

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: July 07, 2017

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB17-0148

160 South Hibiscus Drive – Single Family Residence

The applicant, Edmundo Tamayo, is requesting Design Review Approval for the construction of a new two-story single family home to replace an existing one-story home, including variances to reduce the required front, both sides and sum of the side setbacks, to reduce the minimum open space requirement in the required rear yard, to exceed the maximum elevation and projection allowed within required yards.

RECOMMENDATION:

Continue to a future meeting date for further design development.

Denial of the variances #1, #5 and #8

Approval of variances #2, #3, #4, #6 and #7

LEGAL DESCRIPTION:

Lot 24 of Block 3 and 20 foot wide strip contiguous to same in Bay of Hibiscus Island, according to Plat thereof as recorded in Plat Book 8, Page 75 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 10,719 SF
Lot Coverage:
Existing: 2,324 / 21.6%
Proposed: 2,966 SF / 27.7%
Maximum: 3,215.7 SF / 30%
Unit size:
Existing: 2,324 / 21.6%
Proposed: 5,347 SF / 49.8%
Maximum: 5,359.5 SF / 50%
2nd Floor Volume to 1st: **77% 2668/1867***

***DRB WAIVER**

First Floor Elevation: +12.00' NGVD
(BFE +2' FB)

Height:
Permitted: 24'-0" flat roof
Proposed: **28'-0" flat roof***
Maximum: 28'-0" flat roof
***DRB WAIVER**

EXISTING PROPERTY:

Year: 1953
Architect: Leroy Albert + H. Baxter
Vacant: No
Demolition: Full

SURROUNDING PROPERTIES:

East: Two-story 1940 residence
North: One-story 1941 residence
South: Biscayne Bay
West: One-story 1941 residence

Grade: +5.65' NGVD
Flood: +10.00' NGVD
Difference: 4.35'
Adjusted Grade: +7.825' NGVD
30" (+2.5') Above Grade: +8.15' NGVD

THE PROJECT:

The applicant has submitted plans entitled "160 S. Hibiscus Drive Residence Revised Final DRB17-0148 Submittal with Variance" as designed by **Borges Architects + Associates** signed, sealed, and dated May 24, 2017.

The applicant is proposing to construct a new two-story residence on a waterfront parcel on the southern side of Hibiscus Island.

The applicant is requesting the following three (3) design waiver(s):

1. The height of the proposed structure is **28'-0"** in accordance with Section 142-105(b).
2. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c). **The second floor volume is 77%.**
3. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d). The northerly elevation is 77'-4" in length.

The applicant is requesting the following eight (8) variance(s):

1. A variance to reduce by 9'-2" the minimum required front setback of 30'-0" for a two-story structure in order to construct a one story garage structure connected to the main two-story home at 20'-10" from the front property line.
 - Variance requested from:

Sec. 142-106. - Setback requirements for a single-family detached dwelling.

The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) Front yards: The minimum front yard setback requirement for these districts shall be 20 feet.

(b) Two-story structures shall be setback a minimum of an additional 10'-0" from the required front yard setback line.

A separated one-story garage is proposed in front of the two story residence along the eastern portion of the site. The structure is separated from the main two-story house nearly 18'-0" but a covered walkway and a decorative panel above the garage door connects the two structures thereby requiring a 30'-0" front setback for any portion of the two story residence. Therefore the proposed garage with a front setback of 20'-10" measuring to the northernt wall will require a variance. In this case, a variance would not be required if the open area between the two structures were reduced and the garage setback an additional 9'-2" from the front property line to comply with the requirement. Considering that the two-story structure is setback more than 62' from the front property line, the garage can easily be accomodated further back on site to comply with the front setback required. Staff finds that this is a self-imposed variance based on the applicant's design and does not satisfy the practical difficulties or hardship criteria for the granting of the variance. Therefore, staff recommneds **denial** of the front setback variance (#1).

2. A variance to reduce by 2'-6" the minimum required 10'-0" interior side setback in

order to construct a new single family residence at 7'-6" from the east side property line.

3. A variance to reduce by 2'-6" the minimum required 10'-0" interior side setback in order to construct a new single family residence at 7'-6" from the west side property line.
 4. A variance to reduce by 5'-0" the minimum required sum of the side yards of 20'-0" in order to construct a new single family home and provide a sum of the side yards of 15'-0".
- Variances requested from:

Sec. 142-106. Setback requirements for a single-family detached dwelling.

