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VIA ELECTRONIC SUBMITTAL AND HAND DELIVERY

August 2, 2021

Michael Belush, Chief of Planning and Zoning
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: DRB21-0687 – Design Review Approval for the Property
Located at 420 W 51 Street, Miami Beach, Florida

Dear Michael:

This firm represents the David Bloch Irrevocable Trust (the "Applicant"), the owner of the above-referenced property (the "Property"). The Applicant intends to revive this 20-year idle lot by constructing a beautifully-designed two-story residence with an understory, a detached low-scale one-story show garage for the Applicant's car collection, and accessory tennis court and pool. Please allow this letter to serve as the required letter of intent in connection with a request to the Design Review Board ("DRB") for design review and approval of related variances.

Property Description. The waterfront, irregularly-shaped Property is located on the south side of W 51 Street between Lakeview Drive and Pine Tree Drive and is identified with Miami-Dade County Property Appraiser Folio No. 02-3222-022-1570. See Exhibit A, Property Appraiser Summary Report. The Property is 28,317 square feet in size and is currently improved with a tennis court and a concrete pad and a concrete pathway in the center and eastern portions. The existing tennis court received proper City approval through building permit #73427 in 1965. An accompanying chain link fence, parts of which may no longer present on the Property, was approved through Board of Adjustment (BOA) Order #334 in 1964.

The Property is located within the RS-2, Single Family Residential Zoning District.

Prior and Recent Planning Board Approvals. On February 27, 2001, the Planning Board approved a lot split to create the two current parcels at 5045 Lakeview Drive, described as Lot 16 (and located to the west of the Property) and the Property, described as Lot 17 (the "2001 Approval"). See Exhibit B, Planning Board File No. 1471. The 2001 Approval placed multiple limitations on the Property that made reasonable development of the lot unfeasible. For example, the unit size of a new residence was limited to 4,650 square feet (only 16.4% unit size), all accessory structures, including the legally permitted tennis court, must be removed at the time of issuance of a building permit for the construction of a new home on the Property, and no variances could be requested for any structure constructed on the resulting two lots. Notably, no development has gone forward for 20 years.

Earlier this year, the Applicant applied to the Planning Board for modification of the above-referenced conditions of the 2001 Approval in order to develop the Property with a new single-family home that is appropriate for the lot size and congruent with the neighborhood's as-built environment. Additionally the tennis court is an incredibly important amenity to the family and the Applicant requested to be able to rebuild the court. The Planning Board heard application PB21-0447 on July 27, 2021. In its order, the Planning Board allowed for a unit size of 42%, for the tennis court to be rebuilt and for the Applicant to request variances to this Board as long as the two-story home was maintained at the proposed 126'-0" setback. The Applicant will provide the final recorded order when available.

Proposed Development. The Applicant proposes to build a new home for him and his family on this vacant lot. The overall design is modern, tropical and eco-conscious. The design incorporates natural finishes, clean lines and plant materials to make the home look fresh and light. The home features a modest entrance with a single driveway and motor court along the western property line. In the front western portion of the Property is a sleek 1-story show garage for the Applicant's car collection, which features large windows, green walls and a green roof so as to blend into the Property's landscaping and break-up massing in the front. In the front eastern yard, the Applicant proposes to rebuild the existing tennis court for their extensive use and enjoyment. In order to rebuild the tennis court at its existing location, the Applicant requests variances that are detailed below. Notably, the Applicant will shift the court a little to the west to have it and the associated fence and lights comply with today's Code and therefore avoid additional variances.

The main residence will be 2-stories with an understory and for maximum resiliency, the design locates the first finished floor using all 5' of freeboard plus an additional 2' above BFE. This allows for a little extra clearance in the understory by sacrificing 2' within the first and second floors. To reduce the scale and massing of the new home and ensure compatibility with the

neighborhood, the main residence is significantly set back from the right of way by 126'-0", which is half of the depth of the Property. This is more than other existing and soon to be renovated homes in the neighborhood. For example, the second story of the properties located at 4969 Pine Tree Drive and 5011 Pine Tree Drive (note: recently-approved) are set back only 45'-0", which is substantially less than the proposed home. The resulting design pushes the massing of the home towards the rear of the Property and mitigates any potential impacts on the neighbors. The design employs large windows and varying treatments and materials at every level on each façade to give texture and character to the home. The tropical and resilient landscaping plays well with the home's design to create an overall sense of airiness.

