

# MIAMIBEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: November 12, 2024

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB24-0627, **8240 Byron Avenue.**

An application has been filed requesting a Certificate of Appropriateness for the construction of a new multi-family residential building on an existing vacant lot including one or more waivers and a variance to reduce the minimum required driveway width.

### **STAFF RECOMMENDATION**

Approval of the Certificate of Appropriateness with conditions.

Approval of the variance with conditions.

### **EXISTING SITE**

Local Historic District: North Shore

### **ZONING / SITE DATA**

Folio: 02-3202-010-0363

Legal Description: Lot 9 less the east 2.5 feet for right-of-way, Block 7, of the Haynsworth Beach Subdivision, According to the Plat Thereof, as Recorded in Plat Book 41, Page 2, of the Public Records of Miami-Dade County, Florida.

Zoning: RM-1, Residential multi-family, low intensity

Future Land Use Designation: RM-1, Residential multi-family, low intensity

Lot Size: 5,951 sq. ft. (1.25 maximum FAR)

Proposed FAR: 7,304 sq. ft. / 1.22 FAR

Proposed Height: 32'-0"/43'-8" as measured from B.F.E. +4'-0" freeboard (12.00' NGVD)

Existing Use: Vacant lot

Proposed Use: Multi-family residential, 4 units

### **THE PROJECT**

The applicant has submitted plans entitled "New Apartment Building", as prepared by CDS Architecture and Planning, dated September 6, 2024.

### **COMPLIANCE WITH ZONING CODE**

A preliminary review of the project indicates that the application appears to be consistent with the requirements of the Land Development Regulations with the exception of the variance requested as part of this application.

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 hotel 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.

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.

### **MECHANICAL PARKING SYSTEMS REVIEW CRITERIA**

Section 5.2.11(e) of the Land Development Regulations establishes review criteria for the Historic Preservation Board review of mechanical parking devices, robotic parking systems and/or vehicle elevators, for multi-family residential buildings with 20 apartment units or less. The following is an analysis of the request based upon these criteria:

1. Whether the scale of the proposed structure is compatible with the existing urban character of the surrounding neighborhood.  
**Consistent**  
**The scale of the project is compatible with the surrounding area and the height complies with the RM-1 zoning district.**
2. Whether the proposed use of mechanical parking results in an improvement of design characteristics and compatibility with the surrounding neighborhood and has demonstrated how the scale, mass, volume, and height of the building are reduced by the use of mechanical parking.  
**Consistent**  
**The proposed use of mechanical parking appears to be compatible with design characteristics and with the surrounding neighborhood allowing the building's parking to be more compact.**
3. Whether the proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed with conventional parking.  
**Consistent**  
**The proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed with conventional parking.**
4. Whether parking lifts or mechanisms are located inside, within a fully enclosed building, and not visible from exterior view.  
**Consistent**  
**Adequate screening has been provided to screen the mechanical parking.**
5. In cases where mechanical parking lifts are used for self-parking in multifamily residential buildings, whether approval is conditioned upon the proper restrictive covenant being provided limiting the use of each lift to the same unit owner.  
**Consistent**  
**The proper restricted covenant shall be provided prior to the issuance of building permit.**
6. In cases where mechanical parking lifts are used for valet parking, whether approval is conditioned upon the proper restrictive covenant being provided stipulating that a valet service or operator must be provided for such parking for so long as the use continues.  
**Not Applicable**
7. Whether a traffic study has been provided that details the ingress, egress, and circulation within the mechanical parking facility, and the technical and staffing requirements necessary to ensure that the proposed mechanical parking system does not cause excessive stacking, waiting, or backups onto the public right-of-way.  
**Not Applicable**

**A traffic study is not required for this application.**

8. Whether a proposed operations plan, including hours of operation, number of employees, maintenance requirements, noise specifications, and emergency procedures, has been provided.  
**Consistent**  
**An operations plan will be required prior to the issuance of a building permit.**
9. In cases where the proposed facility includes accessory uses in addition to the parking garage, whether the accessory uses are in proportion to the facility as a whole, and delivery of merchandise and removal of refuse, and any additional impacts upon the surrounding neighborhood created by the scale and intensity of the proposed accessory uses, are adequately addressed.  
**Not Applicable**
10. Whether the proximity of the proposed facility to similar size structures and to residential uses creates adverse impacts and how such impacts are mitigated.  
**Not Applicable**
11. Whether a cumulative effect from the proposed facility with adjacent and nearby structures arises, and how such cumulative effect will be addressed.  
**Consistent**  
**No negative impact is anticipated from the cumulative effect from the proposed facility and nearby structures.**

**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**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not Applicable**
- (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**

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

**Satisfied**

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

**Satisfied**

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

**Not Applicable**

- (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.

**Not Applicable**

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

**Satisfied**

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

**Satisfied**

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

**Satisfied**

#### **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.

**Not Applicable**

- 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.  
**Not Applicable**
  - h. The original architectural design or any subsequent modifications that have acquired significance.  
**Not Applicable**
- 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 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.  
**Not Applicable**
- 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.  
**Not Applicable**
- 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.  
**Satisfied**
- 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**

### **STAFF ANALYSIS**

Staff would preface this analysis by noting that the previously existing building on the site suffered serious damage as the result of a fire. In 2019, the building was demolished pursuant to an Emergency Demolition Order issued by the City's Building Official, prior to the designation of the Tatum Waterway expansion of the North Shore Historic District in 2021.

The applicant is proposing to construct a new four unit, 4-story multi-family residential building on the vacant site. The new structure consists of a small lobby and seven parking spaces (inclusive of three mechanical parking lifts) at the ground level, two residential units on the second level and two 2-story units on the third and fourth levels each with private rooftop terraces.

