

MIAMI BEACH

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. 23242
1625 West Avenue—Lot 4D/P-23—City Parking Lot

The applicant, the City of Miami Beach, is requesting Design Review Approval for the renovations and improvements, including resurfacing and new landscaping, to an existing surface parking lot including variances to reduce the required front, rear and side setbacks for a permanent at-grade parking lot.

RECOMMENDATION:

Approval with conditions.

Approval of the variances 1A, 1B and 2.

Denial of variance number 3 for the rear setback.

LEGAL DESCRIPTION:

Lot 13,14, & 15 of Block 45 of the "Alton Beach Realty Co. Subdivision" according to Plat thereof as recorded in Plat Book 6, Page 165 of the Public Records of Miami-Dade County, Florida.

HISTORY:

On April 3, 2012, an application for Design Review Approval (DRB File No. 22898) was approved for the reconfiguration of the existing parking lot, including new landscaping and lighting, as well as an increase from 32 to 51 parking spaces. This project did not move forward and the application expired.

SITE DATA:

Zoning: GU

Existing Open Green Space: 5,358 SF

Future Land Use: P

Proposed Open Green Space: 7,049 SF

Lot Size: 22,500 SF

Existing Parking Spaces: 32

Proposed Parking Spaces: 46

SURROUNDING PROPERTIES:

North: Five-story residential building—Lincoln West Gardens Condo

South: Five-story residential building—West Court Condo

West: Six-story residential building—Twin Towers Condo

East: Alley / Two-story commercial buildings

THE PROJECT:

The applicant has submitted plans entitled "Renovation of Surface Parking Lot 4D/P-23 West Avenue and 16th Street" as prepared by **Consulting Engineering & Science, Inc.** signed, sealed and dated January 6, 2016.

The applicant is proposing improvements to an existing City surface parking lot. The proposed scope of work includes resurfacing and expanding the existing parking lot, installing new landscaping and new light fixtures, and the coordination of a new circulation layout.

The applicant is requesting the following variance(s):

1. A. A variance to reduce by 2'-0" the minimum required side setback of 10'-0" in order to construct an at-grade parking lot at 8'-0" from the side (north) property line.

B. A variance to reduce by 2'-0" the minimum required side setback of 10'-0" in order to construct an at-grade parking lot at 8'-0" from the side (south) property lines
 - Variance requested from:

Sec. 130-69. – Commercial and noncommercial Parking Lots *Commercial and noncommercial parking lots as a main use on a separate lot shall be subject to the following regulations, in addition to the other regulations of this article:*
(2) The required side yards shall be as follows:
Lot Width, Greater than 100 feet: Side Yard Setbacks, —Ten feet.

Permanent parking lot's side setbacks are based on the width of the lot. Since this lot is 150'-0" in width, the minimum setback is 10'-0" from the side property lines. Although, the applicant is providing 10'-0" of landscaping along both side property lines, this includes 2'-0" of the required parking space and previous overhang, therefore the proposed setback is reduced to 8'-0".

Staff finds that there are special conditions to this property that justify the variances requested. The property has a unique location, zoned as GU among residential and commercial districts, which all require smaller side setbacks than the setback required for this property. The site has been used for public parking with non-conforming setbacks for many years. The proposed improvements will increase the setbacks and will have less of an impact in the adjacent properties than the existing parking. Based on this analysis, staff has concluded that these conditions create practical difficulties that justify this variance.

2. A variance to reduce by 3'-9" the minimum required front setback of 20'-0" in order to construct an at-grade parking lot at 16'-3" from the front (west) property line facing West Avenue.
 - Variance requested from:

Sec. 130-69. – Commercial and noncommercial Parking Lots *Commercial and noncommercial parking lots as a main use on a separate lot shall be subject to the following regulations, in addition to the other regulations of this article:*

(1) The required front and rear yards shall be those of the underlying district.

Sec. 142-156. Setback requirements.

The setback requirements for the RM-1 residential multifamily, low density district are as follows: At-grade parking lot, Front: 20'-0"

The parking lot is proposed with a front setback of 16'-3" from the front (west) property line where 20'-0" is required. The proposed parking area contains a total of 46 parking spaces, 14 spaces more than the current parking lot layout. The existing parking configuration is inefficient in its circular layout. In addition to improving parking resources within our City by increasing the number of spaces, the new layout will greatly improve the landscaping buffer within the front yard by providing a continuous landscape strip much larger in area than what exists today. Staff would note that there is an additional 5'-0" of setback from the sidewalk edge to the property line that will also be improved with landscaping. Although this area does not count in the 20'-0" required setback, approximately 20'-0" of landscape is provided.

The location of the front property line 5'-0" from the sidewalk compensates the reduction of the setback as it physically maintains the separation as required. Staff finds that this condition justifies the request for this variance. The reduction of the setback is for a paved surface and not for a building, therefore the impact on the neighborhood is minimal.