The proposed home will meet the current Code requirements in lot coverage, 27.9% where 30% maximum allowed, and in unit size, approximately 41.9% where 50% maximum normally allowed, and where the Planning Board approved 42%. Notably, the 2-story home is 9,400 square feet (33.1% unit size)¹ and the 1-story detached garage is 2,480 square feet (8.7% unit size), which keeps the main residence in scale with the surrounding homes. Further, the 2-story home complies with all setback requirements. While the main structure on the Property, the home, is fully compliant with Code requirements, the Applicant requests minor variances to rebuild the legally permitted tennis court in the front yard, almost at the exact location where it has been for many decades.

Variance Requests. In order to rebuild the tennis court in the front yard, almost at the exact location where it was initially permitted, the Applicant requests three (3) variances.

- (a) Non-use variance from Sec. 142-106(a)(1)(a) to permit tennis court to be rebuilt at a 2'-9" setback from the front Property line when 20'-0' is required.
- (b) Non-use variance from Sec. 142-1134(1) to permit the 10-foot tennis court fence to be rebuilt at a 2'-9" setback from the front Property line when 20'-0" is required.
- (c) Non-use variance from Sec. 142-106(a)(1)(d) to allow 1,421 square feet (36.9%) of previous space in the required front yard when 2,692 square feet (70%) is required.

Satisfaction of Hardship Criteria. The above reference requests meet the hardship criteria for variances outlined in section 118-353(d) as follows:

¹ Including understory areas, detached cabana and rooftop elevator. Inclusive of the 600 square feet of garage space which are not accounted for in unit size calculations, the total square footage of the Proposed Development is approximately 12,480 square feet.

(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;

The location of the existing tennis court and the previously existing chain link fence, which received proper City approvals through building permit #73427 and BOA order #334 in 1965 and 1964 respectively, is an existing condition particular to the Property for approximately 56 years that is not applicable to other lands in this area. Additionally, the Property has a slightly irregular, non-parallel side property lines, which create a difficulty when adding a rectangular tennis court on the Property. Because of the wedged shape of the lot, with wider portion at the street and not the waterway, the proposed location is the best place to situate a tennis court on the lot and was likely a factor in the original design.

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

The special conditions and circumstances of the Property do not result from the action of the Applicant as the irregular lot shape existed and the approvals for the tennis court and fence were secured before the Applicant had legal interest in the Property.

(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 Code allows other similarly situated property owners to seek similar variances to accommodate development that is not fully compliant with the Code, especially on irregular-shaped lots. In fact, the owners of the neighboring property at 510 Lakeview Court requested and were granted similar variances in order to accommodate a tennis court in the front yard. The proposed home is fully compliant with the Code and the variances are requested merely to reinstall the tennis court and the associated fence and lights at almost the same location where they were once approved by the City. As a whole, the development complies with the purpose and intent of the Code and the Applicant has mitigated any potential impact by complying with the Code when feasible, providing lush landscaping and using design techniques that effectively break up massing of the home. Therefore, granting of these minor encroachments into the front setback for the reinstallation of the tennis court and associated improvements does not confer any special privilege on the Applicant.

(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;

The proposed home and narrow one-story show garage fully comply with the Code. The applicant seeks minor variances only to allow for the reinstallation of the existing tennis court and associated improvements. A literal interpretation of the Code would force the Applicant to forego the long-standing legally permitted location of the existing tennis court and relocate the tennis court and 1-story show garage. This, in turn, would likely result in placing more one-story structure at the 20' front setback, where the visual impacts of the home's scale and massing would be more negatively felt by the neighbors. The slight deviation from the Code is necessary to allow for a low-scale tennis court that is viable and to allow for the site to be configured in a way that mitigates impacts on the neighbors and is congruent with the surrounding area. As a result, a literal interpretation of the Code would deprive the Applicant of the right to build what is enjoyed by other properties and would work an unnecessary and undue hardship on the Applicant.

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

The Applicant requests variances to allow the tennis court and associated improvements to be reinstalled at almost the same exact location it has existed in for decades. The Applicant does not request to further reduce the existing setbacks or increase the nonconformities. Quite the opposite, the Applicant has reduced the nonconformity of the tennis court based on today's Code by shifting the court to the west as the existing court, fence and lights do not comply with today's required side setback. Further, the court is offset from the front property line, meaning the small setback at the northeast corner expands to 7'-0" at the northwest corner. The Applicant ensures privacy to the neighbors through extensive landscape screening. The minor setback and pervious open space variances are the minimum necessary to accomplish this goal and will result in a viable tennis court that does not require a reconfiguration of the proposed development that pushes the 1-story show garage's massing closer to the right of way and the neighbors.

