

# MIAMI BEACH

PLANNING DEPARTMENT  
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: June 12, 2025

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB25-1087  
**94 Palm Avenue**

An application has been filed requesting modifications to a previously approved Design Review Approval for the construction of a new two-story residence with an understory. Specifically, the applicant is requesting variances to provide an enclosed, air-conditioned storage area within the understory; to provide concrete areas within the understory; to exceed the maximum permitted lot coverage; for height and interior side setback for an increase in the height of mechanical equipment with screening within the interior side setback; including one or more waivers, to replace an existing residence.

## **RECOMMENDATION:**

Approval of modified Design.  
Approval of Variances.

## **LEGAL DESCRIPTION:**

Lots 36 and 37, in Block 1, of PALM ISLAND, according to the Plat thereof, recorded in Plat Book 6, Page 54, of the Public Records of Miami-Dade County, Florida.

Also:

A strip of land 20 feet wide lying Southerly of and contiguous to the Southerly boundary line of Lots 36 and 37, in Block 1, of PALM ISLAND, according to the Plat thereof, recorded in Plat Book 6, Page 54, of the Public Records of Miami-Dade County, Florida.

## **BACKGROUND:**

On September 3, 2024, this application was reviewed and approved by the Design Review Board, pursuant to DRB24-1026.

## **SITE DATA:**

Zoning:	RS-1
Future Land Use:	RS
Lot Size:	62,081.75 SF
Lot Coverage:	
Proposed:	<del>48,649 SF / 29.9%</del> <b>21,202 SF / 34.15%</b>
Maximum:	18,624.53 SF / 30%
Unit size:	
Proposed:	<del>29,532 SF / 47.5%</del> 29,414 SF / 47.38%

Maximum: 31,040.88 SF / 50%

Height:	
Proposed:	31'-0" Flat Roof*
Maximum:	31'-0" Flat roof**
From 1 <sup>st</sup>	
habitable level:	28'-6"
* as measured from BFE+5'	
** subject to DRB review	

Grade: +6.12' NGVD  
Base Flood Elevation: +9.00' NGVD / +10.00'  
NGVD  
Adjusted Grade: +7.56' NGVD  
First Floor Elevation: +16.92' NGVD (BFE+  
8'-7" fb)

Demolition: Full / retainment of separate  
two-story structure

**EXISTING PROPERTY:**

Year: 1925  
Architect: Pfeifer & Orily  
Vacant: No

**Surrounding Properties:**

East: 2-story 1973 residence  
South: Biscayne Bay  
West: Two-story 2006 residence  
North: Two-story 2013 residence

**THE PROJECT:**

The applicant has submitted plans entitled "94 Palm Residence" as designed by **Borges Architects + Associates** dated April 4, 2025. Specifically, the applicant is requesting modifications to previously approved design that included an understory, waivers and variances. The proposed modifications relate to the understory area, lot coverage and the height of mechanical equipment and screening within the side yard and include additional variances.

The review for understory area was approved at the September 2, 2024, meeting:

1. Understory area shall be subject to the review and approval of the Design Review Board in accordance with Section 7.2.2.3(b)(vi).

The following waivers were approved at the September 2, 2024 meeting:

1. A two-story side (east) elevation in excess of 60'-0" in length in accordance with Section 7.2.2.3(b)(ii).
2. A waiver from Sec. 7.2.2.3(b)(vi) to provide parking within a required yard.

The following variances were approved at the September 2, 2024 meeting:

1. A variance from Sec. 7.2.2.3.b. to reduce by 24'-10" the minimum required 30'-0" front setback to retain an existing two-story structure with a 5'-2" setback.
2. A variance from Sec. 7.2.2.3.b. to reduce by 17'-2" the minimum required 20'-0" side (east) setback to retain an existing two-story structure with a 2'-10" side setback.

The applicant is requesting the following variances:

1. A variance from Section 7.2.2.3.b.6.A. to allow an enclosed, air-conditioned storage space within the understory area.
2. A variance from Section 7.2.2.3.b.6.G. to allow concrete flooring in non-air-conditioned areas within the non-air-conditions portions of the understory area.
3. A variance from Section 7.2.2.3.b.7.C.II. to exceed by 4.15% the maximum permitted lot coverage of 30%, to permit 34.15% lot coverage to construct an operable aluminum trellis from the exterior rear wall.

4. A variance from of side yard setbacks in section 7.2.2.3.b.1. and section 7.2.2.3.b.12.F.II. to exceed by 4'-5" the permitted height of 5' above current flood elevation, with a maximum height not to exceed 10' above grade, for mechanical equipment and to exceed by 5'-7" for the screening elements the permitted height of 5' above current flood elevation, with a maximum height not to exceed 10' above grade. within the side yard at a height of 9'-5" above current flood elevation.

