

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: September 13, 2021

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: HPB21-0471, **1158 Marseille Drive.**

An application has been filed requesting a Certificate of Appropriateness for the total demolition of an existing building and the construction of a new multi-family residential structure, including variances from the requirement to provide residential or commercial use to screen parking at the ground level and from the required drive aisle width for perpendicular parking spaces.

### **STAFF RECOMMENDATION**

Approval of the Certificate of Appropriateness with conditions.

Denial of variance #1.

Approval of variance #2 with conditions.

### **EXISTING STRUCTURE**

Local Historic District:	Normandy Isles
Classification:	Contributing
Construction Date:	1954
Architect:	Gilbert M. Fein

### **ZONING / SITE DATA**

Legal Description:	Lot 15 & the east 1/2 of Lot 14, Block 9, of the 2 <sup>nd</sup> Revised Plat of Port of Oceanside & Trouville Section, Isle of Normandy, according to the Plat Thereof, as Recorded in Plat Book 40, Page 35, of the Public Records of Miami-Dade County, Florida.
--------------------	---

Zoning:	RM-1, Residential multifamily, low intensity
Future Land Use Designation:	RM-1, Residential multifamily, low intensity

Lot Size:	9,955.7 S.F. / 1.25 Max FAR
Existing FAR:	Not provided
Proposed FAR:	12,388 S.F. / 1.24 FAR
Existing Height:	~12'-0"
Proposed Height:	32'-0" & 41'-6"
Proposed Use:	Affordable elderly multi-family housing

### **THE PROJECT**

The applicant has submitted plans entitled “The Heron”, as prepared by Brooks + Scarpa, dated July 5, 2021.

### **COMPLIANCE WITH ZONING CODE**

The application, as proposed, appears to be consistent with the City Code, with the exception of the variances requested herein.

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 Planning Department prior to the issuance of a Building Permit.

### **CONSISTENCY WITH 2040 COMPREHENSIVE PLAN**

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

### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Satisfied**  
**A plan for salvage and recycling will be reviewed at time of building permit.**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not Applicable**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Satisfied**  
**Operable windows have been provided.**
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.  
**Satisfied**
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.  
**Satisfied**  
**In response to projected sea level rise, the parking area is proposed to be located at 7.0' NGVD; approximately 3'-0" above the existing grade level.**
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height

and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.

**Satisfied**

- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

**Satisfied**

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

**Satisfied**

**It would not be reasonably feasible or economically appropriate to raise the existing building to base flood elevation, plus City of Miami Beach Freeboard.**

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

**Not Applicable**

- (10) In all new projects, water retention systems shall be provided.

**Satisfied**

**Additional information shall be provided at the time of building permit review.**

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

**Satisfied**

**Additional information shall be provided at the time of building permit review.**

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

**Satisfied**

### **COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.

**Satisfied**

- b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.

**Satisfied**

- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. Exterior architectural features.  
**Satisfied**
  - b. General design, scale, massing and arrangement.  
**Satisfied**
  - c. Texture and material and color.  
**Satisfied**
  - d. The relationship of a, b, c, above, to other structures and features of the district.  
**Satisfied**
  - e. The purpose for which the district was created.  
**Satisfied**
  - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.  
**Satisfied**
  - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.  
**Satisfied**
  - h. The original architectural design or any subsequent modifications that have acquired significance.  
**Not Applicable**
- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. 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.  
**Satisfied**
  - b. 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 variances from the requirement to provide residential or commercial use to screen parking at the ground level and from the required drive aisle width for perpendicular parking spaces.**

- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.

**Satisfied**

- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.

**Satisfied**

- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces 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 preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

**Satisfied**

- f. 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 any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

**Satisfied**

- g. 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 and consistent with a City master plan, where applicable.

**Satisfied**

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

**Satisfied**

- i. 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**

- j. Any proposed new structure shall have 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).

**Satisfied**

- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, 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 sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Not Satisfied**

**The applicant is requesting a variance from the requirement to provide active use to screen parking at the ground level.**

- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Satisfied**

- m. Any 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).

**Satisfied**

- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.

**Satisfied**

- o. 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**

**CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA**

Section 118-564 (f)(4) of the Land Development Regulations of the Miami Beach Code provides criteria by which the Historic Preservation Board evaluates requests for a Certificate of Appropriateness for Demolition. The following is an analysis of the request based upon these criteria:

- a. The Building, Structure, Improvement, or Site is designated on either a national or state level as a part of an Historic Preservation District or as a Historic Architectural Landmark or Site, or is designated pursuant to Division 4, Article X, Chapter 118 of the Miami Beach Code as a Historic Building, Historic Structure or Historic Site, Historic Improvement, Historic Landscape Feature, historic interior or the Structure is of such

historic/architectural interest or quality that it would reasonably meet national, state or local criteria for such designation.

**Satisfied**

**The existing building is designated as part of the Normandy Isles Local Historic District.**

- b. The Building, Structure, Improvement, or Site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.