The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

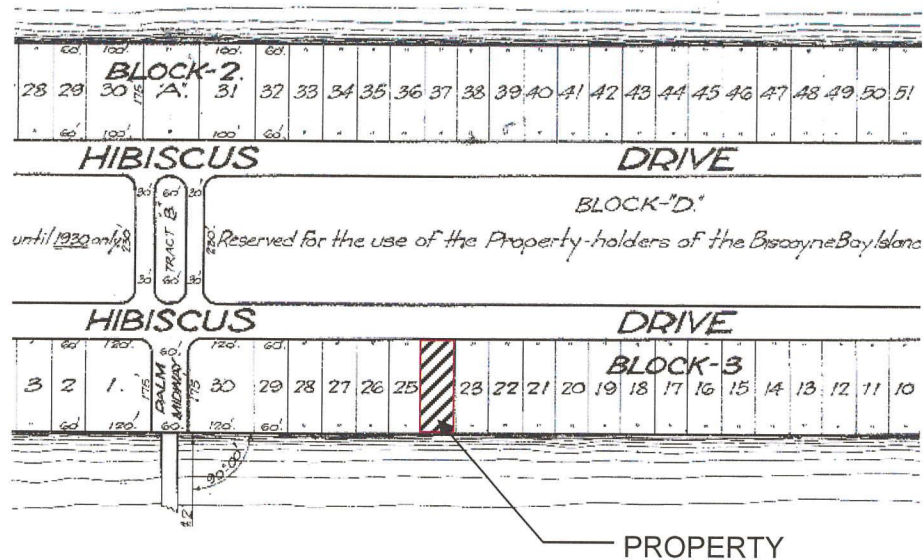
(2)Side yards:

a. The sum of the required side yards shall be at least 25% of the lot width.

c. Interior sides. For lots greater than 60'-0" in width any one interior side yard shall have a minimum of 10% of the lot width or 10'-0", whichever is greater. For lots 60'-0" in width or less, any one interior side yard shall have a minimum of 7'-6".

Variances #2, #3 and #4 are related to the same zoning regulation. As the subject site is 60.1' in width, as noted in the survey provided, both side setbacks are required to be 10'-0". Lots 60'-0" in width have a minimum setback requirement of 7'-6". The block was originally platted with the majority of the lots not exceeding 60'-0" in width. Today with more accurate and precise measuring instruments than when the property was originally platted, the lot width of the subject site is shown to measure 60.1', representing about 2" of a difference. The majority of the properties within the block and the adjacent properties measure 60'-0" in width. Staff finds that the subject property is a unique lot within the block, regarding its width, and the required side setbacks would impose an undue hardship on the applicant that does not apply to most of the properties within the same block. The proposed setback of 7'-6" on both sides is consistent with the required setback for the other surrounding properties. Therefore, the applicant's request would not create a negative impact to the neighboring properties.

The subject property is an interior lot on a block within the Amended Plat of Sunset Lake Subdivision, which was historically platted on June 12, 1923, as noted in the graphic below. Without the granting of this variance, the construction of the building on the lot would be more restrictive than its immediate neighbors and the site could not be developed as other lots in the same district and same platted subdivision.



Portion of the 1923 Hibiscus Island Subdivision (subject property Lot 24)

Staff is supportive of these variances (#2 and #3 and #4) since the current site configurations summarize the Practical Difficulty and Hardship Criteria.

5. A variance to exceed by 2'-5" (30%) the maximum allowed projection of 1'-10" (25%) within the proposed side yard of 7'-6" in order to construct a single family home with roof overhang and decorative vertical element projecting 4'-3" (56.6%) into the west side yard.

- Variance requested from:

Sec. 142-1132. - Allowable encroachments within required yards.

(o) *Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations.*

The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.

(5) Ornamental features

(7) Roof overhangs.

Several design elements and parts of the roof overhang on the side façade are proposed in the west side yard. The overall projection into the setback is 4'-3", where only 1'-10" is allowed. As the design feature can be easily modified to reduce the setback encroachment, and staff support of variance #2 and #3 and #4 as noted above, the approval of the variance would have a negative impact on the abutting property. Further this request does not satisfy the practical difficulties or hardship criteria for the granting of this variance. Therefore, staff recommends **denial** of the maximum allowed projection overhang and decorative vertical element (#5).