3. A variance to reduce by 4'-0" the minimum required rear setback of 5'-0" in order to construct an at-grade parking lot at 1'-0" from the east property line.

- Variance requested from:

Sec. 130-69. – Commercial and noncommercial Parking Lots *Commercial and noncommercial parking lots as a main use on a separate lot shall be subject to the following regulations, in addition to the other regulations of this article:*

(1) The required front and rear yards shall be those of the underlying district.

Sec. 142-156. Setback requirements.

The setback requirements for the RM-1 residential multifamily, low density district are as follows: At-grade parking lot, Rear —Non-oceanfront lots: 5'-0"

The parking lot is proposed with a rear (east) setback of 1'-0" when 5'-0" is required for an at-grade parking lot. In the CD-2 zoning district, however, the rear setback for an at-grade parking lot abutting an alley is 0'-0". The subject lot shares an alley with three parcels zoned CD-2. Staff is not supportive of the reduction of the parking to a 1'-0" setback, primarily due to the proximity to the alley, which is mainly used for loading and deliveries as well as the secondary means to access the properties on the east side commercial district. As this property is owned and operated by the City, staff finds that a reduction of the required rear setback may create additional liability to the City in case of an accident involving a motor vehicle and/or pedestrian within the alley.

Additionally, staff recommends that the front driveway be reduced from 24'-0" in width to 22'-0", and a minor reduction of the landscape island in the center, along with the elimination of 1 parking space on the north and 1 parking space on the south sides to further comply with the required rear setback of 5'-0". The loss of 2 parking spaces from the proposed plan will allow for enhanced landscaping, including allowing for shade trees along the rear of the property.

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, 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.

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

Satisfied for variance requests #1A, #1B and #2;
Not Satisfied for variance request #3;

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

Satisfied for variance requests #1A, #1B and #2;
Not Satisfied for variance request #3;

- 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 #1A, #1B and #2;
Not Satisfied for variance request #3;

- 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 #1A, #1B and #2;
Not Satisfied for variance request #3;

- 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 #1A, #1B and #2;
Not Satisfied for variance request #3;

- 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 #1A, #1B and #2;
Not Satisfied for variance request #3;

- 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

CONSISTENCY WITH COMPREHENSIVE PLAN

A preliminary review of the project indicates that the proposed **parking lot** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan.

COMPLIANCE WITH ZONING CODE:

The application, as proposed, may be inconsistent with the following requirements of the City Code:

1. Per Section 142-1131 (k): *Lightpoles*. In all districts:
 - (1) Lightpoles shall have a maximum height of ten feet. Lightpoles shall be located seven and one-half feet from any property line except that when such property line abuts a public right-of-way, or waterway there shall be no required setback.
 - (2) All light from lightpoles shall be contained on-site or on any public right-of-way as required by the city Code.
2. The electrical panels shall be visibly screened from Public view.
3. The future charging stations may require additional variances depending on the height of the stations.

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 requires several variances that limits the amount of landscaping within the required yards.
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 requires several variances that limits the amount of landscaping within the required yards.
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 requires several setback variances.
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.
Not Satisfied; the applicant requires several variances that limits the amount of landscaping within the required yards.
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 requires several variances that limits the amount of landscaping within the required yards.
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.
Not Applicable
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.
Not Satisfied; the applicant requires several variances that limits the amount of landscaping within the required yards.
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.

Satisfied

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

Not Satisfied; the applicant requires several variances that limits the amount of landscaping within the required yards.

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.

Not Applicable

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 Applicable

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.

Not Applicable

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

Not Applicable

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.

Not Applicable

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

STAFF ANALYSIS:
DESIGN REVIEW

The applicant is proposing improvements to an existing City surface parking lot located on an interior lot facing West Avenue. These improvements include reconfiguring the lot in order to increase the number of parking spaces, new landscaping, new light fixtures, and a new circulation layout for the entire lot. The lot is owned by the City of Miami Beach and will require four variances from the board.

The Capital Improvement Project Department has been working closely with Planning staff to create the best possible improvements for the site. The site currently contains a unique circular layout with less than 5'-0" of front setback and 0'-0" setbacks in portions of the north, south and east property lines. The proposed plans include overall greater setbacks along the side property lines with increased areas of green space throughout the lot, as well as additional parking spaces.

While staff is satisfied with the increase of overall green space, there are some design concerns regarding the proposed landscape plans. Trees #32 and #33 identified as "Tropical Almond" trees are significantly large trees with a large canopy which are proposed to be removed. While these trees are identified as a "controlled" species, they provide a substantial buffer to the condo building to the north of the parking lot. Staff would recommend the retention of these trees if they are not in conflict with the raising of the site. The other design concern is the location of the well box and other underground utilities within the landscaped island. Staff would recommend they be relocated to the hardscape areas, so as not to limit the planting depth within the landscaped areas. The proposed landscape plan features several large canopy trees within the enlarged island and within the yards.

