

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: April 5, 2022

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB21-0738
291 Palm Avenue

An application has been filed requesting Design Review approval for the construction of a new two-story residence and the partial retention of an existing architecturally significant pre-1942 one-story residence on the west side of the property, including review of an understory, one or more waivers and variances from the maximum lot coverage and unit size, from the setback requirements (front, interior side & street side), from the maximum projection for allowable encroachments, from the open space requirements, from the understory requirements, and from the setback requirements for a roof deck, for the construction of new home, pool, and pool deck, to substantially replace an existing one-story architecturally significant pre-1942 residence.

RECOMMENDATION:

Approval of the design, with conditions.

Approval of the variances

LEGAL DESCRIPTION:

See "Exhibit A"

BACKGROUND:

The subject parcel is the western portion (Lot 56, or Lot A) of a property that was part of an application for a division of land that was heard and approved by the Planning Board on October 26, 2021 (PB21-0464).

At the February 1, 2022 meeting, this application was presented to the Design Review Board. The Board continued this application to a date certain of April 5, 2022.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 6,011 SF
Lot Coverage:
Proposed: 2,015 SF / **33.5%***
Maximum: 1,503 SF / 25%

***VARIANCE REQUIRED**

Unit size:
Proposed: 3,246 SF / **54%***
Maximum: 2,404 SF / 40%

***VARIANCE REQUIRED**

Height:

Proposed: 24'-0" flat roof

Maximum: 24'-0" flat roof

Grade: +4.63' NGVD
Base Flood Elevation: +9.00' NGVD
Adjusted Grade: +6.8' NGVD
First Floor Elevation: +17.00' NGVD (BFE+ 8'fb)

EXISTING PROPERTY:

Year: 1935
Architect: E. H. Ehmann
Vacant: No

Demolition: Partial

South: CMB median and pump station
West: Two-story 1936/1984 residence

SURROUNDING PROPERTIES:

East: Two-story 1957 residence

North: Two-story 1992 residence and two-story 1939/2000 residence

THE PROJECT:

The applicant has submitted plans entitled "291 Palm Avenue – Lot A", as designed by **Royal Byckovas**, signed, sealed, and dated March 7, 2022.

The applicant is requesting review for an understory area:

1. Understory area shall be subject to the review and approval of the Design Review Board in accordance with Section 142-105(b)(4)(d).

The applicant is requesting the following variance(s):

1. A variance from **Sec. 142-105(b)(9)(a)** to exceed by 8.5% (512 SF) the maximum lot coverage allowed of 25% (1,503 SF) for a lot resulting from a lot split in order to construct a new two-story residence with a lot coverage of ~~33.5% (2,105 SF)~~ 27.9% (1,683SF). **Variance request modified**
2. A variance from **Sec. 142-105(b)(9)(b)** to exceed by 14% (842 SF) the maximum unit size allowed of 40% (2,404 SF) for a lot resulting from a lot split in order to construct a ~~3,246~~ 3,026 SF two-story home with ~~54%~~ 50% total unit size. **Variance request modified**
3. ~~A variance from **Sec. 142-106(a)(1)(a)** to exceed by 15'-10" the minimum required 20'-0" front setback to retain an existing one-story structure from the front property line facing North Coconut Lane.~~ **Withdrawn by Applicant**
4. A variance from **Sec. 142-106(a)(1)(b)** to reduce by 20'-0" the minimum required 30'-0" front setback for the second story to construct a new two-story structure from front the property line facing North Coconut Lane.
5. A variance from **Sec. 142-106(a)(1)(b)** to reduce by 12'-0" the minimum required 30'-0" front setback for the second story to construct a new two-story structure from the front property line facing Palm Avenue.
6. A variance from **Sec. 142-106(a)(2)(c)(1)** to reduce by 5'-0" the minimum required setback of 10'-0" from an interior side property line in order to construct a new two-story structure.
7. A variance from **Sec. 142-1133(3)** to reduce by 5'-0" the minimum required 10'-0" setback from the street side property to construct a pool and deck.
8. A variance from **Sec. 142-1132(o)(4)** and **Sec. 142-1132(o)(6)**, to exceed by 2'-0" the maximum allowed projection of 5'-0" (25%) in order to construct a balcony with a projection of ~~7'-0" (35%)~~ 6'-6" (32.5%) into the front yard. **Variance request modified**

