

MIAMI BEACH
PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: January 3, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB16-0089
1698 Alton Road and 1681-1683 West Avenue

The applicant, 1681 Ventures LLC, is requesting exterior and interior design modifications to a previously approved Design Review Approval for the construction of a five-story mixed use building, including modifications to previously approved variances. Additionally, the applicant is requesting a variance to reduce the width of a two-way driveway. **(ITEM WAS APPROVED AT THE MAY 5, 2016 MEETING).**

RECOMMENDATION:

Approval of the requested modifications

Approval of the variances

Denial of the requested changes to Conditions I.C.3.e and I.C.4.d

LEGAL DESCRIPTION:

See Exhibit "A"

HISTORY:

On May 5, 2016, the DRB approved a project for a five-story mixed use building, including the following variances:

1. A variance from the minimum required front pedestal setback of 20'-0" for residential uses in order to construct a building with residential use up to the property line facing Alton Road.
2. A variance from the minimum required front pedestal setback of 20'-0" for residential uses in order to construct a building with residential use up to the property line facing West Avenue.
3. A variance from the minimum required tower front setback of 33'-0" for residential uses in order to construct a building with residential use up to the property line facing Alton Road.
4. A variance from the minimum required tower front setback of 33'-0" for residential uses in order to construct a building with residential use up to the property line facing West Avenue.
5. A variance from the minimum required street side setback of 8'-0" for residential uses located at 1698 Alton Road in order to construct a building with residential uses up to the property line facing 17th Street.

6. A variance from the minimum required street side setback of 12'-0" for residential uses located at 1681-1683 West Avenue in order to construct a building with residential uses up to the property line facing 17th Street.
7. A variance from the minimum required pedestal sum of the side setbacks of 16'-0" for residential uses located at 1698 Alton Road in order to construct a building with residential uses up to both side property lines and a sum of the side setbacks of zero.
8. A variance from the minimum required pedestal sum of the side setbacks of 24'-0" for residential uses located at 1681-1683 West Avenue in order to construct a building with residential uses up to both side property lines and a sum of the side setbacks of zero.
9. A variance from the minimum required tower interior side setback of 9'-4" for residential uses located at 1698 Alton Road in order to construct the 5th floor of a building containing residential uses up to the south property line.
10. A variance from the minimum required tower interior side setback of 13'-4" for residential uses located at 1681-1683 West Avenue in order to construct the 5th floor of a building containing residential uses up to the south property line.
11. A variance from the minimum required rear setback of 5'-0" for commercial uses in order to construct a building up to the rear property line.
12. A variance to exceed by 3'-0" the maximum building height allowed of 60'-0" for the construction of a building up to 63'-0" in height.

An application was approved by the Planning Board at the May 24, 2016 for new construction greater than 50,000 square feet in the CD-2 zoning district.

The project includes a parking garage and construction approved by City Commission to be located above the adjacent alley, pursuant to Section 118, Article IV, Section 142, Article II of the City Code.

SITE DATA:

Zoning:	CD-2
Future Land Use:	CD
Lot Size:	39,404 SF (includes 2,000 SF of alley)
Existing FAR:	2,121 SF
Proposed FAR:	78,806 SF (2.0)* <u>77,421 SF (2.0)*</u>
Permitted FAR:	78,808 SF (2.0)
Height:	63'-0" (68.0' NGVD) / 5-Story Variance previously approved
Maximum:	60'-0" / 5 stories
Highest Projection:	75'-0" (80.0' NGVD)
Proposed Uses:	
Retail/Service:	28,009 SF *
Residential Units:	35 <u>23 residential units*</u>
Parking spaces provided:	191 spaces* <u>190 spaces*</u>
Parking spaces required:	187 spaces*
Loading spaces required:	3
Grade:	+3.31' to 5.26' NGVD

Base Flood Elevation (BFE): +8.00' NGVD
Difference: Varies 4.69' to 2.74' NGVD
Adjusted Grade: Varies
First Floor Elevation: Varies +5.00' to +5.87' NGVD

***As represented by the applicant**

SURROUNDING PROPERTIES:

East: One-story retail
North: Five-story residential building / hotel conversion
Five-story hotel building
South: Two-story retail building
City surface parking lot
West: Fourteen-story residential building

THE PROJECT:

The applicant has submitted plans entitled "17th and West Avenue", as prepared by **Stantec**, dated November 10, 2016.

The applicant is requesting modifications to a previously approved design, including changes to the massing and layout of the building that alters the previously approved variances. Additionally, some of the design alterations proposed affect the conditions within the recorded Final Order.