Regarding the front pervious space, the Applicant provides as much as possible, along with extensive plantings, while maintaining the long-standing tennis court. Pushing the court further west, also adds more open space on the east side than exists today. Further, the Applicant will provide significant green roof areas on top of the show garage and the rear accessory structure.

(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; and

The residence will be in harmony with the surrounding properties, and aims to further the intent and purpose of the land development regulations. The design of the home purposefully considers the irregular property lines and pushes the massing and scale of the two-story home towards the rear property line. The design incorporates lush landscaping, green roofs and green walls to further break up massing in the front and mitigate any potential impacts on the neighbors. Granting the variances will be in harmony with the land development regulations and the proposed tennis court will not be injurious to the area.

(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.

The variance requests are consistent with the City's Comprehensive Plan and does not reduce the levels of service as set forth in the plan.

Practical Difficulty. The slightly irregular property lines and existence of legally permitted tennis court, fencing and lighting, are practical difficulties inhibiting the Applicant from meeting all of the land development regulations to reinstall the tennis court and accompanying light poles and fence. Considering these difficulties, the Applicant has proposed the best development plan for the Property by keeping the tennis court and associated improvements in the front yard, shifting to the west to be more in-line with today's Code, substantially screening the court with landscaping, and pushing the scale and massing of the two-story home back 126'-0", half of the depth of the Property. This effectively mitigates impacts on the neighbors. Further, the Applicant has incorporated lush landscaping, green roofs and green walls to further buffer neighbors and break up massing in the front. The slight deviations from the Code, allow the Applicant to effectuate an appropriate design for this Property. The Applicant's proposal satisfies the intent and purposes of the Code to provide a home that is compatible with the neighborhood.

Sea Level Rise and Resiliency Criteria. The proposed project advances the sea level rise and resiliency criteria in Section 133-50(a) as follows:

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

The Applicant will provide a recycling or salvage plan during permitting.

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

The structure will have hurricane impact windows throughout the home.

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

The proposed home provides abundant windows and doors such that passive cooling is feasible.

- (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.**

The landscape plan will include many native and Florida-friendly plants. The Applicant's landscape plan is appropriate for the Property and the neighborhood, with native, salt-tolerant, and Florida-friendly plant species. The plantings for the proposed home will be highly water-absorbent to provide for both aesthetics and resilience.

- (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 Applicant has considered the adopted sea level rise projections and will utilize the full 5' of freeboard and even raise the finished floor 2' higher for the 2-story home.

- (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 up to three (3) additional feet in height.**

The Applicant intends to construct the proposed home to the maximum elevation permitted by the Code plus 2' such that it is adaptable to the raising of public rights-of-ways and adjacent land.

- (7) 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.**

Mechanical and electrical systems will be located above base flood elevation.

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

Not applicable as there are no existing buildings.

- (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.**

No habitable space will be located below base flood elevation. Should any portion of the garage be located below BFE, flood proofing systems will be provided in accordance with Chapter 54 of the City Code to ensure proper drainage.

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

The Property will utilize appropriate stormwater retention systems and the Applicant will ensure appropriate drainage is provided.

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

The Applicant proposes appropriate materials for the driveway and other hardscaped areas.

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

The Applicant will utilize high albedo surfaces, green roofs and abundant landscaping at ground level.

Conclusion. Based on the foregoing reasons, granting this design review application with associated variances will permit the development of a beautifully-designed home for the Applicant's family that will add much more value to the surrounding neighborhood than the existing vacant lot. The main residence and garage comply with the land development regulations and the low-scale nature and location of the tennis court and associated improvements satisfy the intent of Code to ensure no negative impact to the neighbors.

We look forward to your favorable review of the application. If you have any questions or comments in the interim, please give me a call at 305-377-6236.

Sincerely,



Matthew Amster

Attachments

cc: Jeff Bercow, Esq.
Cecilia Torres-Toledo, Esq.



