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December 7, 2020

Thomas Mooney
Planning Director
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

Re: Revised and Supplemental Letter of Intent for Design Review Board Approval of Variances and Waivers for Single-Family Residence Located at 1515 W 22nd Street, Miami Beach, FL

Dear Mr. Mooney:

This firm represents Brad and Jamie Miller, the applicants ("Applicant") and owners of the property located at 1515 W 22nd Street (the "Property"). Please accept this correspondence as the Applicant's letter of intent for the attached plans and application seeking review and approval by the Design Review Board ("DRB") of the proposed design, variances, and waivers presented in the attached application package.

The project ("Project") consists of a modern, thoughtfully designed two-story, single-family home within the RS-3 zoning district on Sunset Island # 4 and will serve as the Applicant's primary residence. The Project will replace an existing structure built in 1941. The Property is unique, unlike the standard lots within the surrounding neighborhood, in that it is a corner lot with an irregular and asymmetrical triangle-like shape. The front of the Property is approximately 185 feet in length and tapers off to a much narrower rear property boundary of roughly 72 feet. The Property's radial corner on the southeast creates a sharp angle within the lot. Additionally, the Property is directly adjacent to a waterway and elevated bridge connecting the Sunset Islands, creating elevation, grading, and privacy issues. Due to the unique and distinctive characteristics of this particular lot and the hardships created by its shape and location, the Project requires the following eleven (11) variances and two (2) waivers from the Design Review Board in order to provide a reasonable use of the lot that is the equivalent to the use of the more regularly shaped lots on the Sunset Islands:

Variance Requests:

1. **142-106 (a)(1) – Front Setback:** Pursuant to Section 142-106(a)(1), the minimum front yard setback requirement for the RS-3 district shall be 20 feet. Two-story structures shall be set back a minimum of ten additional feet from the required front yard setback

line. The Applicant is requesting a variance to allow a small portion of the southeast corner of the garage to encroach into the front yard for a setback of 21'4" as indicated on Sheet A7.01.

2. **142-106 (a)(2)(c)(1) – Side Yard Setback (Interior):** Pursuant to Section 142-106(a)(2)(c)(1), for lots greater than 60 feet in width, each interior side yard shall have a minimum setback of ten percent of the lot width or ten feet, whichever is greater. The Applicant is requesting a variance to allow a 2' building encroachment and 4'-3" stair encroachment for a total encroachment of 6'-3" along a small portion of the west interior side yard setback, resulting in a proposed setback of 18'-1" where 24'-4" is required.
3. **142-106 (a)(2)(b) – Side Yard Setback (Street):** Pursuant to Section 142-106(a)(2)(b), each required side yard facing a street shall be no less than ten percent of the lot width or 15 feet, whichever is greater. The Applicant is requesting a variance to allow a setback of 10' where 16'-3" is required.
4. **142-106(a)(2) – Side Yard Setback:** Pursuant to Section 142-106(a)(2)(a), the sum of the required side yards shall be at least 25 percent of the lot width. The Applicant requests a variance to allow the sum of the side yards to be 28'-1" where 40'-7" is required.
5. **142-105(b)(8)(c) – Maximum Side Yard Elevations:** Pursuant to Section 142-105(b)(8)(c), maximum side yard elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater. The Applicant is requesting a variance to allow a maximum side yard elevation on a portion of east side adjoining the bridge of 10.51' NGVD where 7.51' NGVD is permitted.
6. **142-105(b)(8)(c) – Maximum Side Yard Elevations:** Pursuant to Section 142-105(b)(8)(c), maximum side yard elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater. The Applicant is requesting a variance to allow a maximum side yard elevation on a portion of the west side of 10.51' NGVD where 7.51' NGVD is permitted. The height of the tree planter along the west side was reduced to 10.51' NGVD and is included in this variance request.
7. **142-105(b)(8)(c) – Front Porch Elevation** – A variance to allow a front porch/entry with an elevation of 11.5' NGVD where 9.0' NGVD is permitted.
8. **142-105(b)(8)(c) – Front Porch Encroachment** – A variance to allow a portion of the front porch/entry with an elevation of 11.5' NGVD to encroach 8'-2" into the front yard where a 6' encroachment is permitted.
9. **142-105(b)(8)(c) – Maximum Front Yard Elevation:** Pursuant to Section 105(b)(8)(c), maximum front yard elevation shall not exceed adjusted grade, or 30 inches above

grade or future adjusted grade, whichever is greater. The Applicant requests a variance to allow a maximum front yard elevation of 10.51' NGVD where 7.51' NGVD is permitted.