The following variance is proposed to be modified from the original approved project:

1. A variance from the minimum required tower rear setback of 22'-6" for residential uses in order to construct a pool deck and planters up to the rear property line.
 - Variance requested from:

Sec. 142-307. - Setback requirements.

(a) The setback requirements for the CD-2 commercial, medium intensity district are as follows:

Pedestal and tower (non-oceanfront), Rear: 5 feet, Residential uses shall follow the RM setbacks. (See sections 142-156, 142-218 and 142-247.)

Sec. 142-218. Setback requirements.

The setback requirements in the RM-2 residential multifamily, medium intensity district are as follows:

Tower, Rear, Non-oceanfront lots: 15% of lot depth.

The project obtained a variance to construct the parking structure up to the rear property line. The applicant is proposing the continuation of this setback to construct the pool and deck. As the area is associated with the residential use, and also located above 50 feet in height, additional setback for residential use is required. This requirement is intended for properties that share the same rear property line. In this particular instance, the subject property has a buffer of 20'-0" from the adjacent properties in the form of an existing alley that runs along the rear of the adjacent properties. However, alleys are not considered a 'street' for zoning purposes and as such a 22'-6" setback is required. Staff finds that the alley provides a reasonable separation and that the residential use would not be negatively affected. Throughout the City, properties that

abut alleys have been consistently recognized as a site condition that contains an element that imposes difficulties associated with the required rear setback.

Similar variance requests of this kind (for the reduction of the setback abutting an alley) have been approved in the past by the Historic Preservation Board, Design Review Board and Board of Adjustment. Most recently, similar variances have been approved for other properties in the commercial district along Lincoln Road. Staff finds that the existing alley creates practical difficulties for the applicant that justifies the variance modification.

Additionally, the applicant is requesting the following new variance(s):

2. A variance to reduce 6" from the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide parking spaces at with an interior drive aisle of 21'-6".

- Variance requested from:

Sec. 130-63. Interior aisles.

*Interior aisles shall meet or exceed the following minimum dimensions permitted:
90° parking—22 feet, with columns parallel to the interior drive on each side of the required drive, set back an additional one foot six inches, measured from the edge of the required interior drive to the face of the column.*

The project has previously obtained variances based on the practical difficulties created by the property's irregular shape with two fronts and immediate location of an alley. The proposed driveway reduction from 22' to 21'-6" is not a substantial deviation from the minimum width required by the Code, to which staff has no objections. Based on the constraints of the site location and irregular shape of the lot, staff finds that practical difficulties exist that justify the variance requested.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of the requested variances if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant

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

- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

CONSISTENCY WITH COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **mixed use** is **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan.

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, aside from the requested variance as noted herein this application:

1. Section 130-251. Tandem parking spaces may be utilized for self-parking in multi-family residential buildings and shall have a restrictive covenant, approved as to form by the city attorney's office and recorded in the public records of the county as a covenant running with the land, limiting the use of each pair of tandem parking spaces to the same unit owner
2. **Section 130-101 B:** For new construction of multi-family, hotel, and commercial buildings utilizing enclosed structures for the storage and/or parking of vehicles, all required loading spacing shall be located internally.
3. The awning/eyebrow encroaching into the public right of way may require approval from the Public Works Department and City Commission.

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 is found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied

2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not satisfied; the location of the intake and exhaust vents is not acceptable.
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; the proposed project includes several variances that were previously approved by the Design Review Board and the vacation of a portion of an alley was approved by City Commission.
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 location of the intake and exhaust vents is not acceptable.
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; the proposed project includes several variances that were previously approved by the Design Review Board and the vacation of a portion of an alley was approved by City Commission.
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; the proposed project includes several variances that were previously approved by the Design Review Board and the vacation of a portion of an alley was approved by City Commission.
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; the proposed project includes several variances that were previously approved by the Design Review Board and the vacation of a portion of an alley was approved by City Commission.
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.

Not Satisfied; the proposed project requires a drive aisle width variance to be granted by the Design Review Board.

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 provided
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Not Satisfied; the landscape plan is insufficient.
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; a well decorated wall or other screening method should be introduced along the parking levels to ensure minimal light spillage.
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).
Satisfied; the proposed project includes several variances that were previously approved by the Design Review Board and the vacation of a portion of an alley was approved by City Commission.
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.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Partially Satisfied; a roof plan showing the location of mechanical equipment has been provided but details of the associated screening have not.
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

Not satisfied; the location of the intake and exhaust vents is not acceptable.