Exhibit A

OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 3/11/2021

Property Information	
Folio:	02-3222-022-1570
Property Address:	420 W 51 ST Miami Beach, FL 33140-0000
Owner	AMBER LLC
Mailing Address	5002 N BAY ROAD MIAMI BEACH, FL 33140-2007
PA Primary Zone	2100 ESTATES - 15000 SQFT LOT
Primary Land Use	0066 VACANT RESIDENTIAL : EXTRA FEA OTHER THAN PARKING
Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	28,650 Sq.Ft
Year Built	0



Assessment Information			
Year	2020	2019	2018
Land Value	\$1,790,625	\$1,790,625	\$1,790,625
Building Value	\$0	\$0	\$0
XF Value	\$4,334	\$4,386	\$4,438
Market Value	\$1,794,959	\$1,795,011	\$1,795,063
Assessed Value	\$1,190,528	\$1,082,299	\$983,909

Benefits Information				
Benefit	Type	2020	2019	2018
Non-Homestead Cap	Assessment Reduction	\$604,431	\$712,712	\$811,154

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

Short Legal Description
LAKE VIEW SUB PB 14-42 LOT 17 BLK 31 LOT SIZE 120.100 X 242 OR 19827-3375 07 2001 5

Taxable Value Information			
	2020	2019	2018
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$1,190,528	\$1,082,299	\$983,909
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$1,794,959	\$1,795,011	\$1,795,063
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$1,190,528	\$1,082,299	\$983,909
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$1,190,528	\$1,082,299	\$983,909

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
07/01/2001	\$0	19827-3375	Sales which are disqualified as a result of examination of the deed
01/01/2001	\$500,000	19454-0632	Sales which are qualified
02/01/1982	\$1,000,000	11347-0607	Deeds that include more than one parcel

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:

PLANNING BOARD

CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 5045 Lake View Drive

FILE NO: 1472

IN RE: The application by Rosa Tenenbaum, requesting modifications to the conditions of a previously approved lot split

LEGAL

DESCRIPTION: Lots 16 and 17, Block 31, LAKEVIEW SUBDIVISION PB 14-42 of the Public Records of Miami-Dade County, Florida,

MEETING DATE: February 27, 2001

DIVISION OF LAND/LOT SPLIT

The applicant, Rosa Tenenbaum, filed an application with the Planning Director for a Division of Land pursuant to Section 118-321 of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the request for Division of Land was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach 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 of the record for this matter:

That the property in question is located in the RS-2 - Single Family Zoning District;

That the Building Sites created would be equal to or larger than the majority of the existing Building Sites and of the same character on the surrounding area;

That the Building Sites created are not free of encroachments from abutting buildable sites, but would be if the following conditions are implemented; and

That the Building Sites created will result in existing structures becoming non-conforming as they relate to setbacks and other applicable regulations of Land Development Regulations, but would be conforming if the following conditions are implemented.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact and the staff report and analysis, which are adopted herein, including the recommendations, that the Lot split be **APPROVED** as requested and set forth above, and the following conditions shall be appurtenant to each lot, as applicable:

1. This lot split shall be contingent upon the applicant receiving approval for a setback variance from the Board of Adjustment for the proposed east side yard setback for the main residence retained on Lot 16. All costs associated with said application shall be paid by the applicant or the contract purchaser. If said approval is not granted, the lot split shall automatically become null and void.
2. The dock on lot 16 must be removed or reduced so that it has a 7.5' setback from lot 17. The pool deck must be cut back so that it has a 7.5' setback from lot 17. A fence shall be constructed to act as a safety barrier for the swimming pool. All chain link fences located within the required rear yard (approx. 38') shall be removed.
3. All improvements (tennis court and fence, accessory structure, walkways) which are presently existing on lot 17 and that portion of the existing dock, sufficient to meet the required 7.5 feet side setback from lot 16, shall be removed at the time of issuance of a building permit for the construction of single family dwelling on lot 17.
4. The applicant shall make application to the Board of Adjustment for the above required variance within four (4) months from the date of the Planning Board public hearing granting this approval, and the work required by Condition #2 shall be completed within ten (10) months (July 26, 2001) from the date of the Planning Board public hearing granting this approval, or the lot split shall automatically become null and void.
5. The single family dwelling unit to be constructed on the building parcel created by this lot split on Lot 17 shall be limited to no more than 4,650 square feet of total floor area.
6. In the event a new residence is constructed on Lot 17, a minimum setback of fifteen (15) feet shall be maintained from the lot line of Lot 16.
7. No variances shall be permitted for new structures proposed to be constructed on either of the two resulting building parcels.
8. Each Lot shall provide individual underground utility connections, individual water, sewer, electric, telephone and cable connections, payment of any applicable impact fees and the removal and replacement of necessary sections of sidewalk, curb and gutter prior to the issuance of a Certificate of Occupancy for a new residence on Lot 17. Additionally, no cross lot service connectors shall be permitted. A time restriction regarding this condition shall not apply to future new construction on Lot 17. Lot 16 shall comply within ten (10) months (July 26, 2001) of this approval date regarding this condition.
9. The subject properties shall not be further subdivided, unless said subdivision is consistent with the prevailing Zoning Ordinance regulations.