10. **142-106 – Maximum Fence Height:** Pursuant to Section 142-106(b)(7), within the required rear or side yard, fences, walls, and gates shall not exceed seven feet, as measured from grade, except when such yard abuts a public right-of-way, waterway, or golf course, in which case the maximum height shall not exceed five feet. Due to elevation differentials and privacy concerns as discussed further below, the Applicant is requesting a variance to allow an increase in height of 3' for the fence located along the western Property boundary (13.01' NGVD where a height of 10.01' NGVD is permitted).
11. **142-106 – Maximum Fence Height:** Pursuant to Section 142-106(b)(7), within the required rear or side yard, fences, walls, and gates shall not exceed seven feet, as measured from grade, except when such yard abuts a public right-of-way, waterway, or golf course, in which case the maximum height shall not exceed five feet. Due to elevation differentials and privacy concerns as discussed further below, the Applicant is requesting an increase in height of 3' for the fence located along the eastern Property boundary abutting the bridge and right-of-way (13.01' NGVD where a height of 10.01' NGVD is permitted).

Waiver Requests:

1. **142-105(b)(1) – Building Height:** Pursuant to Section 142-105(b)(1), the maximum permitted height of a flat roof structure within the RS-3 zoning district is 24'. This maximum height may be increased up to 28' when approved by the DRB in accordance with the applicable design review criteria. The Applicant requests a maximum height of 28', RS-3: 25,650 SF.
2. **142-106(a)(2)(d) – Two-Story Side Elevations:** Pursuant to Section 142-106(a)(2)(d), two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. This requirement may be waived by the DRB in accordance with applicable design review criteria. Based on the unique characteristics of the site and the large second floor setbacks along the side property line, which narrows significantly toward the rear of the property, the Applicant requests the DRB waive this particular design requirement.

In order to authorize the requested variances, the Design Review Board shall review the following criteria:

Variance Requests # 1, 2, 3, and 4 for Front and Side Setbacks:

- 1) 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;

As described above, the Property is very unique and unlike other properties within the same zoning district as it is a corner lot with an unusual and asymmetrical shape and is directly adjacent to an elevated bridge and public right-of-way. The sharp angle of the Property's southeast corner creates minor encroachments along those frontages while requiring the proposed structure to be shifted to the northwest, necessitating minor encroachments of stairs and structure into required setbacks. The irregular shape of the lot creates an undue hardship in complying with the setbacks applicable to standard lots within the RS-3 zoning district.

- 2) The special conditions and circumstances do not result from the action of the applicant;

The shape and location of the Property are not the result of any action by the Applicant.

- 3) 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;

The approval of the requested setback variances will not confer any special privilege on the Applicant, but will simply allow for the construction of a single-family home on a highly irregular lot where compliance with the required setbacks is not possible.

- 4) 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;

Literal interpretation of the RS-3 setback requirements would create an undue hardship on the Applicant due to the highly irregular shape and location of the Property. The angles created by the asymmetrical and triangle-like shape of the Property make compliance with all applicable setbacks on site impossible.

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

The requested setback encroachments are the minimum necessary in order to make reasonable use of the land through the construction of a single-family home on this irregular residential lot. The requested encroachments are minor within the context of the Property.

- 6) 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;

The granting of the requested setback variances will simply enable the construction of a thoughtfully designed, single-family home that is compatible with the surrounding residential neighborhood.

- 7) 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 planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board voting on the applicant's request; and

The granting of the requested setback variances is consistent with the comprehensive plan as it will allow for the construction of a single-family home on an irregular property with a residential land use designation. The Project will replace an existing residential structure and will not reduce applicable levels of service.