ANALYSIS

DESIGN REVIEW

The proposed project was approved by the Design Review Board on May 05, 2015, including multiple variances. The following summarizes the most significant proposed design modifications:

Level 1

- Relocated vertical circulation cores;
- Backflow preventor relocated from street;
- Columns located in alley were relocated; and
- Redesigned residential lobby (as required by Condition I.C.3.g).

Level 2

- Redesigned parking floorplate and new parking layout in order to provide safer and more efficient circulation of vehicles and requiring a new variance for drive aisle width;
- Relocated vertical circulation cores; and
- Removal of some planters.

Level 3

- Redesigned parking floorplate and new parking layout in order to provide safer and more efficient circulation of vehicles and requiring a new variance for drive aisle width;
- Relocated vertical circulation cores; and
- Removal of additional planters, introduction of planters.

Level 4

- Redesigned parking floorplate and new parking layout in order to provide safer and more efficient circulation of vehicles and requiring a new variance for drive aisle width;
- Reworked all the interior floor plans to enlarge the units and reduce some balconies for an overall reduction of units from 15 to 11; and
- Northern units converted to two-story.

Level 5

- Redesigned parking floorplate and new parking layout in order to provide safer and more efficient circulation of vehicles and requiring a new variance for drive aisle width;
- Reworked all the interior floor plans to enlarge the units and reduce some balconies for an overall reduction of units from 20 to 12;
- Relocated building massing; and
- Pool deck relocated from roof level above alley into southwestern portion of site, adjacent to Alton Court.

Roof Level

- Private rooftop terraces removed;
- Pool deck relocated to floor below;
- Mechanical equipment and vertical chases shown; and
- Removal of true "green" roof that encompasses 50% of common the rooftop area(s) with plant beds of sufficient size to accommodate trees and landscaping (as required by Condition I.C.4.d).

Elevations

- Overall distribution of massing;
- Increased height of kneewall along western retail component;
- Increasing height of vertical screening for parking pedestal;
- Removal of cables and landscaping features above screening;
- All fresh air intake louvers proposed to be installed horizontally through the wall above storefront and behind architectural screen and/or through the alley whenever possible and the color of the louvers to match wall behind architectural screen (Condition I.C.3.e); and
- All kitchen exhaust louvers proposed to be installed horizontally through the wall (Condition I.C.3.e) above storefront and behind architectural screen and/or through the alley whenever possible and the color of the louvers to match wall behind architectural screen .

Staff is supportive of all of the proposed modifications, including the new variance, **with the exception of the mechanical ventilation louvers installed on the elevations and the removal of the green roof.** In this particular instance, staff believes that no kitchen or other use intake or exhaust vent should be located along the primary façades fronting Alton Road, 17th Street, or West Avenue. Given the overall size of the building, footprint, and the visibility of the roof from adjacent properties, staff believes that the previous requirement for a green roof should remain.

VARIANCE REVIEW

Staff has no objection to the modification of the previously approved variances as they pertain to the design modifications herein. Further, staff does not object to the one new variance request in order to reduce by 6" the minimum width of a two-way driveway. This request is internal to the site and would not negatively impact any abutting property. As such, staff recommends approval of the modified variances and approval of the new additional variance request.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends that the application project be **APPROVED**, subject to the following conditions in the draft Final Order, which address the inconsistencies with the aforementioned Design Review criteria and Practical Difficulty and Hardship criteria, as applicable.

TRM/JGM

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EXHIBIT "A"

Lots 9 and 10, of Block 40, of the "First Addition to Commercial Subdivision," according to the plat thereof, as recorded in Plat Book 6, Page 30, of the Public Records of Miami-Dade County, Florida.

Containing 14,952 square feet or 0.34 Acres (Net Area), more or less, by calculations.

And

Lots 12-14, inclusive, Block 40, of the "Alton Beach Realty Company Subdivision," according to the plat thereof, as recorded in Plat Book 6, Page 165, of the Public Records of Miami-Dade County, Florida.

Containing 22,452 square feet or 0.52 Acres (Net Area), more or less, by calculations.

And

That portion of a 20 foot wide alley, commonly known as Alton Court, lying between the West Boundary of Block 40 of said Plat of "First Addition to Commercial Subdivision," according to the Plat thereof as recorded in Plat Book 6, at Page 30 of the Public Records of Miami-Dade County, Florida and the East Boundary Line of said Plat of "Alton Beach Realty Company's Plat of Subdivision of West half of Blocks 17, 40, and 45," according to the Plat thereof as recorded in Plat Book 6, Page 165 of the Public Records of Miami-Dade County, Florida, and bounded on the North by the South Right of Way Line of 17th Street, and bounded on the South by the Westerly prolongation of the South Boundary Line of Lot 9, Block 40 of said Plat of "First Addition to Commercial Subdivision" and up to the East Boundary Line of said Plat of "Alton Beach Realty Company's Plat of Subdivision of West half of Blocks 17, 40, and 45."

