MIAMIBEACH
PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: March 01, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: Design Review File No. 23194
6800 Indian Creek Drive

The applicant, 6800 Indian Creek, LLC, is requesting modifications to a previously issued Design Review Approval for the construction of a new twelve-story (140' high) multi-family building on a vacant site, including a variance to eliminate the residential or commercial use requirement for all floors of a building containing parking spaces at the ground level along every facade facing a street. Specifically, the applicant is requesting a variance to reduce the required pedestal front setback for a stair and associated railings.

RECOMMENDATION:
Approval with conditions

LEGAL DESCRIPTION:
Lots 35-37 of Block 3, of "2 Oceanfront Amended No.3", according to Plat thereof as recorded in Plat Book 28, Page 28, of the Public Records of Miami-Dade County, Florida.

HISTORY:
On October 06, 2015, the Design Review Board first considered the application and continued the item to the December 01, 2015 DRB meeting at the request of the applicant. At the December 01, 2015 DRB meeting, the Board granted the requested variance (to eliminate the residential use requirement at the ground level along every facade facing the street). The Board continued the design review portion of the project to a date certain of January 15, 2016, at which time the application was approved.

SITE DATA:

Zoning: RM-2
Future Land Use: RM-2
Lot Size: 48,273 SF
Existing FAR: 0 / Vacant Lot
Proposed FAR: 95,420 SF (2.0)*
Permitted FAR: 95,546 SF (2.0)
*As represented by the applicant
Height:
Proposed: 140'-0" **/ 12-Story**
Maximum: 140'-0" / 15-Story
Highest Projection: 163'-0"
Existing Use: Vacant Parcel
Proposed Use: Residential Condominium

Residential Units: 30 Units
Required Parking: 66 Spaces
Provided Parking: 66
(60+6 Guest Spaces)
Bicycle Parking: 34 spaces

Grade: +5.76' NGVD
Flood: +8.00' NGVD
Difference: 2.24' NGVD
Adjusted Grade: +6.88' NGVD

Surrounding Properties:
East: Eight-story Residential Building
North: Ten-story Residential Building

South: Fifteen-story Residential Building
West: Indian Creek Canal

THE PROJECT:
The applicant has submitted plans entitled "6800 Indian Creek Drive", as prepared by **Arquitectonica** dated, signed, and sealed 12/28/15.

The applicant is proposing to construct a twelve-story, thirty-unit, residential building over one level of parking on a vacant site.

The applicant was granted the following variance(s) on December 01, 2015:

1. A variance to eliminate the residential or commercial use requirement for all floors of a building containing parking spaces at every level along every facade facing a street.

The applicant is seeking the following variance(s):

1. A variance to reduce the required setback of 20'-0" in order to construct a stair at 4'-0" and railings at 2'-0" from the front property line.

   - Variance requested from:

   Sec. 142-218 Setback requirements.
   (a) The setback requirements for the RM-2 residential multifamily, low intensity district are as follows:
   Pedestal, front — 20'-0"

On December 01, 2015, the Design Review Board reviewed and approved a variance that eliminated the residential use requirement at the front yard for all floors of a building containing parking spaces and accepted the applicant's landscaped "mound" design that screened the partially-subterranean parking level. In doing so, any proposed entrance stairs or planters proposed in the front yard must achieve a higher elevation than typically found within required front yards in order to clear the mound. Also at the December 2015 DRB meeting, the Board gave clear design direction to increase and expand the stairwell and create a more inviting and pedestrian-friendly front yard through the introductions of more welcoming and larger walkways, steps, and planters in the front yard. The base adjusted grade is 6.88' NGVD and the maximum allowable height of stairs within required yards is 9.38' NGVD (30" above grade). Since the proposed stairs and railings are located in the front yard and exceed the maximum height allowed under Section 142-1132 of the City Code, the structures must comply with the required building setbacks. The variance to reduce the required front setback of 20'-0" in order to construct the stair with railings at 4'-0" (and 2'-0") from the front property line is minimal and the result of a condition recommended by the Design Review Board. Staff is supportive of the minor variance for the projection of the stair and associated railings within the required front setback.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA
The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

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

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

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

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

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

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 variance(s):

1. Two-way interior drive aisle shall be 22' in width. The proposed driveway is reduced in width by two columns adjacent to parking spaces 32 and 33 at the basement level.