- 8) 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 133, article II, as applicable.

See the Applicant's response to the sea level rise and resiliency criteria below.

Variance Requests # 5, 6, 7, 8, 9, 10, and 11 for Yard/Porch Elevations and Maximum Fence Height:

- 1) 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;

In addition to being a corner lot of an irregular shape, the Property is directly adjacent to a waterway and an elevated bridge connecting the Sunset Islands. This proximity to a raised right-of-way creates grading, elevation, and privacy issues for the proposed residential home.

- 2) The special conditions and circumstances do not result from the action of the applicant;

The location of the Property and elevated bridge are not the result of any action by the Applicant.

- 3) 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;

Granting the requested variances to raise the yard elevations, the resulting front porch elevation/encroachment, and construct taller fences, will simply allow this Property to achieve the same level of privacy and relation to abutting roadways as other properties within this same neighborhood and will help ensure the long term resiliency and sustainability of the new house. Said variances will reduce the intrusive nature of the abutting raised right-of-way.

- 4) 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;

Literal interpretation of the maximum yard elevations, porch elevation/encroachment, and fence height would create an undue hardship on the Applicant as it will deprive the Property of the same levels of privacy, separation from the public realm, and resiliency enjoyed by other properties in the surrounding area.

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

The requested variances are the minimum necessary to create reasonable grading and elevations on the Property and provide protection from the intrusive nature of the abutting raised roadway.

- 6) 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;

The request variances will allow for the construction of a thoughtfully designed, single-family home that is compatible with the surrounding residential neighborhood and enjoys the same level of privacy and relation to the public right-of-way as the surrounding lots.

- 7) 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 planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board voting on the applicant's request; and

The granting of the requested yard elevation, porch elevation/encroachment, and fence variances is consistent with the comprehensive plan as it will allow for the construction of a single-family home on an irregular and uniquely located property with a residential land use designation. The Project will replace an existing residential structure and will not reduce applicable levels of service.

- 8) 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 133, article II, as applicable.

See the Applicant's response to the sea level rise and resiliency criteria below.

The Design Review Board shall also consider how the Project addresses the City's **Sea Level Rise and Resiliency Review Criteria** pursuant to **Section 133-50**:

- 1) A recycling or salvage plan for partial or total demolition shall be provided.

Prior to the total demolition of the existing structure, the Applicant will provide a recycling and salvage plan to the City.

- 2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

All windows within the proposed home will be hurricane proof impact resistant windows.

- 3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Where appropriate, operable windows will be incorporated into the project design to allow for a passive cooling system.

- 4) Resilient landscaping (salt tolerant, highly water-absorbent, native, or Florida-friendly plants) shall be provided, in accordance with chapter 126 of the city Code.

Landscaping shall comply with all code requirements.

- 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.

The architect has studied the land elevation of the property and adjacent parcels, and has proposed a design that is compliant with the current Florida Building Code and addresses the need for improved resiliency to future sea level rise.

The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-way 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 additional feet in height.

The ground floor, driveways, garage ramping, and yard elevations are adaptable to future raising of public rights-of way and adjacent land.

- 6) As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.

All critical mechanical and electrical systems will be located above base flood elevation.

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

The Project consists of new construction and all habitable portions of the proposed new design are located above flood elevation.

- 8) 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 54 of the city Code.

Not applicable.

- 9) As applicable to all new construction, stormwater retention systems shall be provided.

Stormwater retention systems will be provided per civil engineer design at time of permitting.

- 10) Cool pavement materials or porous pavement materials shall be utilized.

Cool pavement or porous pavement materials will be utilized where most effective.

- 11) The design of each project shall minimize the potential for heat island effects on-site.

The architect and landscape architect are utilizing materials that minimize the heat island effect.

The Project is consistent with the scale and character of the surrounding residential neighborhood and will complement the local architectural identity. Due to the highly unique characteristics of the Property, the requested variances and waivers are necessary for the reasonable use of the land. The Applicant respectfully submits the proposed Project for review and approval by the Design Review Board.

Sincerely,

Carter N. McDowell

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CNM
Enclosures

CC: Carly Grimm, Bilzin Sumberg