces accessed from Byron Avenue and 3 internalized upper floor loading spaces
70th Street "paseo" lined passage along southern portion of site from Abbott Avenue
Level 2: 4 units ranging in size 550 SF – 650 SF
1,000 SF café configured in northeast corner of site/parking level
24 residential parking spaces, 56 commercial parking spaces, three (3) residential loading spaces
Level 3: 4 units ranging in size 550 SF – 650 SF
95 residential parking spaces

Level 4: 18 units ranging in size 550 SF – 912 SF
Outdoor areas, terrace occupiable space, planters, pool
3,679 SF clubhouse area
Levels 5-12: 18 units ranging in size 550 SF – 912 SF
Rooftop Level: Mechanical equipment

The proposed ground floor consists of a single, big box retail use with an area of 30,089 SF and is primarily configured facing 71st Street, Abbott Avenue and the 70th street pedestrian paseo. There is also a proposed café component located on the second floor at the northeast corner of the project. Additionally, the plans indicate that the residential lobby at the ground floor will have pedestrian access from Byron Avenue. Parking access is from Byron Avenue and parking for the retail use will also be located on the second and third floors. All back of house, delivery and trash operations are located on the ground floor with access from Byron Avenue. The nine-story tower sits upon the three-story retail and parking pedestal and is configured in the east-west orientation with a double loaded corridor configuring the 170 units.

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

1. **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.
2. **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 all required 10'-0" wide "Clear Pedestrian Path" along 71st Street (Class A).
2. A variance to reduce the required 10'-0" wide "Clear Pedestrian Path" along Abbott Avenue (Class B).
 - Variances requested from:

Sec. 142-745. –Street Frontage, Design, and Operations Requirements.

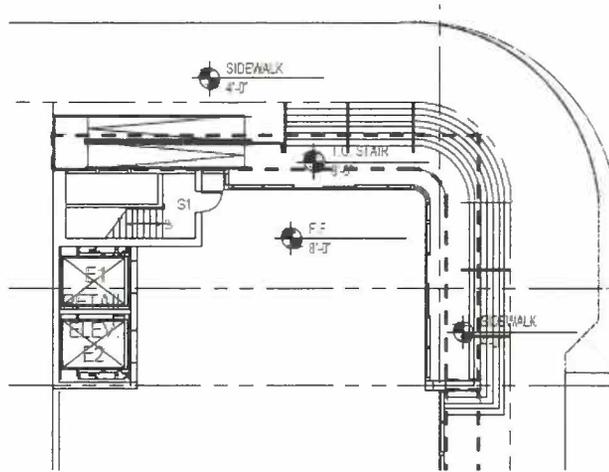
(a). The following regulations shall apply to all frontages:

(3) 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, and lighting, shall be maintained along all frontages.*

a. The Clear Pedestrian Path may only utilize public sidewalk and setback areas.

The subject property contains 70'-0" of frontage along 71st Street. The proposed building has a setback of 10'-0" along both street frontages (71st Street and Abbott Avenue). The existing sidewalk conditions include many existing infrastructure elements and street furniture such as an electrical poles, street lights, utility cabinets, street signs and newspaper racks that litter the sidewalk area and already impede fluid circulation in this busy intersection. The revised proposal includes elevating the interior of the commercial big box tenant space floor approximately 4'-0" above sidewalk elevation, from CMB Grade of 4' NGVD to 8' NGVD. The design team has proposed transitioning from the two elevations outside of the building

envelopment and within the setback and clear pedestrian path with the introduction of corner steps and ramping to provide access to the ground floor retail.



Northeast corner of project with steps and ramp

This design option eliminates the required 10'-0" wide sidewalk "pedestrian path" free of obstructions to facilitate pedestrian circulation at the corner. This design proposal not only reduces the sidewalk, but also the available area is pushed closer to the street which could result in a safety hazard for the public. In addition, the planters proposed also interfere with the required clearances. Staff also has concerns with the relocation of the utility pole and cabinet on the sidewalk, as the applicant has not provided any information in regards to the relocation of these elements.