9. A variance from **Sec. 142-105(b)(6)** to allow the habitable roof deck to be set back 8'-0" to the south and 8'-0" to the north feet when 10'-0" is required.
10. A variance from **Sec. 142-105(b)(4)(d)(1)** to allow the understory to be 26% open on the north side, 48% open on the west side when 50% open is required.
- ~~11. A variance from **Sec. 142-105(b)(4)(d)(9)** to allow an understory elevation of 4.63' NGVD when 5.26' NGVD is required.~~
12. A variance from **Sec. 142-105(b)(4)(d)(10)** to allow an understory edge of 0'-0" along north, south and west when 5'-0" is required.
- ~~13. A variance from **Sec. 142-105(b)(4)(d)(7)** to allow 61% of the required front yard on North Coconut Lane to be pervious open space when 70% is required.~~

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

COMPLIANCE WITH ZONING CODE:

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

- Subject to the review and approval of the Design Review Board the following may apply to the understory area(s): Understory area(s) shall be used only for open air activities, parking, building access, mechanical equipment, non-enclosed restrooms and storage.

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.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Satisfied. However, the applicant is requesting understory review and 10 variances from the Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Satisfied. However, the applicant is requesting understory review and 10 variances from the Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Satisfied

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.
Satisfied
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied; a lighting plan has not been submitted.
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Applicable
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 Applicable

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Not Applicable
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Not Applicable
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied; see below

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Satisfied
A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied

- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

Satisfied

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.

Satisfied

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

Satisfied

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

Not Satisfied

- (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.

Satisfied

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

Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.

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

Satisfied

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

Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.

STAFF ANALYSIS:

DESIGN REVIEW

The applicant is proposing a new two-story residence and the retention of an existing architecturally significant one-story structure on an irregularly shaped corner lot with two street fronts: North Coconut Lane and Palm Avenue. The application includes the review of the understory and several variance requests from the Board.

The subject parcel is the western portion of a property that was part of an application for a division of land that was approved by the Planning Board on October 26, 2021, pursuant to PB21-0464. The combined site contains an existing pre-1942 residence with a separate one-

story garage. The existing one-story garage will be demolished as part of the application. DRB21-0739 is the companion application for the eastern lot.

This item, along with its companion application, was heard at the February 1, 2022, meeting and continued to allow the architects to refine the design of both homes in a manner that minimized their impacts on the irregularly shaped lots. The revised design has removed the previously retained one-story architecturally significant garage structure, reduced the size of the home, included a curved element to reference the irregularly shaped lot, increased the open space of its required yards, increased the front setback on North Coconut Lane, as well as revised the design of the Palm Avenue elevation.

The proposed home features an understory with the first fully-enclosed, habitable floor of the residence designed at an elevation of 17'-0" NGVD, 3' greater than the maximum 5' of freeboard. The design intent of the understory is to create non air-conditioned space below the main slab of the home that serves as a usable outdoor recreational amenity and program feature for the owner. In this design, the understory is dedicated to parking, entry into residence and outdoor recreation spaces.