6. A variance to exceed by 1'-10" (23.8%) the maximum allowed projection of 1'-10" (25%) within the proposed side yard of 7'-6" in order to construct steps projecting 3'-8" (48.8%) up to 12.0' NGVD into the east side yard.

- Variance requested from:

Sec. 142-1132. - Allowable encroachments within required yards.

- (o) *Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations.*
The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.
(6) Porches, platforms and terraces (up to 30 inches above the elevation of the lot.

Within the eastern side yard, an exterior side porch and associated steps are proposed for side secondary means of access into the residence. Traditionally these elements are an 'as-of-right' allowable projection, but the steps or platforms are limited in height to 2.5' (30") above adjusted grade and to 25% projection distance within the required yard. Since the design of the home features a resilient first floor measured at BFE +2' freeboard, the slab is at 12.0' NGVD, resulting in a side access element that is limited to 10.3' NGVD and 1'-10" encroachment.

This variance request is triggered by the need to raise the finish floor of the house in order to prospectively address future sea level rise. In this case, due to the difference between the finish floor and the side yard elevation, additional transitional elements, such as ramps or stairs which are necessary to connect the lower grade elevation to the house, are requiring this variance. The side setbacks also restrict the flexibility to accommodate the height difference. On larger lots, with larger lot widths, this transition can be accommodated more successfully without the need for variances, as the required yards are also larger. However, for the subject property, the side yards of 7'-6" create a design challenge to comply with the code requirements. Based on these site conditions, staff recommends approval of the variance for the maximum allowed projection for the steps or platforms (#6).

7. **A/** A variance to exceed by 1.85' the maximum elevation allowed of 8.15' NGVD within the interior side yards in order to raise portions of the east side yard up to 10.0' NGVD.

B/ A variance to exceed by 1.85' the maximum elevation allowed of 8.15' NGVD within the interior side yards in order to raise portions of the west side yard up to 10.0' NGVD.

- Variances requested from:

Sec. 142-105. - Development regulations and area requirements.

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

- (8) *Exterior building and lot standards. The following shall apply to all buildings and properties in the RS-1, RS-2, RS-3, RS-4 single family residential districts:*
2. *Interior Side Yards (located between the front setback line and rear property line). The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater*

Last year, the City adopted Ordinance No. 2016-4009 which established a minimum and maximum freeboard for the City, among other things. This Ordinance permits an increase in freeboard measuring height from 1'-0 to 5'-0" above minimum flood elevation and allows the maximum building height to be measured from same. Since the applicant is raising the finished first floor of the home to 12.0' NGVD (2'-0" FB above BFE), in order to address future sea-level rise concerns. The existing grade elevation of the site is 5.65' NGVD. As there currently is not a sidewalk at the front of the property, the elevation of the crown of the road applies.

The difference between grade and finish floor is 6.35'. The side yards of the property are proposed to be raised up to 10.0' NGVD, including access steps on the east side yard extending up to 12.0' NGVD where the maximum elevation allowed is 8.15' NGVD or 30" above grade. As previously noted, the additional height is necessary in order to provide a transition from the side yards to the house and mitigate the effects of raising the residence to address flooding concerns. Staff finds that the difference between grade elevation and proposed finish floor elevation, as well as increasing concerns related to sea-level rise, creates the practical difficulties resulting in the request for the variance. Based on these site conditions, staff recommends approval of the variance for the height of the side yards (#7).

8. A variance to reduce by 3.7% (59.8 SF) the minimum required open space of 70% (1,129.8 SF) within the required rear yard in order to construct a new single family home with 66.3% (1,070.5 SF) open space within the required rear yard.

- Variance requested from:

Sec. 142-106. - Setback requirements for a single-family detached dwelling.

The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(3) Rear: The rear setback requirement shall be 15 percent of the lot depth, 20 feet minimum, 50 feet maximum. At least 70 percent of the required rear yard shall be sodded or landscaped pervious open space; when located at or below adjusted grade, the water portion of a swimming pool may count toward this requirement, when located above adjusted grade, the water portion of a swimming pool may count towards 50% of this requirement, provided adequate infrastructure is incorporated into the design of the pool to fully accommodate on-site stormwater retention. The applicant is seeking a 63% open space.