In order to address future issues of flooding, the applicant has proposed to locate the interior elevation of the ground floor at base flood elevation. However, the manner of access proposed by the applicant, which is a design choice, does not comply with the requirements of the Land Development Regulations of the City Code. The applicant is seeking variances to address this non-compliance with the applicable requirements of the LDR's.

Staff believes that there is no practical difficulty of hardship associated with these variance requests, as access to the interior can be provided in a code compliant manner. For instance, by increasing the building setbacks to allow the stairs to be recessed into the property and not adjacent to the public right of way, the variances could be eliminated. Another option would be to lower the elevation of the ground level, and utilize internal flood barrier protection. As noted on page X1.1 of the plans (below), reducing the elevation of the ground floor, as originally proposed, is technically feasible.



Northeast corner of project with steps and ramp, 8' NGVD



Northeast corner of project with steps and ramp, 4.2' NGVD
CMBGRADE

As staff has discussed with the applicant, the current proposal requires variances from the TCC pedestrian path which would not be supported by staff. While there are challenges that the designers face by raising the interior space, the proposed porch/stair/ramp into the clear pedestrian path is antithetical to the clear regulations and intent of the TC-C district. The requirement for an unimpeded pathway is a paramount principle of the Town Center, which is for an active pedestrian street with a clear path free from obstructions.

Staff believes that the interior elevation can be successfully elevated, provided the building access points are recessed, either at the corner location or another location. Such a recess would accommodate entrance steps, as well as an accessible ramp in an equitable, covered manner. Alternatively, these access points could occur interior to the building envelope. In summary, due to the negative impacts of the requested variances and the incompatibility with the practical difficulties criteria, staff recommends denial with prejudice of both variance requests.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application **DO NOT** comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested waiver(s):

- In accordance with section 142-741a of the City Code, new construction of retail establishments over 25,000 SF and over in the TC-C zoning district must receive a Conditional Use approval from the Planning Board, whose review shall be the first step in the approval process prior to the review of the Design Review Board.
- Section 142-745(a)(8)c. Shade structure provided between 15 and 25 feet from grade cannot be part of the structural component of the building.
- Section 1472-743(a) Portion of recessed balconies on residential units on 2-4th floor facing West shall count in FAR, as these areas are not open cantilevered balconies.
- *Sec 142-745.a.12.c* **LOADING**
- *Sec 142-745.g.3.b* **DRIVEWAYS**
- *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.*
- *Sec 142-741(b)(3)* *There shall be a limit of two (2) retail establishments over 25,000 square feet within the TC-C district. Credits for such retail establishments shall be allocated on a first-come, first serve basis as part of an application for land use board approval, building permit, or business tax receipt, whichever comes first.*
- The project does not comply with the requirement to provide a shade structure consisting of an eyebrow or similar structure (parking decks or balconies can substitute) with a minimum depth of 5'-0" at a height between 15'-0 to 25'-0" as measured from BFE+5'. If not an integral part of the structure, the shade element can be located at a height between 15' measured from grade and 25' measured from BFE+5'. A shade structure that projects for a minimum depth of five (5) feet into the setback beyond the building facade, shall be provided at a height between 15 feet and 25 feet. Said shade structure may consist of an eyebrow or similar structure. Additionally, an allowable habitable encroachment such as balconies or parking deck may take the place of the shade structure. The shade structure encroaching into the right-of-way will require a revocable right-of-way permit through the Public Works department and approved by City Commission.
- 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 command room.
- The project, as proposed complies with the 85% required habitable space, conditioned

to provide evidence that the Fire Command room require direct access from the street and if the waiver to not combine driveways is approved. However, if the waiver to not combine driveways is not approved, or the required access for fire command room cannot be demonstrated, the required length for habitable space shall be recalculated.

- 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.
- The uppermost rooftop overhang encroaching into the front setback cannot exceed 25% into the front setback.
- 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.
- The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- Project shall comply with Urban Heat Island Ordinance, roofing.
- Clarify location and type of required bicycle (long vs short term) parking on plans.
- 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.
- 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.
- Sheet A.4 and A4.4 elevations, A4.6 sections are inconsistent with floor plans. Balconies are not projecting in plan the extent shown in elevations and sections. Lack of projection over pedestrian clear path requires variance, see below.