**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 submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 2.8.3 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.
- 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.

**COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the following sections of the City Code, excluding any requests for variance(s).

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, SECTION 2.5.3.1:**

Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearance, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The design review board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and applicable design guidelines. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department.

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Satisfied**
- b. 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.**
- c. 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.  
**Satisfied. However, the applicant is requesting one variance related to lot coverage.**
- d. 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 2.5.3.2.  
**Satisfied.**
- e. 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 article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and historic preservation board and all pertinent master plans.  
**Satisfied. However, the applicant is requesting a variance related to the height of a mechanical enclosure within a required side yard and variances related to the understory area.**
- f. The proposed structure, 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. However, the applicant is requesting a variance related to the height of a mechanical enclosure within a required side yard.**
- g. 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.**

- h. 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 safety 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.**

- i. 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 for building permit.**

- j. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

**Satisfied.**

- k. 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.**

- l. 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. However, the applicant is requesting a variance related to the height of a mechanical enclosure within a required side yard.**

- m. 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.**

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

**Satisfied.**

- o. 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.**

- p. 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.**
- q. 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.**
- r. In addition to the foregoing criteria, subsection 118-104-6(t) of the General Ordinances shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights- of-way.  
**Not Applicable.**
- s. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.  
**Not Satisfied; see below.**

**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 Satisfied; a recycling or salvage plan will be submitted for building permit.**
2. Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Satisfied.**
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.

**Satisfied**

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 of the City Code.

**Not Applicable**

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

**Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.**

11. Cool pavement materials or porous pavement materials shall be utilized.

**Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.**

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

**Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.**

### **STAFF ANALYSIS:**

#### **DESIGN REVIEW**

The applicant is proposing to construct a new two-story residential home consisting of multiple detached structures, including one existing building, on Palm Island that will replace an existing residence. This application was initially reviewed and approved by the Design Review Board on September 3, 2024. At that meeting, the design, including understory review, two design waivers and two variances were approved. The applicant is returning to the Board with modifications that include additional variance requests.

The new two-story residence is designed in a contemporary architectural style highlighted by cantilevered volumes and pronounced floor slabs and eaves that frame recessed walls of glass and stone-like finishes. The home has an understory with vehicle storage and parking, general storage, covered patio areas, a guest entry vestibule, stairs and an elevator. The residence includes the retainment and renovation of an existing two-story structure that is located towards the front of the 1.42-acre site, which will house additional vehicular storage, as well as two one-story accessory buildings in the rear yard. As proposed, the home is visually interesting and elegant, incorporating a rich material palette with planar movement.

The applicant is proposing modifications to the previously approved design that include variances. The proposed modifications include a new aluminum pergola with operable louvers on the second level deck, overlooking the rear yard pool and bay. Additionally, the applicant is proposing concrete slabs in the understory for the storage and mechanical room, the covered terraces areas, support columns and around the pool. Lastly, the revisions include a new 12' high mechanical screening structure with a louvered roof within the west side yard that encloses solar panel batteries and generator. The proposed changes do not affect the aesthetics of the home, and the changes will not be perceivable from public rights of way. Overall staff is supportive of the changes.

### **VARIANCE REVIEW**

The applicant is requesting the following variance(s):

1. A variance from **Section 7.2.2.3.b.6.A.** to allow an enclosed, air-conditioned storage space within the understory area.

- Variances requested from:

**Section 7.2.2.3.b.6.A.** Understory area(s) shall be used only for open air activities, parking, building access, mechanical equipment, non-enclosed restrooms and storage. Such areas shall be designed and maintained to be free of obstructions and shall not be enclosed and/or air-conditioned at any time, with the exception of limited access areas to the first habitable floor. However, understory area(s) below the lowest habitable floor can utilize non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments, provided they are open a minimum of 50 percent (50%) on each side.

The applicant is proposing to create an enclosed airconditioned storage area within the understory. The area would count against the maximum unit size, and would not cause the home to exceed the maximum allowable unit size. The applicant has indicated that the space is necessary for several utilities that are needed for the proper functioning of the home given its large scale. These include water heater systems, domestic water booster pumps, and a water filtration system that must be located indoors. Given the scale of the home, the limitation does present a hardship and practical difficulty. As such, staff is supportive of the granting of the variance.

2. A variance from **Section 7.2.2.3.b.6.G.** to allow concrete flooring in non-air-conditioned areas within the non-air-conditions portions of the understory area.

- Variances requested from:

**Section 7.2.2.3.b.6.G.** Understory ground elevation and minimum height. The minimum elevation of the understory ground shall be constructed no lower than future crown of road as defined in chapter 54, of the city Code. Additionally, a minimum height of nine (9) feet to the bottom of the first habitable floor of the home shall be required. All portions of the understory area that are not air-conditioned shall consist of pervious or semi-pervious material, such as wood deck, gravel or pavers set in sand. Concrete, asphalt and similar material shall be prohibited within the non-air-conditioned portions of the understory area.