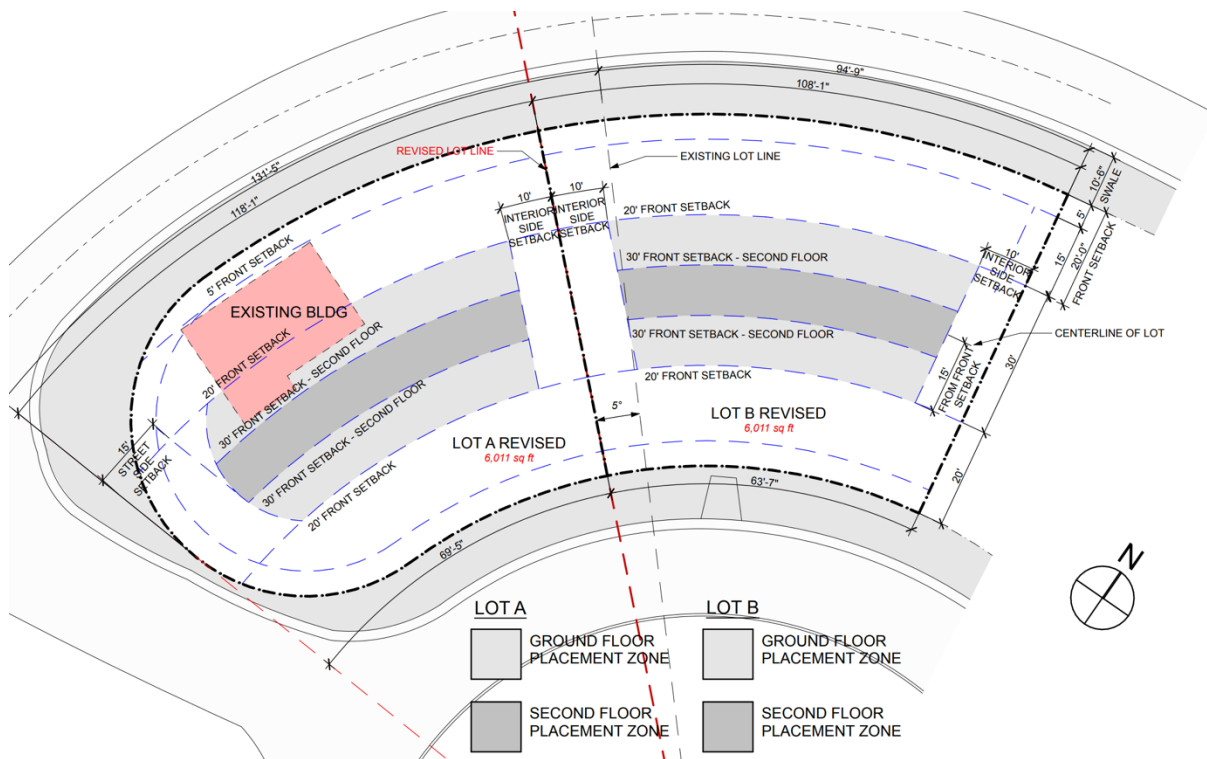
The new two-story residence is designed in a contemporary architectural style. The residence features smooth wall planes of smooth stucco and fluted-formed concrete walls that are broken up with curated floor to ceiling glazing and vertical concrete louvers. The rectilinear residence features on the Palm Avenue elevations discreet balconies encased in a stucco frame and broken up by louvered screens. As the home rounds the corner to North Coconut Lane the architects have incorporated a curved volume that contours and engages the irregularly shaped lot. Overall, staff finds the revised design is subdued in its massing, elegant in its design and considerate of its site's inherent challenges.

VARIANCE REVIEW

Due to the complexity and number of variances requested, staff has included below some of the variance diagrams provided with the application, as well as a rendering of the Palm Avenue frontage. The diagram below, from Sheet A-016 of the application, outlines the general setback requirements for the two single family lots resulting from the lot split application approved by the Planning Board on October 26, 2021. 'Lot A Revised' is the subject lot that is part of this application.

This lot is rather unique in that it not only has two fronts and a street facing side, but is also very shallow, with a lot depth of only 70 feet. Most single family lots on Miami Beach have a lot depth of at least 100 feet. The diagram below shows that absent any relief from the City code, with the current required setbacks, the maximum width of a single story home is only 30 feet, and the maximum width for a 2-story home is only 10 feet. This shallow lot depth, as well as the unique bean shape of the lot, does present a hardship for the construction of any home on the subject site.

With the latest revisions to the plans, including the reduction in the proposed lot coverage and unit size, staff is supportive of the variances requested, as noted below, due to the unique shape and depth of the lot. The unit size has been reduced to 50% (from 54%) – **Variance #2**, and the lot coverage has been reduced from 33.5% to 27.9% - **Variance #1**. As noted previously, when a lot split includes the substantial demolition of a pre-1942 architecturally significant home, the maximum lot coverage is reduced to 25% and the maximum unit size is reduced to 40%. With the removal of the original single story garage structure, as recommended by the Board, **Variance #3**, for the elevation of the site has been withdrawn.



Staff would also point out that the existing 2-story home (although much lower in height than the proposed new home) has a setback of around 5 feet for a large frontage of the home along North Coconut Lane. Again, based upon the hardship presented by the unique shape and depth of the lot, staff is supportive of the requested variances related to the primary setbacks of the home (**Variances #4 & #5**), including the proposed interior side setback (**Variance #6**) which maintains the minimum required setback from the street side yard.