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 two waivers 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 two waivers 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 two waivers 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 two waivers 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 two waivers 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 two waivers 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.
Not Satisfied; the design of the parking garage screening has not been adequately developed.
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 two waivers 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.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Satisfied
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

On May 05, 2020 the applicant participated in a virtual Design Review Board meeting via the ZOOM platform for discussion purposes and to familiarize the Board, the public and the applicant with concerns and recommendations for this Town Center project. To recap, the following discussion points were made by various DRB members

- Dominant blank featureless wall facing 71st Street: make it taller and add greenery, in general improve the look of the wall;
- Blank walls in general need more work;
- Parking garage screening – needs improvement;
- Revise open stair on 71street – needs to be a statement piece;
- Stair Include an eyebrow at entrance;
- Retail windows – make sure they work with retail interior;
- Garage needs more creatively designed execution;
- And multiple Planning concerns.

On July 07, 2020 the applicant provided a series of six supplemental sheets, including elevations and renderings labeled X1.1-X1.6, which contained some limited revisions since the May 05, 2020 discussion. After careful review, staff concluded that these supplemental sheets represented only a small step towards addressing the concerns raised by the Board and the design direction given to the applicant. As such, the item was continued to the September 01, 2020 DRB meeting.

Since that time, the applicant has submitted revised plans submitted and the analysis herein reflect changes predominantly to the exterior based on the direction of the Board and concerns by staff. The modification to the design and the consequential circulation change to the ground floor northeast corner of the site triggered the need for an additional variance from the clear pedestrian path along street frontage requirements, which was properly identified and advertised in a revised notice.

The subject site is a 1.1 acre, unified half block development located within the boundaries of the TC-C, Town Center – Central Core District. The applicant is proposing a new 12-story, 129'-2" high building, with 170 standard residential units above a ground floor big box retail component. There are two floors of parking proposed above the ground floor retail with 175 parking spaces. The irregularly shaped site contains limited frontage along 71st Street and unequal linear frontages along Byron Avenue and Abbott Avenue.

Staff has met with the applicant and the design team on numerous occasions throughout the last year and the architect has continued to make progress in addressing many of the previous concerns expressed by both Planning and Transportation staff. As the overall project has slowly improved on certain aspects of the design and the configuration of the program and site planning, staff's operational and loading concerns have been addressed by the Planning Board Conditional Use Permit (CUP). At this time staff is generally supportive of the project and its requested waivers, but not the variances, and staff believes the proposed design team has made great progress to move the project closer to alignment with staff concerns and direction by the Board.

The proposed project is a mixed-use building featuring a three-story retail and parking pedestal with a 9-story residential tower that is configured in the east-west orientation. The active retail ground floor component of the project is dedicated to the Abbott Avenue section of the site, with a single big box retail slated for the ground floor and a café and associated parking on the second floor. The residential lobby, back of house space, and access to internalized commercial loading and trash operations, is sited on the Byron Avenue section of the site. Residential units line the pedestal along Byron Avenue for two levels with the remainder of the floorplate, through to Abbott Avenue, allocated for parking. The residential tower commences on the fourth floor with a typical unit floor plan and an amenity level that includes a clubhouse, spa and landscaping.

The architectural scheme of the project focuses on large panes of clear glass contrasted with white details and stucco walls at the residential towers, while the pedestal and retail portions of the design incorporate champagne color metal panels and geometric metal screens that contrast with glazing and white stucco. The design also incorporates green landscape screens that soften the facades. The ground floor retail contains floor to ceiling glazing that is capped with champagne color metal panels and a projecting stucco canopy, and continue above to blend into the building above at the retail corner of 71st Street and Abbott Avenue and on Byron Avenue along the residential component. The revised design continues the glazing and metal panel with a shade canopy rhythm on the south elevation of the paseo. While the paseo does not yet cut through the block, the revised design of the paseo elevation anticipates the future of a full block walkway lined with retail. Additionally, white geometric metal panels adorn the mechanical penthouse facing Byron Avenue, while gray ribbed stucco accents the stairwell tower that dominates the Abbott Avenue façade.