The applicant is proposing to utilize solid concrete in portions of the understory for an outdoor terrace and pool deck. Given the scale of the lot, the applicant expects that other materials will settle which could pose problems near the multiple structural columns as well as create aesthetic concerns given the large expanse of the property. The solid areas within the understory would be limited to 9.7 percent of the lot, which provides for sufficient areas for drainage. Other pavements used in the understory will be permeable. This regulation does present a practical difficulty to the applicant given the large scale of the site. As such, staff is not opposed to the granting of the variance.

3. A variance from **Section 7.2.2.3.b.7.C.II.** to exceed by 4.15% the maximum permitted lot coverage of 30%, to permit 34.15% lot coverage to construct an operable aluminum trellis from the exterior rear wall.

- Variances requested from:

**7.2.2.3 Development Regulations (RS)**

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

*1. The FAR, density, lot area, lot width, lot coverage, unit size, setbacks, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

<b>DEVELOPMENT REGULATIONS TABLE (RS)</b>	
Maximum Lot Coverage for a single-story Home (% of lot area)	40% (2)
Maximum Lot Coverage for a 2story Home (% of lot area)	30%

**Section 7.2.2.3.b.7.C.II.** Calculating lot coverage. Lot coverage shall be as defined in section 1.2.1, subject to the following additional regulations:

II. Eyebrows, roof overhangs, covered porches and terraces, projecting a maximum of 5 feet from an exterior wall, shall not be included in the lot coverage calculation. All portions of such covered areas exceeding a projection of 5 feet shall be included in the lot coverage calculation.

The previously approved plans contained an outdoor terrace that was covered by a pergola with fabric enclosures. Fabric enclosures do not count against the lot coverage. The applicant would like to replace the fabric enclosure with aluminum louvers. Given the solid nature of louvers and their ability to fully enclose a space, these do count against the lot coverage. The applicant is indicating that the proposed louvers will last longer, require less maintenance, and make the outdoor space more enjoyable. The proposed increase in lot coverage will not change the massing of the home nor its character. This does present a practical difficulty to the applicant. Staff is not opposed to the granting of the variance.

4. A variance from of side yard setbacks in **Section 7.2.2.3.b.1.** and allowable yard encroachments in section **7.2.2.3.b.12.F.II.** to exceed by 4'-5" the permitted height of

5' above current flood elevation, with a maximum height not to exceed 10' above grade, for mechanical equipment and to exceed by 5'-7" for the screening elements the permitted height of 5' above current flood elevation, with a maximum height not to exceed 10' above grade. within the side yard at a height of 9'-5" above current flood elevation.

- Variance requested from:

Side, Interior Setback © Lots greater than 65 feet in width	10% of the lot width or 10 feet, whichever is greater and the sum of the required side yards shall be at least 25% of the lot width
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&

**Section 7.2.2.3.b.12.F.II.** *Central air conditioners, emergency generators, swimming pool equipment, gas tanks solar panels, home battery systems and other similar mechanical equipment. Accessory central air conditioners, generators, swimming pool equipment, solar panels, home battery systems and other similar mechanical equipment, including attached screening elements, may occupy a required side or rear yard, provided that:*

*II. The maximum height of the equipment, including attached screening elements, shall not exceed 5 feet above current flood elevation, with a maximum height not to exceed 10 feet above grade, as defined in section 1.2.1, of the lot on which it is located.*

The applicant is requesting a varinace of the side setback requirements in order to allow for mechanical equipemnt that exceeds 5 feet above the current flood elevation. The applicant is proposing modern solar panel battery backup and electrical equipent. The battery equipment is taller than other electrical components. A setback of 7'-6" will be provided, and the equipment will be located will behind the façade of the home, therefore, no negative impacts are expected from the proposed variance. Given the improved sustainability of the home, staff is not opposed to the granting of the variance.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **approved** with conditions, including variances, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review, Sea Level Rise criteria and Hardship and Practical Difficulties criteria, as applicable.

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

MEETING DATE: September 3, 2024

PROPERTY: **94 Palm Island 02-4205-001-0330**

FILE NO: DRB25-1087

IN RE: An application has been filed requesting modifications to a previously approved Design Review Approval for the construction of a new two-story residence with an understory. Specifically, the applicant is requesting variances to provide an enclosed, air-conditioned storage area within the understory; to provide concrete areas within the understory; to exceed the maximum permitted lot coverage; for height and interior side setback for an increase in the height of mechanical equipment with screening within the interior side setback; including one or more waivers, to replace an existing residence.