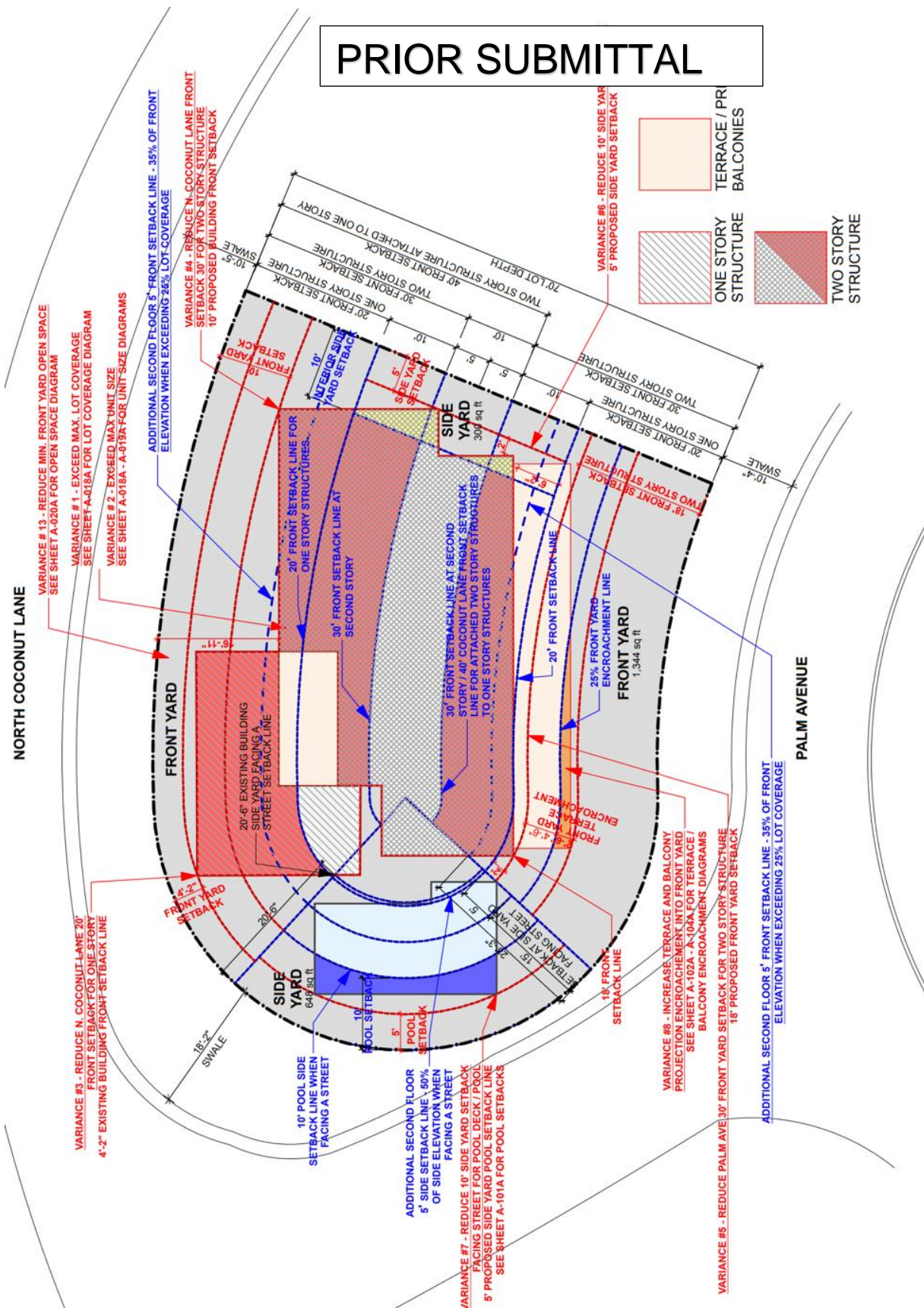
The requested variances are noted below along with staff recommendations for each variance:

1. A variance from **Sec. 142-105(b)(9)(a)** to exceed by 8.5% (512 SF) the maximum lot coverage allowed of 25% (1,503 SF) for a lot resulting from a lot split in order to construct a new two-story residence with a lot coverage of ~~33.5% (2,105 SF)~~ 27.9% (1,683SF). **Variance request modified**
Approval recommended
2. A variance from **Sec. 142-105(b)(9)(b)** to exceed by 14% (842 SF) the maximum unit size allowed of 40% (2,404 SF) for a lot resulting from a lot split in order to construct a ~~3,246~~ 3,026 SF two-story home with ~~54%~~ 50% total unit size. **Variance request modified**
Approval recommended
3. ~~A variance from **Sec. 142-106(a)(1)(a)** to exceed by 15'-10"~~ the minimum required 20'-0" front setback to retain an existing one-story structure from the front property line facing North Coconut Lane. **Withdrawn by Applicant**

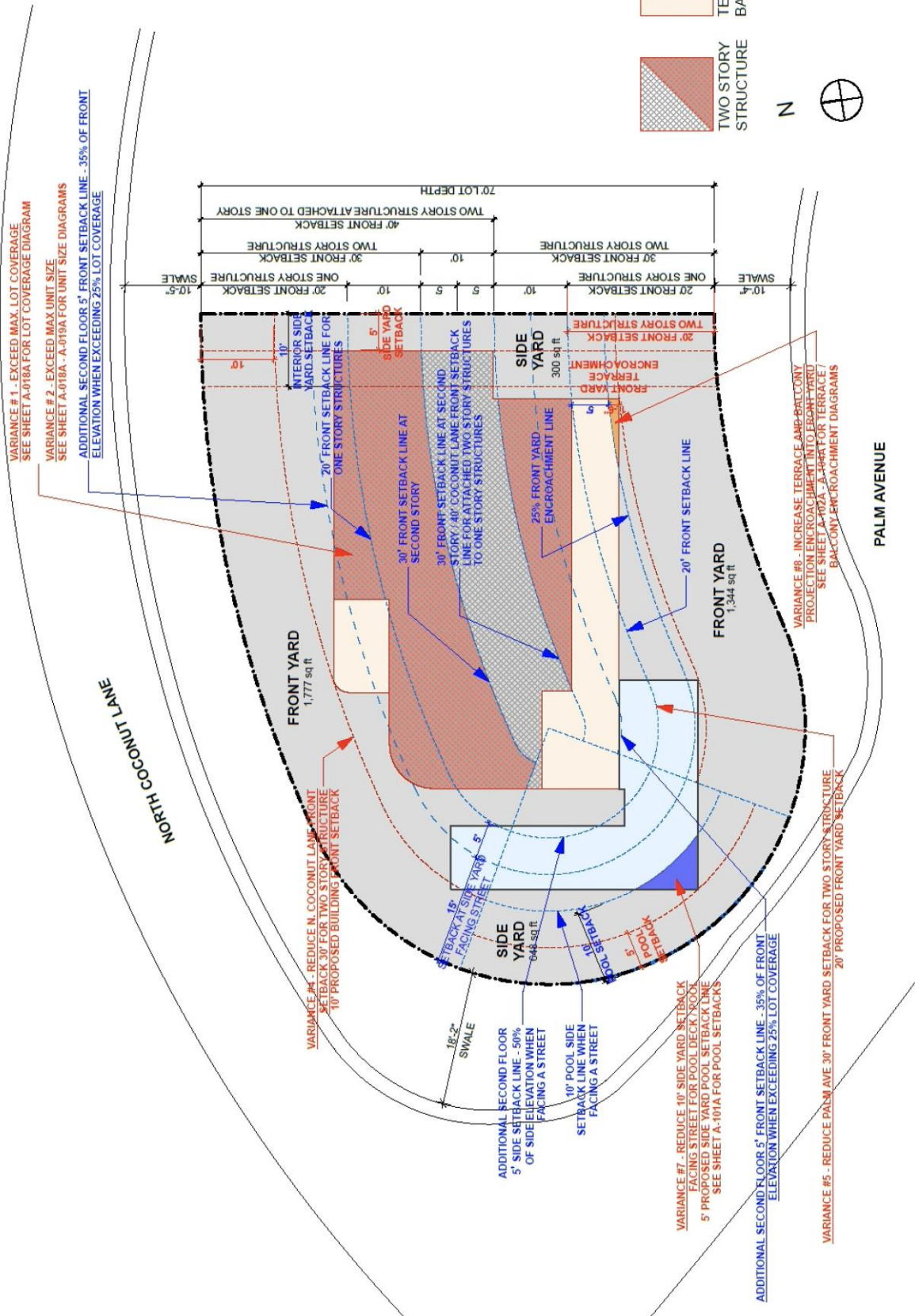
4. A variance from **Sec. 142-106(a)(1)(b)** to reduce by 20'-0" the minimum required 30'-0" front setback for the second story to construct a new two-story structure from front the property line facing North Coconut Lane.
Approval recommended
5. A variance from **Sec. 142-106(a)(1)(b)** to reduce by 12'-0" the minimum required 30'-0" front setback to construct a new two-story structure from the front property line facing Palm Avenue.
Approval recommended
