

MIAMIBEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: November 14, 2023

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB23-0593. **1760 Lenox Avenue.**

An application has been filed requesting a Certificate of Appropriateness for partial demolition and renovation of the existing single-family home, including the construction of attached additions and variances from the required setbacks, lot coverage and unit size.

STAFF RECOMMENDATION

Approval of the Certificate of Appropriateness with conditions.

Approval of the variances with conditions.

EXISTING STRUCTURE

Local Historic District:	Palm View
Classification:	Contributing
Construction Date:	1934
Architect:	Victor H. Nellenbogen

ZONING / SITE DATA

Folio:	02-3234-004-0230
Legal Description:	Lot 8, Block 18, of the Palm View Subdivision, according to the plat thereof, as recorded in plat book 6, page 29, of the public records of Miami-Dade County, Florida.

Zoning:	RS-4, Residential, single-family
Future Land Use Designation:	RS-4, Residential, single-family

Lot Size:	7,500 sq. ft. (30% Max Lot Coverage, 50% Max Unit Size)
Existing Lot Coverage:	1,771 sq. ft. / 23.6%
Proposed Lot Coverage:	2,501 sq. ft. / 33.3%
Existing Unit Size:	3,047 sq. ft. / 40.6%
Proposed Unit Size:	3,903 sq. ft. / 52.0%

Existing Height (accessory bldg.):	~10'-0" measured from first finished floor elev. (5.50' NGVD)
Proposed Height (addition):	~20'-7" measured from first finished floor elev. (6.00' NGVD)

THE PROJECT

The applicant has submitted plans entitled “Feldman Family Residence”, as prepared by Cuevas Architecture, dated September 11, 2023.

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application appears to be consistent with the Land Development Regulations with the exception of the variances requested herein. This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

CONSISTENCY WITH 2040 COMPREHENSIVE PLAN

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

VARIANCE 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 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 2.8.3(a) of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;
- iii. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;
- iv. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- vi. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
- vii. 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; and

- viii. 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 7, article I, as applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4(a)(i) of the Land Development Regulations 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 Applicable
The scope of demolition is minor.
- (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 4 of the Land Development Regulations.
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
The land elevation of the site is consistent with the surrounding properties.
- (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.
Not Applicable
- (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
Additional information shall be provided at the time of building permit review.
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
Partially Satisfied
The finish floor elevation of the guest house is proposed to be raised up to the finish

floor level of the main home.

- (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 in General Ordinances.

Satisfied

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

- (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 2.13.7(d)(ii)(1) of the Land Development Regulations (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. The Secretary of Interior's Standards for Reconstruction as may be amended from time to time.

Not Applicable

- c. 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 historic preservation board shall consider the following criteria pursuant to section 2.13.7(d)(ii)(2) of the Land Development Regulations (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 subsections 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.

Satisfied

- III. The examination of architectural drawings for consistency with the criteria pursuant to section 2.13.7(d)(ii)(3) of the Land Development Regulations 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

See the Variance Analysis section of this report.

- 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 2.13.1(c).

Satisfied

- d. The proposed structure, or additions to an existing structure are appropriate to and compatible with the environment and adjacent structures, and enhance 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.

Satisfied

- 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.

Not Applicable

- 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

- p. In addition to the foregoing criteria, the requirements of chapter 104, of the General Ordinances, shall apply to the historic preservation 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

- q. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

Satisfied

CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA

Section 2.13.7(d)(vi)(4) of the Land Development Regulations 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 part of a historic preservation district or as a historic architectural landmark or site, or is designated pursuant to section 2.13.9 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 single-family home structure is designated as Contributing within the Palm View 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 or expense.

Satisfied

The existing single-family home structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.

- c. The building, structure, improvement, or site is one of the last remaining examples of its kind in the neighborhood, the county, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.

Satisfied

The existing single-family home structure is a distinctive example of the Mediterranean Revival/Art Deco Transitional style of architecture which contributes to the district.

- d. The building, structure, improvement, or site is a contributing building, structure, improvement, site or landscape feature rather than a noncontributing building, structure, improvement, site or landscape feature in a historic district as defined in chapter 1 of these land development regulations, or is an architecturally significant feature of a public area of the interior of a historic or contributing building.