**Not Satisfied**

**The existing building is not of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense. Exact reproduction of the original design would not be possible due to current Building Code requirements.**

- c. The Building, Structure, Improvement, or Site is one of the last remaining examples of its kind in the neighborhood, the country, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.

**Not Satisfied**

**The existing building is not one of the last remaining examples of its kind in the neighborhood.**

- d. The building, structure, improvement, or site is a Contributing building, structure, improvement, site or landscape feature rather than a Non-Contributing building, structure, improvement, site or landscape feature in a historic district as defined in section 114-1, or is an architecturally significant feature of a public area of the interior of a historic or Contributing building.

**Satisfied**

**The building is classified as a Contributing building in the Miami Beach Historic Properties Database.**

- e. Retention of the Building, Structure, Improvement, Landscape Feature or Site promotes the general welfare of the City by providing an opportunity for study of local history, architecture and design or by developing an understanding of the importance and value of a particular culture and heritage.

**Satisfied**

**The retention of the structure is critical to developing an understanding of an important early Miami Beach architectural style.**

- f. If the proposed demolition is for the purpose of constructing a parking garage, the Board shall consider it if the parking garage is designed in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior (1983), as amended, and/or the design review guidelines for that particular district.

**Not Applicable**

**The demolition proposed in the subject application is not for the purpose of constructing a parking garage.**

- g. In the event an applicant or property owner proposes the total demolition of a Contributing structure, historic structure or architecturally significant feature, there shall be definite plans presented to the board for the reuse of the property if the proposed demolition is

approved and carried out.

**Satisfied**

**The applicant has presented plans for the reuse of the property as part of this application.**

- h. The Dade County Unsafe Structures Board has ordered the demolition of a Structure without option.

**Not Applicable**

**The Miami Dade County Unsafe Structures Board has not ordered the demolition of the structure.**

**STAFF ANALYSIS**

The applicant, the Housing Authority of the City of Miami Beach, is proposing to construct a 4-story residential building on the subject site for use as elderly affordable housing. In order to construct the new building, the applicant is proposing the total demolition of the existing Contributing 1-story building.

**Request for total demolition of the existing 1-story building**

The existing 1-story structure on the site was constructed in 1954 and designed by Gilbert Fein in the Post War Modern style. This building is nearly identical to the two adjacent buildings to the west, also designed by Gilbert Fein and constructed in 1954. Although no original plans have been located for this building, examination of aerial photographs and building permit records indicate the structure has had only limited modifications since its construction. In evaluating the applicant's request for total demolition, staff has taken the following information into account.

The first finished floor of the existing building is located at 5.43' NGVD. The Neighborhood Project Prioritization report prepared by Jacobs Engineering Group in 2020 identifies Normandy Isles as a priority area for infrastructure improvements including roadway elevation. The report also sets a minimum elevation at edge of road at 5.46' NGVD. The elevation of the right-of-way will result in the first finished floor of this building below the edge of the elevated street.

Additionally, a structural condition assessment report, prepared by Douglas Wood, P.E., entitled "General Assessment Report for the Existing Structural Systems at Existing Residential Apartment Building, 1158 Marseille Drive Miami Beach, Florida" has been submitted and includes a narrative and photographic evidence outlining the building's current structural condition. The report identifies "extensive deterioration and deficiencies" and that finds that "repairs, replacements and enhancements for this building will be extensive and expensive." The report also notes that elevating the building 3.57' will be prohibitively expensive.

Staff would note that there is a significant need for additional affordable housing units within the City and agrees with the engineering report that the retention and adaptation of the existing building along with the construction of additional units on the site does not appear to be feasible. Staff is therefore, not opposed to the requested demolition.

**New 4-story multi-family residential elderly affordable housing**

The new building for affordable elderly housing consists of a multi-level entry porch and 5 parking spaces at the ground level, 8 residential units on levels 2 and 3, and 4 residential units and a community room at the fourth level.



The project architect has done an outstanding job of incorporating stringent requirements of the U.S. Department of Housing Urban Development for this elderly affordable housing project. The highly developed design result in an exuberant architectural statement that successfully relates to and complements the predominately Post-War Modern architecture of the Normandy Isles Local Historic District. Further, the distribution of architectural forms has resulted in a new building that is compatible with the neighboring buildings and the surrounding historic district. Specifically, the fourth level has been setback an additional approximately 25'-0" from the primary façade successfully reducing its scale and allowing for a desirable communal rooftop terrace.

### **VARIANCE ANALYSIS**

The applicant is requesting the following variances:

1. A variance to eliminate the residential use requirement at the ground level when parking is provided along Marseille Drive for the construction of a new residential building.

- Variance requested from:

#### **Sec. 142-156. – Setback requirements.**

*(b) In the RM-1, residential district, all floors of a building containing parking spaces shall incorporate the following:*

*(1) Residential uses at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.*

In accordance with the above, parking areas located at the ground level are required to be screened from view with residential uses. Staff would note that there is no parking requirement for this particular project. The applicant is however, proposing to introduce five parking spaces within the western portion of the ground floor. A walkway, bicycle racks, FPL transformer and landscaping are currently proposed to be located between the parking area and front property line. Since parking is not required, the applicant has a good amount of flexibility with regard to the design of this portion of the building.