6. A variance from **Sec. 142-106(a)(2)(c)(1)** to reduce by 5'-0" the minimum required setback of 10'-0" from an interior side property line in order to construct a new two-story structure.
Approval recommended
7. A variance from **Sec. 142-1133(3)** to reduce by 5'-0" the minimum required 10'-0" setback from the street side property to construct a pool and deck.
Approval Recommended
8. A variance from **Sec. 142-1132(o)(4)** and **Sec. 142-1132(o)(6)**, to exceed by 2'-0" the maximum allowed projection of 5'-0" (25%) in order to construct a balcony with a projection of ~~7'-0" (35%)~~ 6'-6" (32.5%) into the front yard. **Variance request modified.**
Approval recommended
9. A variance from **Sec. 142-105(b)(6)** to allow the habitable roof deck to be set back 8'-0" to the south and 8'-0" to the north feet when 10'-0" is required.
Approval Recommended
10. A variance from **Sec. 142-105(b)(4)(d)(1)** to allow the understory to be 26% open on the north side, 48% open on the west side when 50% open is required.
Approval Recommended
- ~~11. A variance from **Sec. 142-105(b)(4)(d)(9)** to allow an understory elevation of 4.63' NGVD when 5.26' NGVD is required.~~
Withdrawn by Applicant
12. A variance from **Sec. 142-105(b)(4)(d)(10)** to allow an understory edge of 0'-0" along north, south and west when 5'-0" is required.
Approval Recommended
- ~~13. A variance from **Sec. 142-105(b)(4)(d)(7)** to allow 61% of the required front yard on North Coconut Lane to be pervious open space when 70% is required.~~
Withdrawn by Applicant