Satisfied

The existing single-family home structure 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 single-family home structure is critical to developing an understanding of an important 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, or the design review guidelines for that particular district. If the district in which the property is located lists retail uses as an allowable use, then the ground floor shall contain such uses. At-grade parking lots shall not be considered under this regulation. Parking lots or garages as main permitted uses shall not be permitted on lots which have a lot line on Ocean Drive or Espanola Way.

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.

Not Applicable

The applicant not proposing total demolition.

- h. The 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.

ANALYSIS

The subject single-family home was constructed in 1934 and designed by architect Victor H. Nellenbogen in the Mediterranean Revival/Art Deco Transitional style of architecture. The applicant is requesting approval for the construction of several attached additions and related variances as part of the project. More specifically, the applicant is proposing the construction of a 1-story rooftop addition on the existing rear accessory structure (originally constructed as a single car garage concurrently with the home), the construction of a 1-story attached addition connecting the main home to the accessory structure and the construction of a permanent carport at the rear of the accessory building. The modest additions will be minimally visible from Lenox Avenue and will not have any adverse impact on the surrounding historic district. Staff is highly supportive of the proposed project which includes the retention of the extremely well maintained Contributing single-family home.

VARIANCE ANALYSIS

The applicant is requesting the following variances:

1. A variance to exceed by 3.3% (251 sq. ft.) the maximum permitted lot coverage of 30% (2,250 sq. ft.) in order to provide a lot coverage of 33.3% (2,501 sq. ft.). Variance requested from:

Section 7.2.2.3 Development regulations (RS)

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) The FAR, density, lot area, lot width, lot coverage, unit size, setbacks, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

DEVELOPMENT REGULATIONS TABLE (RS)

Maximum Lot Coverage for a 2-story Home (% of lot area): 30%

2. A variance to exceed by 2.0% (153 sq. ft.) the maximum permitted unit size of 50% (3,750 sq. ft.) in order to provide a unit size of 52.0% (3,903 sq. ft.). Variance requested from:

Section 7.2.2.3 Development regulations (RS)

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) The FAR, density, lot area, lot width, lot coverage, unit size, setbacks, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

DEVELOPMENT REGULATIONS TABLE (RS)

Maximum Unit Size (Square Feet): 50%

3. A variance to reduce by 2'-1" the minimum required side interior setback of 7'-6" in order to construct a 1-story rooftop addition at a setback of 5'-5" from the south property line. Variance requested from:

Section 7.2.2.3 Development regulations (RS)

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) The FAR, density, lot area, lot width, lot coverage, unit size, setbacks, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

DEVELOPMENT REGULATIONS TABLE (RS)

Side, Interior Setback: 7.5 feet

4. A variance to reduce by 13'-11" the minimum required rear setback of 22'-6" in order to construct a permanent carport structure at a setback of 8'-7" from the west property line. Variance requested from:

Section 7.2.2.3 Development regulations (RS)

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) The FAR, density, lot area, lot width, lot coverage, unit size, setbacks, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

DEVELOPMENT REGULATIONS TABLE (RS)

Rear Setback: 15% of lot depth

Variances 1 and 2 are related to the proposed lot coverage and unit size. The Land Development Regulations provide a maximum lot coverage of 30% and a maximum unit size of 50% of the lot area. Staff would note that if the existing residence were located outside of a local historic district, the retention of the existing home would allow for a lot coverage up to a maximum of 40% and a unit size of up to a maximum of 60% as incentives to retain the home. Since the property is located within the Palm View Local Historic District, the owner is not eligible for these incentives. Considering the minimal requests for additional lot coverage (3.3%) and unit size (2.0%), and the challenges associated with a renovation project such as this, staff is supportive of the variances requested.

Variance 3 is related to the construction of the proposed 1-story rooftop addition on the existing accessory building. This building has a nonconforming interior side setback of 5'-5" from the south property line. As stated previously, if this home was located outside of a local historic district, it would be able to take advantage of incentives to retain the home and would not require a variance. Additionally, shifting the rooftop addition approximately 2 feet to the north, would likely result in additional demolition.