Staff is supportive of the application and would commend the applicant for proposing to construct a high-quality structure on the site. The overall contemporary design language proposed incorporates variations in surface finishes and changes in plane that serve to breakdown the scale of the building. Further, the distribution of architectural form has resulted in a new multi-family residential structure that is compatible with the neighboring buildings and the surrounding historic district. In this regard, the 3-story portion of the building is located along the street and the taller 4-story portion is setback approximately 25'-0", maintaining the lower-scale character of the neighborhood. Further, the design of the building incorporates several architectural features including tapered columns, decorative screening and curved slab edges subtly recalling the predominate Post War Modern architectural style of the North Shore Historic District.

Staff does have two concerns relative to the proposed design of the project. First, within the required north and south side yards, there is an excessive amount of paving. As such, staff recommends elimination of the southern walkway to the greatest extent possible to be replaced with additional landscaping. This should serve to mitigate light and sound from the ground level parking area to the adjacent property. Second, staff recommends that the trash chute vent stack that projects above the third level roof deck be screened with a decorative treatment consistent with the architectural vocabulary of the building.

Finally, the applicant is seeking approval of a waiver related to the height of the covered parking area at the ground level. The RM-1 zoning district requires a minimum height of 12'-0" above base flood elevation plus one foot when parking is located below the first habitable level; however, the Board may waive this requirement by up to 2'-0" in accordance with the Certificate of Appropriateness criteria. Staff is supportive of the 1'-0" height waiver request as this minor reduction in height helps to ensure greater compatibility with the low-scale contributing structures of the North Shore Historic District.

### **VARIANCE ANALYSIS**

The applicant is requesting the following variance:

1. A variance to reduce by 2'-0" the minimum required driveway width of 12'-0" in order to provide a driveway with a width of 10'-0". Variance requested from:

#### **Section 5.3.4 Drives**

*Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic. Notwithstanding the foregoing, for residential buildings with fewer than 25 units, drives shall have a minimum width of 18 feet for two-way traffic. For those grade level parking areas with less than ten parking spaces, inclusive of those parking areas underneath a building or structure, the two-way curb-cut and driveway entrance shall have a minimum width of 12 feet.*

The applicant is requesting a variance to allow for a 10'-0" wide driveway leading from Byron Avenue to the covered parking area below the building, where the code required a minimum width of 12'-0". Staff would note that the North Beach National Register Conservation District Overlay regulations mandates a maximum 10'-0" wide curb cut. Given this unique requirement, and the fact that the building contains only four residential units, staff finds that practical difficulties exist warranting the granting of the requested variance. Staff would however recommend that the applicant submit a traffic management plan for the driveway, to ensure vehicular and pedestrian safety.

#### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the request for a Certificate of Appropriateness and variance 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 12, 2024

PROPERTY/FOLIO: 8240 Byron Avenue / 02-3202-010-0363

FILE NO: HPB24-0627

APPLICANT: BMH DEV, LLC

IN RE: An application has been filed requesting a Certificate of Appropriateness for the construction of a new multi-family residential building on an existing vacant lot including one or more waivers and a variance to reduce the minimum required driveway width.

LEGAL: Lot 9 less the east 2.5 feet for right-of-way, Block 7, of the Haynsworth Beach Subdivision, according to the Plat Thereof, as Recorded in Plat Book 41, Page 2, 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 North Shore 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)(1) 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 'b' in section 2.13.7(d)(ii)(3) 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. The southern walkway shall be eliminated to the greatest extent possible and replaced with additional landscaping to help buffer light and sound from the ground level parking area, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - b. The trash chute vent stack that projects above the third level roof deck be screened with a decorative treatment consistent with the architectural vocabulary of the proposed building, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - c. 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.
  - d. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, 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. In accordance with Section 7.1.2.2(c)(2)(A) of the Land Development Regulations, the request pertaining to a reduction of 1'-0" of the minimum height of the ground floor parking area, is hereby waived.
3. The following shall apply to the construction and operation of the proposed mechanical parking system:
  - a. An operations plan, including hours of operation, number of employees, maintenance requirements, noise specifications, and emergency procedures shall be provided prior to the issuance of a building permit.
  - b. A restrictive covenant shall be provided limiting the use of each lift to one unit prior to the issuance of a building permit.
  - c. The noise or vibration from the operation of the mechanical parking lifts shall not be plainly audible to or felt by any individual standing outside an apartment or hotel unit at any adjacent or nearby property. In addition, noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage.
  - d. The parking lift platforms must be fully load bearing, and must be sealed and of a sufficient width and length to prevent dripping liquids or debris onto the vehicle below.

- e. All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered, and the top vehicle can be accessed in the event of a power outage.
  - f. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift.
  - g. All mechanical parking lifts must be inspected and certified as safe and in good working order by a licensed mechanical engineer at least once per year and the findings of the inspection shall be summarized in a report signed by the same licensed mechanical engineer or firm. Such report shall be furnished to the Planning Director and the Building Official.
  - h. All parking lifts shall be maintained and kept in good working order.
4. 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. 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.
  - b. The project design shall minimize the potential for a project causing a heat island effect on site.
  - c. 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:
  - 1. A variance to reduce by 2'-0" the minimum required driveway width of 12'-0" in order to provide a driveway with a width of 10'-0"
- 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. A traffic management plan for the driveway shall be provided prior to the issuance of a building permit, to ensure vehicular and pedestrian safety.
2. 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 5.2.12 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 main building setbacks 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 "**New Apartment Building**", as prepared by **CDS Architecture and Planning, dated September 6, 2024**, 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 \_\_\_\_\_ (                    ) )