The variance diagrams below, from Sheets A-013A and Sheets A-014A, outlines the majority of the requested variances(**Prior submittal diagrams provided for reference, along with current, revised diagrams**):

PRIOR SUBMITTAL

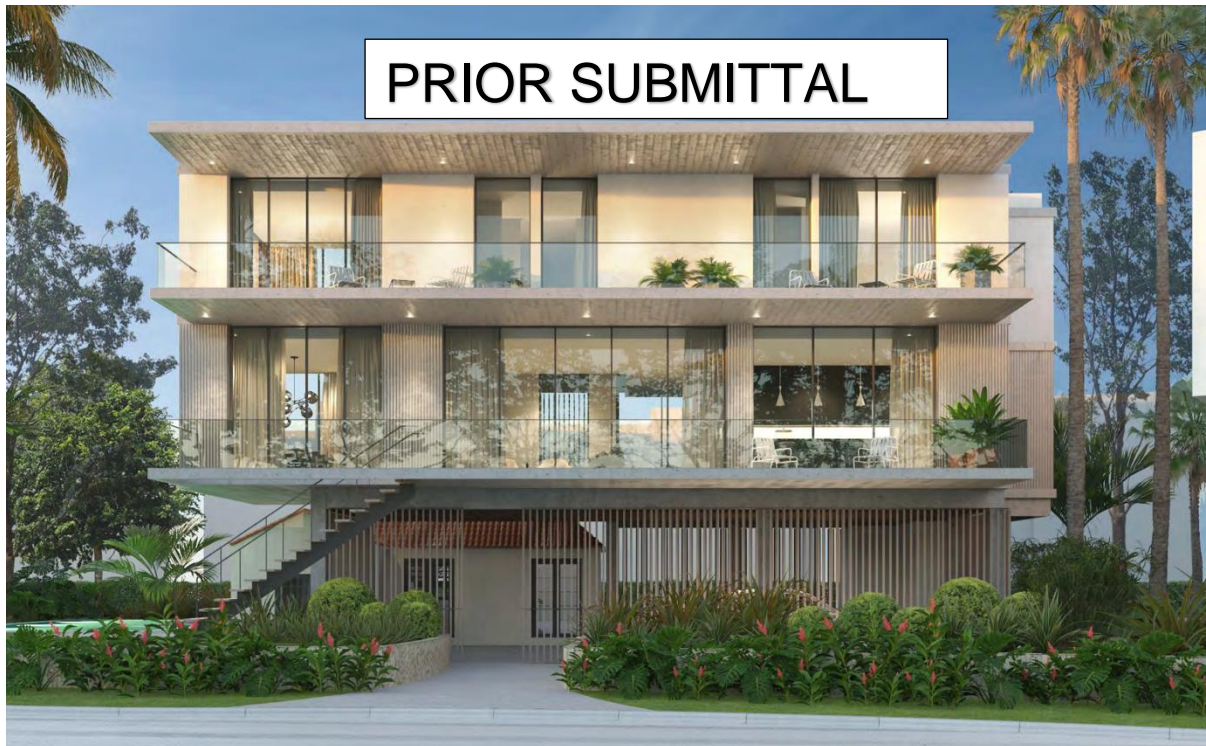


REVISED

TERRACE / PRIVATE
BALCONIESTWO STORY
STRUCTURE

Due to the unique configuration of the lot, shallow lot depth, frontage on 2-sides, and a street facing side, the placement of a pool on the site also presents a practical difficulty for its construction. For these reasons, staff is supportive of **Variance # 7**.

Regarding **Variance #8**, which is for balcony projections of 6'-6" feet facing Palm Avenue, where the maximum is 5'-0, the applicant has shifted the home, reducing the extent of the variance, which is now limited to a small area of the first level terrace and associated overhang at the southeast corner. The previously proposed balcony located above the southeast corner has also been removed, minimizing the variance request.