Variance 4 is related to the introduction of the permanent carport structure within the rear yard, adjacent to the alley. The Land Development Regulations permit carports as allowable yard encroachments if they are constructed of pipe and canvas with a 5'-0" rear setback. In this instance however, the carport is constructed of steel columns and a concrete roof and must comply with the required rear yard setback of 22'-6" for the main home. As this property has

access to an alley, staff believes that the proposed location of the carport along of the rear of the site is most appropriate solution, having the least impact on the Lenox Avenue view of the home. Further, the west side of the property is immediately adjacent to the alley which abuts a commercial district to the west. Staff finds that practical difficulties exist due to the unique condition of a single-family home abutting an alley and believes this warrants the granting of the rear setback variance. Further, staff finds that the retention of the existing Contributing home and associated accessory building create additional practical difficulties warranting the setback, lot coverage and unit size variances requested.

In summary, staff recommends approval of the Certificate of Appropriateness and variance requests as noted below.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the request for a Certificate of Appropriateness and variances be **approved**, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness and practical difficulty and hardship criteria, as applicable.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: November 14, 2023

PROPERTY/FOLIO: 1760 Lenox Avenue / 02-3202-004-0230

FILE NO: HPB23-0593

APPLICANT: David Feldman

IN RE: An application has been filed requesting a Certificate of Appropriateness for partial demolition and renovation of the existing single-family home, including the construction of attached additions and variances from the required setbacks, lot coverage and unit size.

LEGAL: Lot 8, Block 18, of the Palm View Subdivision, according to the plat thereof, as recorded in plat book 6, page 29, 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 Palm View 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 consistent with Sea Level Rise and Resiliency Review Criteria in Section 7.1.2.4(a)(i) of the Land Development Regulations.
 2. Is consistent with Certificate of Appropriateness Criteria in section 2.13.7(d)(ii)(1) of the Land Development Regulations.
 3. Is consistent with Certificate of Appropriateness Criteria in section 2.13.7(d)(ii)(2) of the Land Development Regulations.
 4. Is not consistent with Certificate of Appropriateness Criteria in section 2.13.7(d)(ii)(3) of the Land Development Regulations.
 5. Is consistent with Certificate of Appropriateness Criteria in 2.13.7(d)(vi)(4) of the Land Development Regulations.

- C. The project would be consistent with the criteria and requirements of sections 2.13.7(d) and 7.1.2.4(a) of Land Development Regulations 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. Final details of all exterior surface finishes and materials 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.
 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 project design shall minimize the potential for a project causing a heat island effect on site.
 - b. Cool pavement materials or porous pavement materials shall be utilized, if applicable.

In accordance with section 2.2.4.8(c) of the Land Development Regulations the applicant, 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 magistrate appointed by the City Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
1. A variance to exceed by 3.3% (251 sq. ft.) the maximum permitted lot coverage of 30% (2,250 sq. ft.) in order to provide a lot coverage of 33.3% (2,501 sq. ft.).
 2. A variance to exceed by 2.0% (153 sq. ft.) the maximum permitted unit size of 50% (3,750 sq. ft.) in order to provide a unit size of 52.0% (9,903 sq. ft.).
 3. A variance to reduce by 2'-1" the minimum required side interior setback of 7'-6" in order to construct a 1-story rooftop addition at a setback of 5'-5" from the south property line.
 4. A variance to reduce by 13'-11" the minimum required rear setback of 22'-6" in order to construct a permanent carport structure at a setback of 8'-7" from the west property line.
- 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 indicate the following, as they relate to the requirements of section 2.8.3(a) of the Land Development Regulations:

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 these land development regulations to other lands, buildings, or structures in the same zoning district.

That literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations 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 these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

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 7, article I, as applicable.

C. The Board finds that the application satisfies Article 1, Section 2 of the Related Special Acts and the requirements of section 2.8.3(a) of the Land Development Regulations, and hereby **approves** the requested variances; and imposes the following condition based on its authority in section 2.8.4 of the Land Development Regulations:

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. 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 section 5.1.13 of the land development regulations, 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 "**Feldman Family Residence**", as prepared by **Cuevas Architecture**, dated **September 11, 2023**, 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 section 2.13.7 of the Land Development Regulations; 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 2 of the Land Development Regulations, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations. Failure to comply with this Order shall subject the application to chapter 2 of the Land

Development Regulations, 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 _____ ())