The rear yard of the new home features an approximately 635 SF pool and spa as main recreational elements to the principal structure. As previously mentioned, the finished floor of the first floor of the home is proposed at 12' NGVD above the flood elevation and the pool and spa are slightly below the proposed finish floor elevation. Since the pool structure is proposed at 11.3' NGVD which is 3.47' above the adjusted grade (7.82' NGVD), only half (1/2) of the surface area of the water of the pool and spa contributes towards the open space requirement. A simple reduction of pool area would result in compliance with the Code regulation intended towards a 'greener' building standard. The variance requested is the result of the proposed area of the pool and spa that extends for nearly approximately 42'-0" in length. Staff finds that the variance request does not satisfy the practical difficulties criteria, as it can be easily complied without major changes to the main home or the proposed yard elevations. Therefore, staff recommends **denial** of the rear yard open space

variance (#8).

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

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

Additionally, staff has concluded that the plans and documents with the application partially satisfy 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;

Satisfied for variance requests #2, #3, #4, #6 and #7;

Not Satisfied for variance requests #1, #5 and #8;

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

Satisfied for variance requests #2, #3, #4, #6 and #7;

Not Satisfied for variance requests #1, #5 and #8;

- 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;

Satisfied for variance requests #2, #3, #4, #6 and #7;

Not Satisfied for variance requests #1, #5 and #8;

- 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;

Satisfied for variance requests #2, #3, #4, #6 and #7;

Not Satisfied for variance requests #1, #5 and #8;

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

Satisfied for variance requests #2, #3, #4, #6 and #7;

Not Satisfied for variance requests #1, #5 and #8;

- 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

Satisfied for variance requests #2, #3, #4, #6 and #7;

Not Satisfied for variance requests #1, #5 and #8;

- 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.

Satisfied

COMPLIANCE WITH ZONING CODE:

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

1. The maximum building height is 24'-0" for flat roofed structures and 27'-0" for sloped roofs. In the RS-3 zoning district, the DRB may approve a building height of up to 28'-0" for flat roofs, and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a height of 28'-0" for the second floor roofline (architectural feature wall) which will require a waiver from the DRB.**
2. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a 2nd Floor Volume to 1st of 77% with a 27.7% lot coverage which will require a waiver from the DRB.**
3. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60'-0", whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than 1% of the lot area. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the applicant is requesting a variance from the minimum rear yard open space requirement.
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 applicant is requesting eight (8) variances and three (3) design waivers from the Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the applicant is requesting eight (8) variances and three (3) design waivers from the Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; the applicant is requesting eight (8) variances and three (3) design waivers from the Board.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Satisfied
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as

possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not satisfied; a lighting plan has not been submitted
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the applicant is requesting eight (8) variances and three (3) design waivers from the Board.
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.
Satisfied
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 Applicable
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Partially Satisfied; the applicant is requesting a variance from the minimum rear yard open space requirement.

STAFF ANALYSIS:
DESIGN REVIEW

The applicant is proposing to construct a new two-story residence on a waterfront parcel on Hibiscus Island that will replace an existing 1953 one-story home. The home has been designed slightly under the maximum zoning thresholds for lot coverage and unit size allowances, but requests three design waivers and eight variances to be approved by the Board as part of this application.

The first design waiver requested by the applicant pertains to the second floor to first floor ratio. Since the proposed home has a lot coverage of 27.7%, any second floor is restricted in massing to 70% of the first floor unless a waiver is sought by the Design Review Board. The home has a second floor to first floor ratio of 77% where the Code limits the ratio to 70%. When reviewing the second floor volume restriction, staff maintains that the 7% greater 2nd to 1st floor ratio request is commensurate with the design that features 2.3% less lot coverage than what is permissible by Code. Additionally, the architect has setback the main two-story residential structure approximately 63'-0" from the front property line, minimizing its impact on the street. As such, staff is supportive of this requested waiver.

The maximum building height in the RS-3 zoning district is 24'-0" for flat roofs. However, in the RS-3 zoning district, the DRB may approve a building height of up to 28'-0" for flat roofs. The architect is seeking 28'-0" in overall height for the new two-story residence. Considering the 60'-0" width and area of the lot, inclusive of the applicant's variance request to reduce the home's side setbacks, as well as the proposed finished first floor elevation of Base Flood Elevation (BFE) +2' in a neighborhood where most existing homes are well under Base Flood Elevation, Staff believes that the additional height request will overwhelm the site and adjacent neighbors.