LEGAL: Lots 36 and 37, in Block 1, of PALM ISLAND, according to the Plat thereof, recorded in Plat Book 6, Page 54, of the Public Records of Miami-Dade County, Florida.

Also:

A strip of land 20 feet wide lying Southerly of and contiguous to the Southerly boundary line of Lots 36 and 37, in Block 1, of PALM ISLAND, according to the Plat thereof, recorded in Plat Book 6, Page 54, of the Public Records of Miami-Dade County, Florida.

APPLICANT: Palm Island Residence Trust

**S U P P L E M E N T A L   O R D E R**

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 2.1.3.1 of the Land Development Regulations. 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 i. & s. in Section 2.5.3.1 of the Land Development Regulations.
- C. 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 Sea Level Rise Criteria 1 and 10 in Section 7.1.2.4(a)(i) of the Land Development Regulations.

- D. All of the original conditions of approval by this Board, as reflected in the Final Order dated September 3, 2024, pursuant to DRB24-1026, shall remain in effect except as modified and approved herein.
- E. The project would be consistent with the criteria and requirements 2.5.3.1 and/ or Section 7.1.2.4(a)(i) if the following conditions are met:
  - 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 94 Palm Avenue shall be submitted, at a minimum, such drawings shall incorporate the following:
    - a. The proposed louvered pergola on the second level deck **shall be** approved as proposed.
    - b. The final design, materials and details of the louvered pergola shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
    - c. The concrete slabs proposed within the understory for the storage and mechanical room, the covered terraces areas, support columns and around the pool, **shall be** approved as proposed.
    - d. The revised design of the mechanical enclosure within the west side yard **shall be** approved as proposed.
    - e. The final design, materials and details of the revised mechanical enclosure 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.
    - f. 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.

**In accordance with section 2.2.4.8 of the Land Development Regulations, the applicant, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal a decision of the design review board for design review approval only to 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 from Section 7.2.2.3.b.6.A. to allow an enclosed, air-conditioned storage space within the understory area.
  2. A variance from Section 7.2.2.3.b.6.G. to allow concrete flooring in non-air-conditioned areas within the non-air-conditions portions of the understory area.
  3. A variance from Section 7.2.2.3.b.7.C.II. to exceed by 4.15% the maximum permitted lot coverage of 30%, to permit 34.15% lot coverage to construct an operable aluminum trellis from the exterior rear wall.
  4. A variance from of side yard setbacks in section 7.2.2.3.b.1. and section 7.2.2.3.b.12.F.II. to exceed by 4'-5" the permitted height of 5' above current flood elevation, with a maximum height not to exceed 10' above grade, for mechanical equipment and to exceed by 5'-7" for the screening elements the permitted height of 5' above current flood elevation, with a maximum height not to exceed 10' above grade. within the side yard at a height of 9'-5" above current flood elevation.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, 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.

Additionally, the Board has concluded that the plans and documents submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 2.8.3 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.
- C. The Board hereby **Approves** the variance requests and imposes the following conditions based on its authority in Section 2.8.4 of the Miami Beach City Code:
- 1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

**The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.**

- 2. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.**
- A. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee or post a bond, pursuant to Section 7.1.3.2 of the Land Development Regulations. This fee is set as a percentage of the cost of construction.
  - B. 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.
  - C. During construction work, the applicant shall maintain gravel at the front of the construction site within the first 15'-0" of the required front yard and including the swale (subject to the review and approval of Public Works), to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way.
  - D. During the course of construction, all vehicles, including, but not limited to all personal vehicles, shall park within the confines of the private property, the swale directly abutting the construction site, or at alternate overflow parking sites that are not on-street metered spaces and not zoned RS. Additionally, parking of any vehicles shall be prohibited in the travel lanes of all streets.

- E. All allowable construction signage shall be attached to or situated behind the construction fence and shall be limited to one (1) sign, not to exceed four (4) square feet, in accordance with Section 6.3.2 of the Land Development Regulations.
- F. The building and parking departments shall approve a construction parking plan prior to the issuance of any building permit, including applicable demolition permits for the project.
- G. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- H. The contractor(s) shall ensure that the street and the swale directly abutting the construction site remains free of debris and refuse at all times; at a minimum, the contractor(s) shall inspect and clear the street and swale areas before leaving at the end of each day.
- I. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- J. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- K. 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.
- L. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- M. 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.
- N. 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.
- O. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- P. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff

recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "94 Palm Residence" as designed by **Borges Architects + Associates** dated April 4, 2025, 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 Section 2.2.4.6 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 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 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 of the City Code. 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 \_\_\_\_\_.

DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
Rogelio A. Madan, AICP  
Development & Resiliency Officer  
For the Chair