2. 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% of the required yard up to a maximum projection of six feet (6'-0"), unless otherwise noted: Porches, platforms and terraces (up to 30" above the elevation of the lot, as defined in subsection 142-105(a)(1)e.). The front entry steps within the front setback appear to

exceed the maximum permitted elevation.

3. Tandem parking spaces may be utilized for self-parking in multi-family residential buildings and shall have a restrictive covenant, approved as to form by the City Attorney's office and recorded in the public records of the County as a covenant running with the land, limiting the use of each pair of tandem parking spaces to the same unit owner.

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.

CONSISTENCY WITH COMPREHENSIVE PLAN:
A preliminary review of the project indicates that the proposed **residential use** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan and the proposed Public Baywalk is **consistent** with several Objectives and Policies within the 'RECREATION AND OPEN SPACE ELEMENT' and 'TRANSPORTATION ELEMENT' of the City's Comprehensive Plan.

ACCESSIBILITY COMPLIANCE
Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building Construction). These and all accessibility matters shall require final review and verification by the Building Department 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.
   Satisfied

2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
   Not Satisfied; the stair and railing design configuration requires a variance

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 stair and railing design configuration requires a variance

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 stair and railing design configuration requires a variance

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Satisfied; the proposed side setbacks and view corridors satisfy the direction given by the Board.

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied; the proposed side setbacks and view corridors satisfy the direction given by the Board.

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; the proposed landscape plan and front yard design satisfy the direction given by the Board.

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).
Satisfied; the proposed side setbacks and view corridors satisfy the direction given by 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; the design configuration reflects a variance previously granted by the Board eliminating this requirement.

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).
Satisfied; the proposed side setbacks and view corridors satisfy the direction given by the Board.

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; the design configuration reflects a variance previously granted by the Board eliminating this requirement.

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.
Satisfied

STAFF ANALYSIS:

DESIGN REVIEW

At the December 1, 2015 DRB meeting the Board provided the applicant with clear design direction pertaining to pedestrian entrances in the front yard. The Board recommended that the applicant explore a more inviting and pedestrian-friendly experience through the introduction of more welcoming and larger walkways, steps, and planters. In doing so, the

proposed stairs and railings that are located in the front yard exceed the maximum height allowed under Section 142-1132 of the City Code (See the 'Project' portion of the report for variance analysis). Staff believes that the proposed approach addresses the Board's concerns and follows the direction provided by the Board. As such the overall design concept, massing, orientation, circulation and programming is consistent with the direction of the Design Review Board at the December 1, 2015 meeting.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, 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

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: March 01, 2016

FILE NO.: 23194

PROPERTY: **6800 Indian Creek Drive**

APPLICANTS: 6800 Indian Creek, LLC.

LEGAL: Lots 35-37 of Block 3, of "2 Oceanfront Amended No.3", according to Plat thereof as recorded in Plat Book 28, Page 28, of the Public Records of Miami-Dade County, Florida..

IN RE: The Application for Design Review approval for the construction of a new twelve-story (140' high) multi-family building on a vacant site, including a variance to eliminate the residential or commercial use requirement for all floors of the building, which contains parking spaces at the ground level along every facade facing a street.

SUPPLEMENTAL ORDER

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review

A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.

B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 2, 3, 5, and 9 in Section 118-251 of the Miami Beach Code.

C. The project would be consistent with the criteria and requirements of Section 118-251 if the following conditions are met:

1. All of the original conditions of the Final Orders dated December 01, 2015 and January 06, 2016 shall remain in effect except as modified herein.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

A. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to reduce the required setback of 20'-0" in order to construct a stair at 4'-0" and railings at 2'-0" from the front property line.

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

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

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

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

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

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

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

That the granting of the variance will be in harmony with the general intent and purpose

of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

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

C. The Board hereby grants the requested variance(s) and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

2. All exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff.

3. 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

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.

II. General Terms and Conditions applying to both 'I. *Design Review Approval* and II. *Variances*' noted above.

A. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.

B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

C. 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.

D. 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.

E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

F. 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 **variance** 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 "6800 Indian Creek Drive", as prepared by **Arquitectonica** dated, signed, and sealed 12/28/15, 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 the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY:_____
DEBORAH J. TACKETT
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)
The foregoing instrument was acknowledged before me this _____ day of _____ 20___ by Deborah J. Tackett, Design and Preservation Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He 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 Design Review Board on _____ ( )

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