All of the streets within the TC-C have been designated as class streets ranging from Class A (71st Street), B (Abbott Avenue), C (Byron Avenue), and D (70th Street) as they pertain to their frontage type. The regulations for each class vary, linked to their hierarchy as a traveled corridor within the district. Each class street designation has various design requirements for transparency, habitable space, liner depth, allocation of uses, and fenestration requirements 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 for the purposes of providing regulations for the building frontage. Minimum street tree canopy and

lighting standards as well as architectural shading element guidelines have also been established by street frontage class, which require new buildings to provide additional comfort and shade to the pedestrians to compliment an active streetscape for an enjoyable and comfortable, walkable neighborhood.

In order to provide a safe pedestrian environment, the TC-C regulates urban form by guiding design standards for driveways and curb cuts. In general, they are prohibited along Class A street frontages (71st Street) and unless the only means of vehicular access to the site, not permitted on Class B street frontages (Abbott Avenue) either. Driveways and loading are permitted, if not generally preferred, on Class C frontages; however, their width is limited, the minimum distance between each driveway is regulated, and they must be incorporated into the façade of the building. Additionally, loading must be set back to limit its visibility from the public realm. Several driveway design characteristics typically cause safety and access problems for pedestrians, including excessively wide and/or sloped driveways, driveways with large turning radii, and multiple adjacent driveways, all of which lead to hazardous walking conditions in the built environment from the pedestrian perspective. In order to minimize vehicular breaks in the sidewalk to accommodate driveways, additional design guidelines implemented by the ordinance include minimum separation standards in order to prevent excessively wide curb cuts minimize conflicts with pedestrians.

Driveways

As previously mentioned, the subject property is an irregularly shaped site with 150'-0" of direct linear frontage along Byron Avenue (Class C). By contrast the site contains approximately 281'-4" of direct linear frontage along Abbott Avenue (Class B). Along Byron Avenue the development proposes two separate, 22'-0" wide two-way driveways that access the internalized loading berths and to the upper level parking facilities for the residential units and commercial big box retailer. These two curb cuts are proposed to be separated by an "office" measuring 12'-0" in width, but the TC-C requires driveways to be spaced no closer than 30'-0" apart, unless waived by the Design Review Board (waiver #1). The ordinance further stipulates that all driveways and curb cuts, both for parking and loading, be combined unless waived by the Design Review Board (waiver #2).

While weighing the options, two 22'-0" wide driveways along the narrowest of the north south frontages, at first seems like a nonoptimal urban solution. Given the options, by providing both driveways along the limited Class C frontage, the configuration enables the more prominent street frontages—71st Street and Abbott Avenue—to have uninterrupted architectural retail frontage. In this instance, staff is supportive of both of the waivers, but must preface this on the background, which includes a nearly two year process of reviewing various proposals, iterations of driveway locations, configurations of the design and its' program and, in staff's opinion, an exhaustion by the design team of possible viable solutions on this geometrically challenging site. It should be noted that staff had begun development reviews of the plans for the site(s) one year prior to the TC-C zoning district adoption, in order to provide the necessary internalized on-site loading space requirements and operations plan on the desired, albeit limited, street frontage along Byron Avenue. Staff recommends approval of the waiver to separate the loading and parking driveways, as well as the reduced separation of curb cuts.

On February 25, 2020, the Planning Board issued a conditional use approval for a big box retail store in excess of 25,000 SF, which is a conditional use in the TC-C zoning district. The size, location and operation of the commercial loading at the ground level was reviewed and approved, with the condition that a fully detailed operational plan for the facility be reviewed and approved by the Planning Board prior to the issuance of a building permit for the

development. The Planning Board also required modifications to the residential loading area at the second level to improve operations and circulation. All of the required loading is enclosed within the building and lined with the required habitable areas for each Street Class designation.