Overall, staff is supportive of the improvements to the lot and would recommend approval based on the comments above.

VARIANCE REVIEW

The subject parcel is zoned GU which follows the development regulations of the surrounding zoning districts. This lot is surrounded by RM-1 to the west and south, RM-2 to the north, and CD-2 to the east. Within these districts, the minimum side setback for at-grade parking for a new development is 5'-0" or 5% of the lot width—in this case 7'-6". The RM-1 and RM-2 zoning districts have a minimum front setback of 20'-0" and a minimum rear setback requirement of 5'-0" for at-grade parking. However, permanent parking lots have their own regulations regardless of their zoning classification for side setbacks which is based on the lot width of the parcel—in this case the minimum side setback is 10'-0". Staff is supportive of the variances requested number 1A, 1B and number 2 as these variances provide for setbacks that are consistent with the neighborhood context. In addition, there are

concrete block fences along the north and side property lines that helps in shielding possible light spillage and noise into the adjacent properties.

Staff is not supportive of the variance request number 3, as noted in the variance description, as it appears that with the reduction of 2 parking spaces the site can be redesigned to comply with the required rear setback, and allow for enhanced landscaping including shade trees at the rear of the site.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved** as to variance requests #1A, #1B and #2; **denied** as to variance requests #3; and the design 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, as applicable.

TRM/JGM/IV

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**DESIGN REVIEW BOARD
City of Miami Beach, Florida**

MEETING DATE: March 01, 2016

FILE NO.: 23242

PROPERTY: **1625 West Avenue**

APPLICANTS: City of Miami Beach

LEGAL: Lot 13,14, & 15 of Block 45 of the "Alton Beach Realty Co. Subdivision" according to Plat thereof as recorded in Plat Book 6, Page 165 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the renovations and improvements, including resurfacing and new landscaping, to an existing surface parking lot including variances to reduce the required front, rear and side setbacks for a permanent at-grade parking lot.

ORDER

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

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning

Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1-5, 7 and 10 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. A revised site plan for the proposed parking lot at 1625 West Avenue shall be submitted. At a minimum, such plan shall incorporate the following:
 - a. The light poles shall comply with the required height regulations of 10'-0" within any required yard, otherwise light poles shall be limited to 15'-0", in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. The electrical panels and all other mechanical equipment proposed outside shall be screened from view, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - c. The final Design 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.
 - d. 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.
 - e. 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 improvements, 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. Additionally, no trenching shall be allowed around the existing trees' roots.
- e. Existing trees to be retained on site in close proximity to new construction shall be evaluated by the City's Urban Forester prior to demolition in order to determine if the trees need to be relocated.
- f. Trees #32 and #33 shall be retained on site if they do not conflict with the raising of the site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- g. The utilization of Silva Cells may be required around the larger trees, subject to staff review and approval of staff.
- h. The well box and other underground utilities shall be relocated to the hardscaped areas and out of the landscaped island if technically feasible, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- i. Decorative pavers, where feasible, shall be utilized in all pedestrian walkways and crosswalks on the drive aisles instead of markings on asphalt, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- j. 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.
- k. Additional landscaping, including canopy trees shall be provided along the rear of the property.
- l. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.

- m. 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.
- n. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- o. 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.
- p. 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.
- q. 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):

- 1. A. A variance to reduce by 2'-0" the minimum required side setback of 10'-0" in order to construct an at-grade parking lot at 8'-0" from the side (north) property line.

- B. A variance to reduce by 2'-0" the minimum required side setback of 10'-0" in order to construct an at-grade parking lot at 8'-0" from the side (south) property lines
2. A variance to reduce by 3'-9" the minimum required front setback of 20'-0" in order to construct an at-grade parking lot at 16'-3" from the front (west) property line facing West Avenue.
- ~~3. A variance to reduce by 4'-0" the minimum required rear setback of 5'-0" in order to construct an at-grade parking lot at 1'-0" from the east property line. (Variance Denied).~~
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to Variance II.A.1A, II.A.1B, and II.A.2, 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, as it relates to Variance II.A.1A, II.A.1B, and II.A.2, 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 **Denies** the Variance requests as noted in II.A.3 and grants the requested variance as noted in II.A.1A, II.A.1B, and II.A.2, 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. The proposed parking layout shall comply with 5 feet of setback at the rear of the property.

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. 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.
- B. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. 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.
- E. 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.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. 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 for Design Review and Variances II.A.1A, II.A.1B, and II.A.2, as noted above, is GRANTED and that the Application for Variance II.A.3 as noted above, is DENIED 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 "Renovation of Surface Parking Lot 4D/P-23 West Avenue and 16th Street" as prepared by **Consulting Engineering & Science, Inc.** signed sealed and dated January 6, 2016 and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions 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