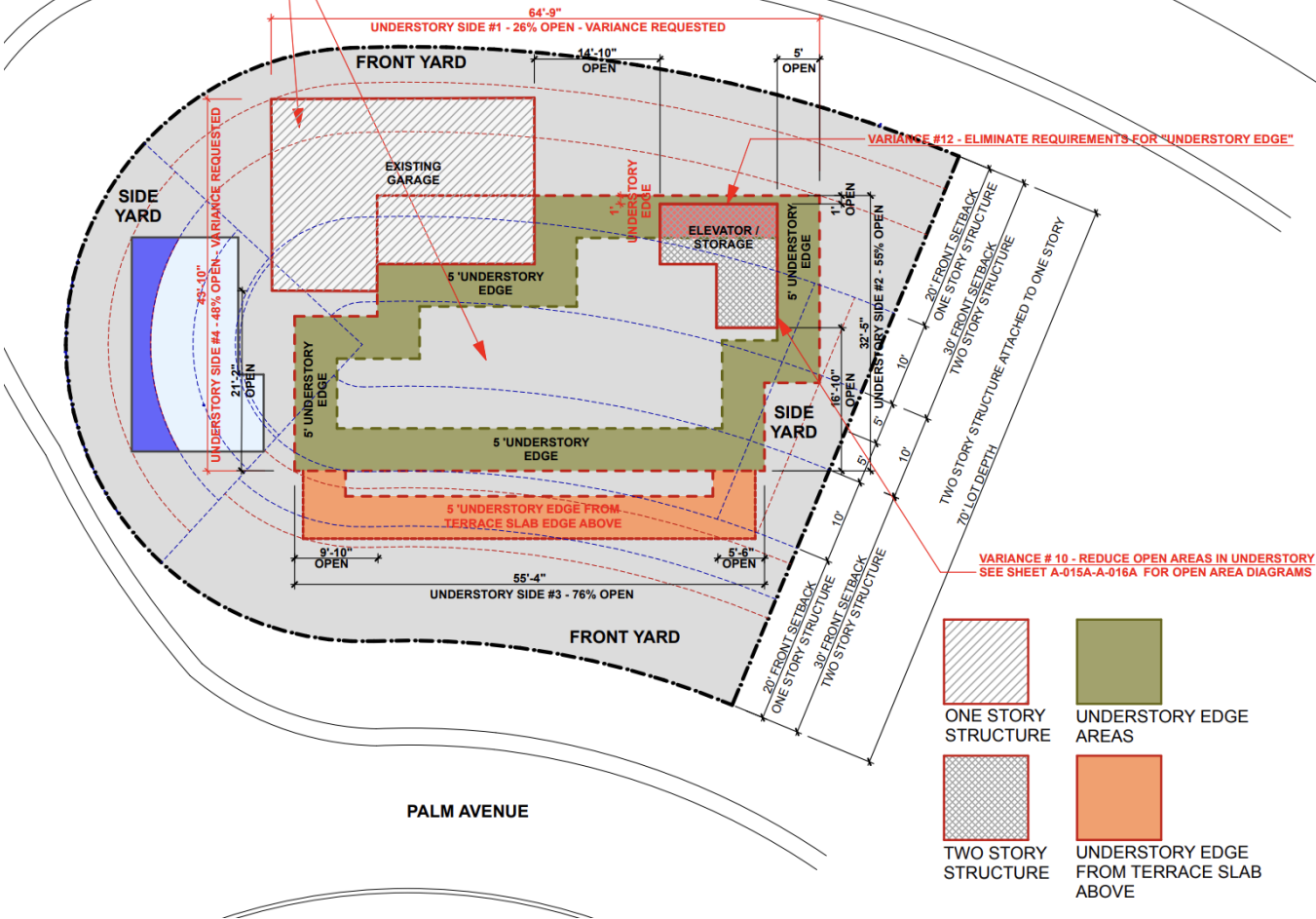


Due to the minimal depth of the home, as well as the shape and depth of the lot, both of which presents practical difficulties with designing a code compliant roof deck, staff is supportive of the requested setback variances for the roof deck (**Variance #9**).

Variances 10-13 are all related to the understory requirements, as outlined in the below diagram from sheets A-014A from the application. Due to the hardship presented by the site, and practical difficulties previously noted, staff is supportive of these variances, as requested.

MIN. ELEVATION FOR THE UNDERSTORY
ING OR RAISE TO 4.63 NGVD AS SHOWN
ON SHEET A-101A

PRIOR SUBMITTAL





In view of the foregoing analysis, staff recommends **approval** of the design and variance requests, with the modifications noted, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria.

Exhibit "A"

Legal Description:

LOT A (LOT 56)

PROPOSED PARCEL 1:

Lot 56 in Block 2-8, of ENTITLE AMENDED RIVIERA AND THE FIRST AND SECOND ADDITIONS, according to the Plot thereof, as recorded in Plot Book 32, at Page 37, of the Public Records of Miami—Dade County, Florida.

LESS

Begin at the Southeasterly corner of said Lot 56 also being the Southwesterly corner of sold Lot 55; thence N13'29'14"E along the Easterly line of Lot 56 also being the Westerly line of Lot 55 as shown on said Plat of ENTITLE AMENDED RIVIERA AND THE FIRST AND SECOND ADDITIONS, Plot Book 32, Page 37; a distance of 70.00 feet to the Northeasterly corner of said Lot 56, also being the Northwesterly corner of Lot 55 as shown on said Plat of ENTITLE AMENDED RIVIERA AND THE FIRST AND SECOND ADDITIONS, Plat Book 32, Page 37; said point being a point of non tangency, to which point a radial line bears N13'29'14"E; thence run westerly along the arc of a circular curve to the left having for its elements a radius of 170 feet, a central angle of 4'58'18" and an arc distance of 14.75 feet; thence SO8'30'56"W a distance of 70.00 feet to a point on the Southerly line of said Lot 56; said point being a point of non tangency, to which point a radial line bears N08'30'56"E; thence run southeasterly along the arc of a circular curve to the right having for its elements a radius of 100 feet, a central angle of 4'58'18" and an arc distance of 8.68 feet to the Point of Beginning.

Containing 6,017.5 Square feet or 0.14 Acres, more or less, by calculation.