Parking

Pursuant to the regulations for Parking District No. 8, no parking is required for the retail uses—regardless of the size of the retail store; however, required parking can be provided up to the required amount based on Parking District No. 1 for the use without counting against the project's maximum FAR. The program includes 54 spaces that have been designated for the commercial component of the project, which is less than the parking requirements for the square footage of the space but do not count towards the project's FAR. Additionally, a large big box retailer will likely draw some customers from beyond the local area and providing some parking on site may make sense. As proposed, Byron Avenue includes two (2) curb cuts; one provides access to the ground level trash room and commercial loading area, and the second provides vehicular access to parking on the second and third levels and residential loading areas on the second level. The plans indicate the required six (6) loading spaces contained within the building will be allocated as follows: three (3) of these spaces are located on the ground floor and are associated with the proposed retail space, two (2) of the required loading spaces for the residential units are located on the second floor and one (1) is located on the third floor. Loading, delivery and operations were extensively reviewed and discussed at the February 25, 2020 Planning Board, pursuant to PB19-0303, and the project is tied to the all of the operational conditions of the CUP approval.

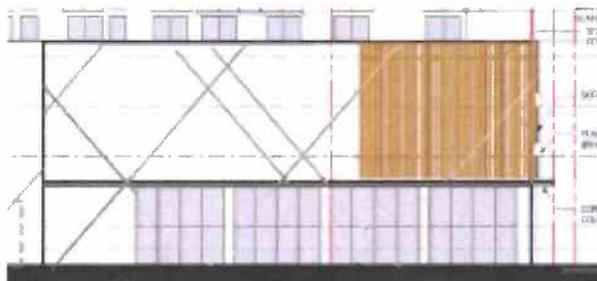
Height

The applicant is proposing a 12-story structure measuring 129'-2" to the top of the main roofline of the tower from BFE +5, or 13' NGVD. The TC-C 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.

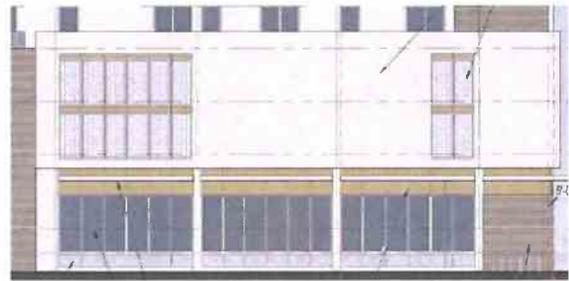
Paseo

The TC-C regulations identify one "street" as a Class D street frontage type, established to create a pedestrian alley, or paseo. The blocks between 69th Street and 71st Street extend over 620 feet in length as a result of a 70th Street never having been platted. This distance is not ideal for pedestrian connectivity, walkability, or proper urban form for blocks. As a result, the TC-C regulations identify a property line where 70th Street should have been located, midway between an elongated block that currently extends from 69th Street to 70th Street. This line is treated as a frontage line and requires a 10 foot setback from the adjacent properties. This will eventually result in a 20 foot wide lane being established that will greatly enhance connectivity and provide for interesting active spaces for the Town Center area. The subject property's eastern parcel (lot 7 of block 13) abuts the targeted location for the pedestrian lane.

Unfortunately, at this time due to the irregular geometry of the aggregated parcels within this application, as well as the differing ownership composition for the abutting lot 6, the complete passage from Abbott Avenue westward through to Byron Avenue cannot be fully realized as part of this development. As proposed, the passage has been designed in accordance with all of the TC-C regulations but fails to detail the design and nature of the passageway. Pedestrian alleys should be designed to a pedestrian-scale speed and a level of detail, wherever possible, that emphasizes pedestrian use.



Previous submittal, view along Paseo south façade



Current submittal, view along Paseo south façade

The proposal still lacks a detailed plan that identifies all the public space elements that include seating, special paving, landscaping, and pedestrian scaled lighting to create usable public spaces. The architect has also wrapped the ground level of the south façade that forms the “Paseo”, the planned midblock passage in the similar architectural language of the Abbott Avenue façade.