Staff believes that additional residential amenity features could be introduced that would activate this area and satisfy the residential use requirement. This could include, by way of example, the introduction of a small, covered seating area with a garden north of the building wall. Consequently, staff recommends that this variance be denied due to a lack of practical difficulties or hardship. However, staff believes that the modifications required to address the inclusion of these amenity uses and space can be addressed administratively.

2. A variance to reduce 2'-9" from the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide parking spaces at 90° with an interior drive aisle of 19'-3".

- Variance requested from:

#### **Sec. 130-63. Interior aisles.**

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

As noted above, this project has no parking requirement; however, as indicated in the applicant's letter of intent, the parking area will allow for easier mobility and servicing of elderly residents including transportation for medical appointments. Staff finds that the special circumstances in which the need to facilitate the servicing of the elderly residents creates the practical difficulties that justify the variance requested. Staff would, however, recommend that an operational plan be provided for the specific types of vehicles that will be entering the parking area in order to ensure the drive aisle can safely function.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the request for a Certificate of Appropriateness and variance #2 be **approved** and variance #1 be **denied**, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Hardship and Practical Difficulties criteria, as applicable.

**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: September 13, 2021

PROPERTY/FOLIO: 1158 Marseille Drive / 02-3210-012-0320

FILE NO: HPB21-0471

IN RE: An application has been filed requesting a Certificate of Appropriateness for the total demolition of an existing building and the construction of a new multi-family residential structure, including variances from the requirement to provide residential or commercial use to screen parking at the ground level and from the required drive aisle width for perpendicular parking spaces.

LEGAL: Lot 15 & the east ½ of Lot 14, Block 9, of the 2nd Revised Plat of Port of Oceanside & Trouville Section, Isle of Normandy, according to the Plat Thereof, as Recorded in Plat Book 40, Page 35, of the Public Records of Miami-Dade County, Florida.

**ORDER**

The City of Miami Beach Historic Preservation 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. Certificate of Appropriateness**

- A. The subject site is located within the Normandy Isles Local Historic District.
- 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:
  - 1. Is not consistent with Sea Level Rise and Resiliency Review Criteria (1) in Section 133-50(a) of the Miami Beach Code.
  - 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  - 3. Is not consistent with Certificate of Appropriateness Criteria 'd' in Section 118-564(a)(2) of the Miami Beach Code.
  - 4. Is not consistent with Certificate of Appropriateness Criteria 'b' & 'k' in Section 118-564(a)(3) of the Miami Beach Code.
  - 5. Is not consistent with Certificate of Appropriateness Criteria 'b' & 'c' in Section 118-564(f)(4) of the Miami Beach Code.

- C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:
1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
    - a. A plaque or historic display describing the history and evolution of the original building shall be placed on the site shall be located in a manner visible from the right of way, prior to the issuance of a Certificate of Occupancy for the building, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
    - b. 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 Certificate of Appropriateness Criteria and/or the directions from the Board.
    - c. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
    - a. The proposed landscape plan shall satisfy minimum landscape code requirements as prescribed by CMB Code Chapter 126.
    - b. All hedge and ground cover plantings within the street facing yards shall not exceed 42" in height at maturity.
    - c. 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.
    - d. The project design shall minimize the potential for a project causing a heat island effect on site.
    - e. Cool pavement materials or porous pavement materials shall be utilized.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

## **II. Variance(s)**

Meeting Date: September 13, 2021

- A. The applicant filed an application with the Planning Department for the following variance(s), which were either approved by the Board with modifications, or denied:

The following variance was denied by the Board:

1. A variance to eliminate the residential use requirement at the ground level when parking is provided along Marseille Drive for the construction of a new residential building.

The following variance was approved by the Board:

2. A variance to reduce 2'-9" from the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide parking spaces at 90° with an interior drive aisle of 19'-3".

- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variance II.A.2, 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 only as it relates to variance II.A.2, as noted above:

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

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

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

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

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

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

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

- C. The Board hereby grants the requested variance #2 and Denies variance #1 and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:
1. An operational plan shall be submitted for the parking area, in a manner to be reviewed and approved by staff prior to the issuance of a building permit.
  2. A residential amenity feature shall be introduced to the north of the building wall at the ground level northwest corner of the building, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  3. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

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

**III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.**

- A. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- B. The issuance of a building permit is contingent upon meeting Public School Concurrency requirements, if applicable. 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. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.
- C. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- D. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code, as applicable.
- E. 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.

- F. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- G. 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.
- 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.
- M. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "**The Heron**", as prepared by **Brooks + Scarpa**, dated **July 5, 2021**, as approved by the Historic Preservation 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

set forth in this Order. No building permit may be issued unless and until all 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 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 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 should 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\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT  
HISTORIC PRESERVATION & ARCHITECTURE OFFICER  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She 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 Historic Preservation Board on \_\_\_\_\_ (            )

DRAFT