10. This Order shall be recorded in the public records of Miami-Miami-Dade County at the expense of the applicants.

PROVIDED, that all necessary steps to effectuate compliance with this Order are taken prior to the respective time periods for compliance, unless the time for the compliance with said conditions is extended or amended by the Planning Board. In the event the above conditions are not met within the time periods as specified above, the Lot Split shall become null and void.

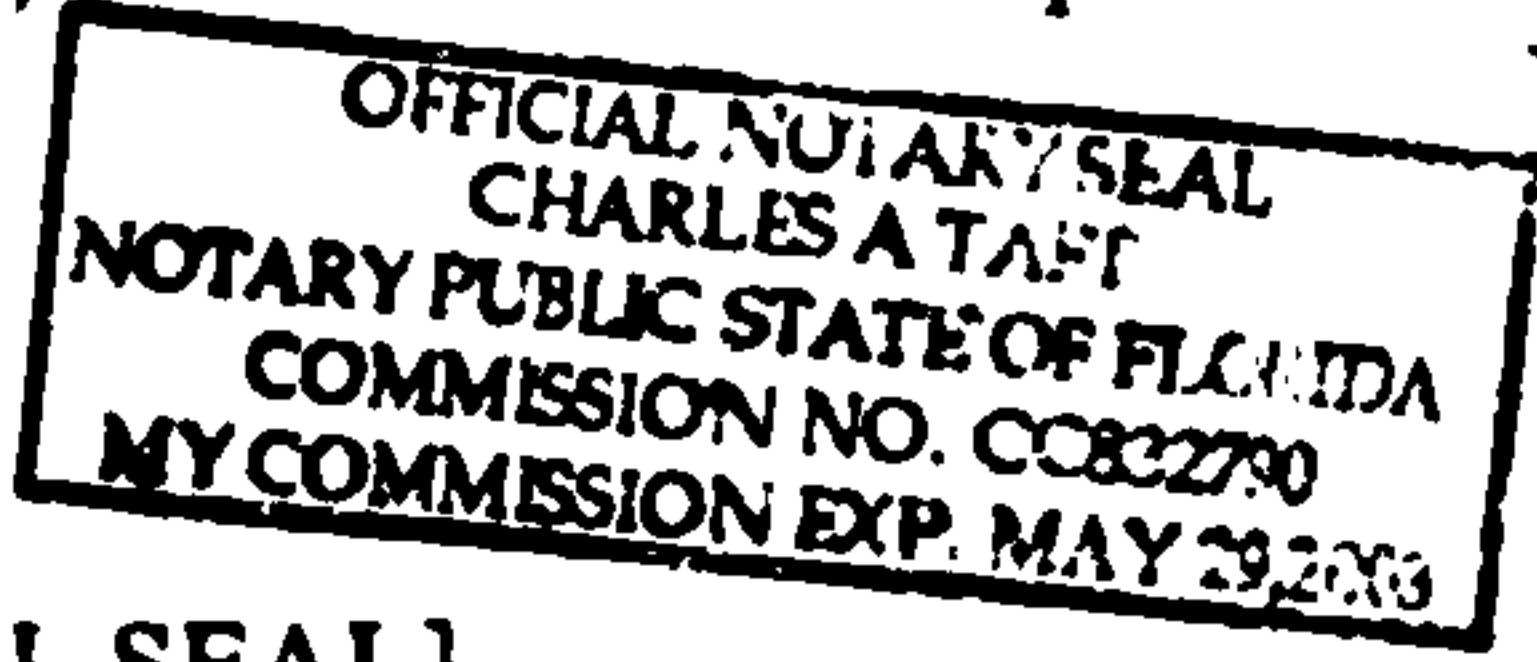
Dated this 20th day of MARCH, 2001.

PLANNING BOARD OF THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
Jorge G. Gomez, Planning Director
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 20th day of MARCH, 2001, by Jorge G. Gomez, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



[NOTARIAL SEAL]

[Signature]
Notary:
Print Name: CHARLES A. TAFT
Notary Public, State of Florida
My Commission Expires:
Commission Number:

Approved As To Form:
Legal Department (Weld 3-14-01)

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RECORDED IN PUBLIC RECORDS OF DADE COUNTY, FLORIDA
RECORD VERIFIED
HARVEY RUVIN
CLERK CIRCUIT COURT