Additionally, since the completion of the full street paseo is not possible at this time, the proposed design results in a dead-end street that as a basic CPTED strategy should be avoided in all instances. As such, until that time when a full passage is finally realized through the development of the western parcel, staff would recommend the architect provide elements to block off the dead-end spaces with a well-designed and articulated transparent fence or gate system to limit access during portions of the non- business hours / evening.

Open Air Mechanical Condensing Farm

The second floor plan (sheet A3.2) indicates that there will be a condenser farm of mechanical equipment located adjacent to neighboring properties. The site located directly south of the subject property, across the paseo, is predominantly configured with parking that is associated with the ATT service administration one-story structure. However, the site that is directly west of the project contains a two-story building with nine residential units. Staff has concerns that the potential noise generated by the 40’x34’ mechanical “condensing farm” for the big box retailer will adversely impact the residential multifamily building located in the southwest portion of the project. Sufficient detail has not been provided in the plans to ensure that it would not become a nuisance and that it would be adequately screened to properly isolate the mechanical noise from the adjacent residential property.

Overall Design

Whereas staff’s concern with the design in previous iterations pertained to the blank zero-lot-line elevations facing 71st Street, the current design has addressed such concerns. The zero-lot-line elevations facing both the north (71st Street) and south (internal) elevations, inclusive of the 55’ high wall behind the existing surface parking lot and one-story restaurant that extends 175’-0” eastward from Byron Avenue, have been redesigned to incorporate green landscape screens at the ground floor adjacent to the parking lot, and geometric patterned metal screens contrasted with ribbed stucco at the upper levels, providing significant movement and interest to otherwise expansive walls that face public right-of-way.



Previous submittal, 71st Street façade (north elevation)



Current submittal, 71st Street façade (north elevation)

The architectural design of the east and west facades of the second and third floor parking and residential liners along Byron Avenue and Abbott Avenue have also been revised. The garage screening along Abbott Avenue has been significantly redesigned in such a manner that it directly relates to the architecture of the proposed retail that rounds the corner at 71st Street yet has its own distinct identity. Picking up the horizontal movement of the stucco bands that outline the glazing of the four-story corner/retail volume, stucco frame at levels two and three projects beyond the glazed retail wall of the ground floor and inlaid with a grid of textured metal screens that contrast with verticals band of ribbed stucco. Furthermore, the stucco frames are broken up just past midpoint by a four-story green landscape screen that climbs and aligns with a vertical glazing band of the residential tower. Whereas the residential liner along Abbott Avenue has been redesigned to integrate a similar stucco frame that is accented by vertical champagne-colored metal fins and within which a recessed glazing walls are accented with Juliet balconies of geometric textured screening.



Previous submittal, Abbott Avenue façade (east elevation)



Current submittal, Abbott Avenue façade (east elevation)

Similar to the concerns expressed by the Planning Board, staff has additional concerns with some aspects of the design that have yet to be fully realized with this revised set, specifically on the transparency of the stairwell on the north elevation (along 71st Street). The revised stairwell elevation is much improved as it is encased in the champagne colored metal panels that are inset with the dynamic screening common throughout the project, yet at its ground floor the architect has fully concealed its landing and entrance. While the gold-toned composite

panels are alluring, staff recommends transparency at this level to better address this architectural element with the pedestrian realm. Additional concerns remain pertaining to the lack of detail from landscape and the amenity deck, with staff recommending further refinement of such vital components.



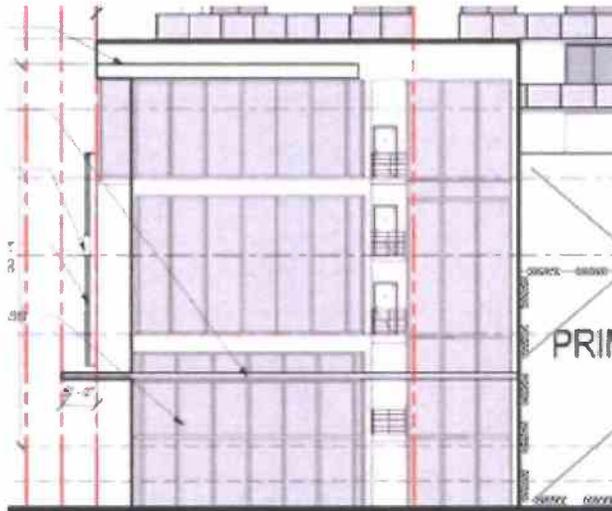
Previous submittal, view along Abbott Avenue façade