Containing 2,000 square feet or 0.05 Acres, more or less, by calculations.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: January 3, 2017

FILE NO: DRB16-0089 (a.k.a DRB File No. 23214)

PROPERTY: **1698 Alton Road and 1681-1683 West Avenue**

APPLICANT: 1681 Ventures LLC.

LEGAL: See Exhibit "A"

IN RE: The Application requesting exterior and interior design modifications to a previously approved Design Review Approval for the construction of a five-story mixed use building, including modifications to previously approved variances. Additionally, the applicant is requesting a variance to reduce the width of a two-way driveway. **(ITEM WAS APPROVED AT THE MAY 5, 2016 MEETING).**

SUPPLEMENTAL 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. All of the original conditions of approval by this Board, as reflected in the Final Order dated MAY 5, 2016, pursuant to DRB File No. 23214, shall remain in effect except as modified herein.
 - 2. Revised elevation, site plan and floor plan drawings for the proposed mixed-use development at 1698 Alton Road and 1681-1683 West Avenue shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

- a. The architect shall further refine the south side elevations and incorporate additional articulation through changes in plane, the introduction of projections and/or recesses and/or other architectural methods, in order to add more dimension, depth and movement to the elevations, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- b. An artistic supergraphic shall be installed along a portion of the south side elevations, location and design to be reviewed at a future meeting date as a separate application, in order to add more dimension, depth and movement to the elevations, in a manner to be reviewed and approved by the Design Review Board.
- c. Additional material finishes shall be introduced along the front elevation at the underside and side walls of the balcony projections as depicted in the front cover rendering, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- d. The final 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.
- e. Any future kitchen ventilation or mechanical venting shall be chased through the interior of the building to the roof. In no instance, shall any kitchen or other use intake or exhaust vent or ducts be located along the primary façades fronting Alton Road, 17th Street, or West Avenue.
- f. 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.
- g. The interior walls of the first level of the parking garage entrance, ramps and loading areas, shall be fully detailed on revised plans. Such interior areas shall consist of high quality, non-stucco surface materials which have a well finished appearance commensurate with the primary façade of the building, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- h. 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.
- i. 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.

3. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
 - a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
 - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
 - c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed application, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
 - d. A true "green" roof shall be incorporated that encompasses 50% of common the rooftop area(s) with plant beds of sufficient size to accommodate trees and landscaping.
 - e. All overhead utility lines shall be relocated underground.
 - 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):

1. A variance to reduce 6" from the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide parking spaces at with an interior drive aisle of 21'-6".

B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

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

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

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

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

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

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.

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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "17th and West Avenue", as prepared by **Stantec**, dated November 10, 2016 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 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.

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EXHIBIT "A"

Lots 9 and 10, of Block 40, of the "First Addition to Commercial Subdivision," according to the plat thereof, as recorded in Plat Book 6, Page 30, of the Public Records of Miami-Dade County, Florida.

Containing 14,952 square feet or 0.34 Acres (Net Area), more or less, by calculations.

And

Lots 12-14, inclusive, Block 40, of the "Alton Beach Realty Company Subdivision," according to the plat thereof, as recorded in Plat Book 6, Page 165, of the Public Records of Miami-Dade County, Florida.

Containing 22,452 square feet or 0.52 Acres (Net Area), more or less, by calculations.

And

That portion of a 20 foot wide alley, commonly known as Alton Court, lying between the West Boundary of Block 40 of said Plat of "First Addition to Commercial Subdivision," according to the Plat thereof as recorded in Plat Book 6, at Page 30 of the Public Records of Miami-Dade County, Florida and the East Boundary Line of said Plat of "Alton Beach Realty Company's Plat of Subdivision of West half of Blocks 17, 40, and 45," according to the Plat thereof as recorded in Plat Book 6, Page 165 of the Public Records of Miami-Dade County, Florida, and bounded on the North by the South Right of Way Line of 17th Street, and bounded on the South by the Westerly prolongation of the South Boundary Line of Lot 9, Block 40 of said Plat of "First Addition to Commercial Subdivision" and up to the East Boundary Line of said Plat of "Alton Beach Realty Company's Plat of Subdivision of West half of Blocks 17, 40, and 45."

Containing 2,000 square feet or 0.05 Acres, more or less, by calculations.