

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: April 5, 2016

FILE NO: 23248

PROPERTY: **8011-8035 Harding Avenue**

APPLICANT: Harding Excalibur, LLC

LEGAL: Lots 2-5 less west 2.5' of Block 5 of "Altos Del Mar No. 3", according to Plat thereof as recorded in Plat Book 8, Page 41, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new four-story hotel development including variances to reduce the required setback for at grade parking on the north and south sides of the property, and a variance to eliminate the residential or commercial use requirement for all floors of a building containing parking spaces at the ground level along every facade facing a street.

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 an 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 1-8, 10-14 and 16 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. Revised elevation, site plan and floor plan drawings for the proposed townhome project at 8011-8035 Harding Avenue shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The applicant shall explore the complete or partial retention and preservation of the existing two-story apartment building located in the northernmost lot—8035 Harding Avenue.
 - b. The overall architecture shall be revised to reflect three individual structures, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - c. The continuous 'bar' element of the structure spanning the entirety of the building along the rear shall be broken up in order to create a minimum of three volumes, 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 first level facing Harding Avenue shall be modified in a manner that incorporates hotel units along the west elevation. This shall include the elimination or reduction in size of 'outdoor covered areas', in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. The curb-cut on Harding Avenue shall be reduced to a one-way (maximum width of 12 feet), in-bound traffic only, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. High quality finishes shall be introduced in order to further minimize the massing of the proposed structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - g. Rooftop facilities, inclusive of any pool or spa and pool or spa deck, shall be for the exclusive use of registered hotel guests and their invitees.
 - h. Hardwired speakers shall not be permitted on the roof deck.
 - i. All roof top lighting shall be located below the parapet level, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - j. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be configured to be as close to

the center of the roof as possible and screened from view on all sides, in a manner to be approved by staff.

- k. Any future kitchen ventilation shall be chased through the interior of the building to the roof. No exhaust ducts or vents shall be permitted on any building elevations.
- l. A fully enclosed, air-conditioned trash room shall be provided, which is sufficient to handle the maximum uses intended for the proposed structure. External dumpsters shall not be permitted.
- m. The recycling and trash system, consisting of separate chutes for trash and recyclables, shall be located in a centralized location that is less visible from view, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- n. Pavers and concrete banding shall be utilized for the entire entry drive and loading area, including alternate colors of concrete banding in place of painted striping, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- o. Any proposed FPL transformer located in the front of the property shall not be permitted within any area fronting a street or sidewalk and shall be relocated, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- p. A minimum of 7'-0" high wall or similar physical screen shall be required along the adjacent property lines of the site in order to screen the parking and to ensure that headlights from the vehicles do not shine into the neighboring properties, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- q. All internal garage lighting shall be shielded to buffer views of all direct light sources from outside of the structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- r. An exterior lighting plan shall be designed and demonstrate that all site lighting shall be contained within the subject property and that none shall shine into the neighboring properties, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- s. 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.

- t. All window frames shall be composed of brushed anodized aluminum frames. All windows shall consist of clear glass and incorporate the minimum tint required by the energy code, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - u. All exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
 - v. 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.
 - w. 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.
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 landscape plan shall be significantly enhanced particularly along the side property lines and the front yard, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. Large canopy shade trees shall have a minimum of 18' – 20' on center spacing to allow for proper canopy growth. Where canopy trees are within 5' – 10' of sidewalks and roadways, Silva cells or an approved alternative shall be required in order to increase the available rooting area and subject to the review and approval of staff.
 - c. The overall plant palette proposed for the project shall be diversified and increased throughout the site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. Sufficient depth of soil shall be provided for all proposed roof deck landscaping to ensure the proper health and growth of all landscape materials, in a manner to be reviewed and approved by staff.

- e. All proposed planters shall be built-in planters with irrigation systems in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. Any fence or gate or security feature along the property facing the rights-of-way shall be designed with high level of transparency and in a manner consistent with the architecture, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
- g. All exterior walkways shall consist of decorative pavers, set in sand or other semi-pervious material, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- h. Street trees shall be required within the swale at the front of the property if feasible and not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- i. If technically feasible, all overhead utility lines along the alley shall be placed underground.
- j. Any existing plant material within the public right-of-way may be required to be removed, at the discretion 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 install street trees on all sides of the project consistent with the City's Street Tree Master Plan, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and root barriers shall be installed along the sidewalk in conjunction with structural soils.
- n. 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.
- o. 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-way, shall be clearly indicated on the

site and landscape plans and shall be subject to the review and approval of staff.

- p. 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) which were either approved by the Board with modifications, or denied (Underlying denotes new language and strikethrough denotes stricken language):

- 1. ~~A variance to reduce by 5' 0" the minimum required side setback of 10' 0" for at grade parking in order to construct parking spaces at 5' 0" from the side (north) property line. (Variance denied).~~
- 2. ~~A variance to reduce by 5' 0" the minimum required side setback of 10' 0" for at grade parking in order to construct parking spaces at 5' 0" from the side (south) property line. (Variance denied).~~
- 3. ~~A variance to eliminate the residential or commercial use requirement for all floors of a building containing parking spaces at the ground level along every facade facing a street, and to reduce the required tower rear setback for residential uses. (Variance denied).~~

- B. The applicant has submitted plans and documents with the application that the Board has concluded do not satisfy Article 1, Section 2 of the Related Special Acts.

The applicant has submitted plans and documents with the application that the Board has concluded do not comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

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

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

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

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

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

- C. The Board hereby **Denies** the Variance requests, 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. 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 driveway to the adjacent neighboring properties.
- C. 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.
- D. 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.

- E. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- F. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- G. 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.
- H. 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.
- I. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- J. 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 "Own Hotel" as prepared by **Behar Font Partners PA** dated February 12, 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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