Current submittal, view along Abbott Avenue façade

71st Street Feature Stair

The applicant has indicated some exterior modifications to the proposed stair along 71st Street. As directed by the Board, the stair now appears to feature an open air design with colored vertical slats or fins. The unenclosed nature of the ground floor of the stair may encounter some challenges as it pertains to trash and refuse collection, safety concerns, potential housing of vagrants, and general maintenance goals. Although the architect has begun to improve the stair, further refinement and details are necessary.



Previous submittal, view along 71st Street façade



Current submittal, view along 71st Street façade

Within the most architecturally successful component of the project, the corner building at 71st Street and Abbott Avenue, a four-story stair tower is proposed along the 71st Street elevation. The submitted elevations do not correctly reflect the floor plans or rendering. On sheet A5.2, the design of the stair seems to be of an open nature, which staff highly supports. A prominent, visible, appealing and comfortable stair will encourage active use, and avoid another vertical blank wall along the TC-C's most vital and vibrant corridor. Staff recommends further refinement of the design of the open stair tower by incorporating architectural screening features that enhance and highlight the movement of the staircase as it rises.

SUMMARY

In summary, staff is appreciative of the applicant's efforts to address the issues and concerns expressed by the board, as well as identified by staff throughout the year long review. In addition to the direction of the Board, staff recommends the following additional modifications:

- a. *Revised and partially satisfied - Screening along the garage: The architect shall continue to refine the openings and architectural screening mechanism to ensure that the vehicles and headlights of parked vehicles are concealed from view.*
- b. *Revised and satisfied - Blank featureless walls: The architect has refined all featureless walls to incorporate a more articulated architectural treatment.*
- c. *Partially Satisfied - Green roof: Additional design details / further refinement for a true "green" roof incorporated that encompasses 100% of the rooftop area(s) of the building at the NE corner of 71st Street and Abbott Avenue with plant beds of sufficient size to accommodate trees and landscaping.*
- d. *Partially Satisfied - North stair: The design of this prominent staircase has greatly improved, specifically along its upper levels. However, staff recommends transparency at the ground, first level of the staircase, in order to arrive at a dynamic active stair while addressing all life safety requirements and CPTED goals.*
- e. *Partially Satisfied - Paseo: Additional design details / further refinement of the all of the street furniture elements proposed within the dedicated paseo, including seating, special paving, landscaping, and pedestrian scaled lighting.*
- f. *Condensing units: Additional design details / further refinement of the elevations and section drawings of the mechanical equipment area located on the second floor that services the big box retailer shall be provided.*
- g. *Amenity deck: Additional refinement of landscape and spa/pool design.*
- 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 north of site (7100 block Abbott, DRB19-0482) 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.*

To recap, the following architectural elements should not be approved as proposed. The architect shall submit a revised supplement addendum to staff for review prior to building permit.

- 71st Street stair further refinement
- Paseo design further refinement
- Details of parking garage screening
- Further refinement of "blank walls"

Based on this analysis staff recommends the approval of this application with the recommended modifications.

VARIANCE REVIEW

As identified under the 'Project' and 'Variance' description of the analysis, staff is opposed to the variances requested, as they would result in a negative impact on the urban surrounding area. These variances to reduce the required pedestrian corridor are not consistent with some of the intent and purpose of the Town Center-Central Core District such as "promote development of a compact, pedestrian-oriented town center consisting of a high-intensity employment center, mixed-use areas, and residential living environments with compatible office uses and neighborhood-oriented commercial services; encourage pedestrian-oriented

development within walking distance of transit opportunities at densities and intensities that will help to support transit usage and town center businesses; promote the health and well-being of residents by encouraging physical activity, waterfront access, alternative transportation, and greater social interaction”