The maximum building height in the RS-3 zoning district is 24'-0" for flat roofs. However, in the RS-3 zoning district, the DRB may approve a building height of up to 28'-0" for flat roofs. The architect is seeking 28'-0" for the entirety of the new two-story residence. The intent of the waiver was for lots in the RS-3 districts that closely resemble lot sizes in the RS-1 and RS-2 zoning districts. The subject site contains a lot area of the minimum lot area required for RS-3 lots (10,000 SF). As such, staff is not supportive of this requested height waiver.

The applicant is also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length. The two-story, eastern side elevation of the proposed home is 71'-3" in length without incorporation an open area that is open to the sky from grade. While the ground floor massing spans the length uninterrupted, the architect has configured a second floor massing that is predominately stepped back from the ground floor below and includes a large open area that is open to the sky. The eastern side elevation does not strictly adhere strictly the Code. However, its design succeeds with the intent of the ordinance, which is to break up the two-story massing with a scheme that has movement and architectural interest. As such, staff is supportive of this requested waiver.

As it pertains to thbe exterior design of the home, further study is needed. In this regard, the design features and finishes need further simplification. The overall massing of the home is rich with vertical planar movement and well-defined individual volumes, yet there is an overabundance of design features and textural finishes that are visually overwhelming. . The front of the residence contains a wood rainscreen façade element, a texture stone veneer, a cascading waterfall feature, and board formed concrete portions accented with rough dark finish features. The front pf the home features a layered approach to the street elevation, which is successful in addressing the scale of the street and transitioning to the larger volume of space more internal to the site. Staff's primary design concern pertains to the excessive ornamentation and projections outlined in the variance portion of the analysis.

Staff commends the applicant on proposing a forward thinking and modern approach to residential architecture. However, given the specific siting conditions and the established context of the immediate area, staff believes that further design refinements are in order, as noted above and recommends the application be continued to a future date. .

VARIANCE ANALYSIS:

A new two-story single family home is proposed on a waterfront property. The project as proposed requires eight (8) variances. Variances #2, #3 and #4 are interrelated to reduce the required side setbacks and sum of the side setbacks, triggered by the lot width of 60.1', as noted in the survey provided. Lots that contain a 60'-0" of width or less have minimum side setbacks of 7'-6" on both interior sides. When the lot is greater than 60'-0", in this instance by less than 2", the required side setback is 10'-0". This condition creates a unique challenge for a new single family home that is burdened with larger sides and sum of the side setbacks than the majority of the adjacent properties that were originally platted as 60-foot wide lots in the same subdivision.

Variance #6 and #7 to exceed the maximum elevation within the side yards is the result of the lot size and the difference in elevation between the finished first floor of the home and the abutting grade elevation(s). This condition impacts single family construction projects when adjusting the new structures to the existing site conditions, and the increasing difference between grade elevation and proposed finish floor elevation in the era of sea-level rise awareness. As outlined in the 'Project' portion of the analysis, this condition creates the practical difficulties resulting in the request for the variance. As such, staff recommends **approval** of variances #2, #3, #4, #6 and #7.

However, staff has concluded that variances #1, #5 and #8 are related to the independent design of the new home and not associated with any practical difficulties or hardships, as

elaborated within the 'Project' portion of this report. Staff recommends **denial** of variances #1, #5 and #8.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends that the application be **continued** to the September 05, 2017 Design Review Board meeting, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and Practical Difficulty and Hardship criteria.

TRM/JGM/IV/FSC

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: July 7, 2017

FILE NO: DRB17-0148

PROPERTY: **160 South Hibiscus Drive**

APPLICANT: Edmundo Tamayo

LEGAL: Lot 24 of Block 3 and 20 foot wide strip contiguous to same in Bay of Hibiscus Island, according to Plat thereof as recorded in Plat Book 8, Page 75 of the Public Records of Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new two-story single family home to replace an existing one-story home, including variances to reduce the required front, both sides and sum of the side setbacks, to reduce the minimum open space requirement in the required rear yard, to exceed the maximum elevation and projection allowed within required yards.