In summary, staff recommend denial with prejudice of variances #1 and #2.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the overall design inclusive of the waivers be **approved** and the requested variances #1 and #2 be **denied with prejudice**, 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: October 06, 2020

PROPERTY/ FOLIO:	6948 Abbott Avenue	02-3211-002-1010
	6956 Abbott Avenue	02-3211-002-1020
	6957 Byron Avenue	02-3211-002-0990
	6964 Abbott Avenue	02-3211-002-1030
	6965 Byron Avenue	02-3211-002-0970
	6972 Abbott Avenue	02-3211-002-1040
	6988 Abbott Avenue	02-3211-002-1050

FILE NO: DRB19-0424

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 one or more variances from the street class frontage requirements to replace existing surface parking lots.

LEGAL: Lots 3, 4, 5, 7, 8, 9, 10 of Block 13, and lots 11 and 12 as less the west 50 feet thereof, of Normandy Beach South, according to the plat thereof, as Recorded in Plat Book 21, Page 54, 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 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 2, 3, 5-9, 12, and 14 in Section 118-251 of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:
 1. The proposed eyebrow that extend above and encroach within the City sidewalk may require revocable right-of way permit(s) to be obtained from the Public Works Department and approved by the City Commission.

2. The applicant shall be subject to all of the conditions within the Conditional Use Permit (CUP) approved by the Planning Board on February 25, 2020, pursuant to PB19-0303.
3. Revised elevation, site plan and floor plan drawings for the proposed mixed-use development at 6948-6988 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. The separation of driveways for parking and loading **shall be** waived as proposed. (Sec 142-745(a)(12)(c)).
 - c. The architect shall clarify location and type of required bicycle (long vs short term) parking on a revised site plan.
 - d. The architect shall comply with the street frontage requirements for the Class A frontage (71ststreet) and Class B frontage (Abbott Avenue).
 - e. The ground floors of the existing buildings should be developed in accordance with active uses. Further details are needed and the improvement to the buildings shall address the scope and intent of the TC-C regulations.
 - f. 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.
 - g. The applicant shall further refine the design and screening of the proposed north stair along 71st Street, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - h. The architect shall provide additional design details / further refinement of the ground retail tenant build out along the paseo. Additionally, a detailed plan that identifies all the public space elements that include seating, special paving, landscaping, and pedestrian scaled lighting to create usable public spaces shall be provided for staff review.
 - i. The architect shall provide elements to block off the dead-end spaces with a well-designed and articulated transparent fence or gate system to limit access during portions of the non- business hours / evening along the paseo.
 - j. 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.

- k. 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.
- l. 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.
- m. 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.
- n. 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.
- o. 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.
- p. 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.
- q. The interior walls of the two driveways at 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.
- r. 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.
- s. 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.
 - t. 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.
 - u. 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 the majority of the rooftop area(s) of the building's rooftop at the NE corner of 71st Street and Abbott Avenue with natural vegetation, including plant beds of sufficient size to accommodate trees and landscape, and other green infrastructure practices, in a manner to be reviewed and approved by staff

consistent with the Design Review Criteria and/or the directions from the Board.

- 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):

The following variances were **DENIED** by the Board.

1. A variance to reduce all required 10'-0" wide "Clear Pedestrian Path" along 71st Street (Class A).
2. A variance to reduce the required 10'-0" wide "Clear Pedestrian Path" along Abbott Avenue (Class B).

- B. The applicant has 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 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:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the

reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

- C. The Board hereby grants the requested variance(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. The ground floor stair and ramping proposed along the northeast corner of the siteplan shall not be approved as proposed. The architect shall eliminate the access elements and design the area as configured in alternative ground floor scheme X1.1 and X1.2 in the submitted plans.
 3. A minimum 10'-0" wide clear pedestrian path shall be maintained at the ground level free from obstructions.

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. 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.
- B. 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.
- C. 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.

- D. 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 public right-of way.
- E. 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.
- F. 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.
- G. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. 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.
- J. 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.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. 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 "Design Review Board 6988 Abbott Avenue" as prepared by **cube3, LLC** dated signed and sealed August 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

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 _____ ()

DRAFT