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, and 12 in Section 118-251 of the Miami Beach Code.
- C. The project would remain 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 new home at 160 South Hibiscus Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed height waiver shall not be approved as proposed.

- b. The final design and details of the exterior materials and finishes 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.
 - c. The final design details and color selection of the stone wall finish shall be submitted, in a manner to be reviewed and approved by staff. The stone cladding proposed along the façades of the residence, identified as “stone veneer”, shall consist of a natural keystone or other natural stone, in a manner to be reviewed and approved by staff consistent.
 - d. The final design details and color selection of the wood rainscreen finish 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. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
 - f. Increase sodded or landscape pervious open space in rear yard to meet the requirement of 70%.
 - g. Any fence or gate at the front of the property shall be designed in a manner consistent with the architecture of the new structure, 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.
2. A revised landscape plan, 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 home, 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. 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.
- e. The landscape plans shall remove *Clusia guttifera* from the proposed planting species (as it is not native to Florida) and a preferably native and salt tolerant species be selected as a replacement, subject to the review and approval of staff.
- f. Street trees shall be required within the swale 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.
- g. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- h. 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.
- i. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. 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.
- k. 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.

- I. 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), the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were approved by the Board:

1. A variance to reduce by 2'-6" the minimum required 10'-0" interior side setback in order to construct a new single family residence at 7'-6" from the east side property line.
2. A variance to reduce by 2'-6" the minimum required 10'-0" interior side setback in order to construct a new single family residence at 7'-6" from the west side property line.
3. A variance to reduce by 5'-0" the minimum required sum of the side yards of 20'-0" in order to construct a new single family home and provide a sum of the side yards of 15'-0".
6. A variance to exceed by 1'-10" (23.8%) the maximum allowed projection of 1'-10" (25%) within the proposed side yard of 7'-6" in order to construct steps projecting 3'-8" (48.8%) up to 12.0' NGVD into the east side yard.
7. A. A variance to exceed by 1.85' the maximum elevation allowed of 8.15' NGVD within the interior side yards in order to raise portions of the east side yard up to 10.0' NGVD.

B. A variance to exceed by 1.85' the maximum elevation allowed of 8.15' NGVD within the interior side yards in order to raise portions of the west side yard up to 10.0' NGVD.

The following variances were denied by the Board:

1. A variance to reduce by 9'-2" the minimum required front setback of 30'-0" for a two-story structure in order to construct a one story garage structure connected

to the main two-story home at 20'-10" from the front property line.

5. A variance to exceed by 2'-5" (30%) the maximum allowed projection of 1'-10" (25%) within the proposed side yard of 7'-6" in order to construct a single family home with roof overhang and decorative vertical element projecting 4'-3" (56.6%) into the west side yard.
 8. A variance to reduce by 3.7% (59.8 sf) the minimum required open space of 70% (1,129.8 sf) within the required rear yard in order to construct a new single family home with 66.3% (1,070.5 sf) open space within the required rear yard.
- B. The applicant has submitted plans and documents with the application that the Board has concluded satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variance(s) II.A.2, II.A.3, II.A.4, II.A.6 and II.A.7, as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, only as it relates to variance(s) II.A.2, II.A.3, II.A.4, II.A.6 and II.A.7, as noted above:

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

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

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

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

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

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

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

- C. The Board hereby **Approves** the requested variance(s) #2, #3, #4, #6 and #7, as noted and **Denies** the requested variance(s) #1, #5 and #8, as noted and imposes the

following condition 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.
2. The proposed garage shall adhere to the 30'-0" front yard setback requirements, or otherwise be disconnected from the main two-story home at a minimum of 5'-0" open to the sky.
3. The maximum projection of roof overhangs and decorative elements within the side yard shall not exceed the maximum allowable projection of 1'-10" (25%) within the proposed side yard of 7'-6".
4. Increase sodded or landscape pervious open space in rear yard to meet the requirement of 70%.

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. During Construction of the new home, the Applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles existing and entering the site and with an eight foot (8'-0") high fence with a wind resistant green mesh material along the front of the property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The Applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- B. If applicable, 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.
- C. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.

- F. 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.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. Nothing in this order authorizes a violation of 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 Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "160 S. Hibiscus Drive Residence Revised Final DRB17-0148 Submittal with Variance" as designed by **Borges Architects + Associates** signed, sealed, and dated May 24, 2017, 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 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 Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of

