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

**Re: Amended and Supplemental Letter of Intent for Design Review Board
Approval of Design Waivers and Variances for Single-Family Residence
Located at 4-6 Star Island, Miami Beach, FL**

Dear Mr. Mooney:

This firm represents Brian Bilzin as Trustee (the "Applicant") of the 6 Star Island Residence Land Trust Agreement and Trust No. 2401-3302-00, under which the properties located at 4, 5, and 6 Star Island, Miami Beach, FL (the "Property") are held. Please accept this correspondence as the Applicant's letter of intent for the attached plans and application seeking review and approval by the City of Miami Beach (the "City") Design Review Board ("DRB") of the proposed design waivers and variances presented in the attached application package.

The proposed project ("Project") consists of a modern, thoughtfully designed two-story, single-family home within the RS-1 zoning district on lots 4, 5, and 6 of Star Island. The Property is extraordinary even by Star Island standards and contains 120,000 SF. As previously confirmed by City staff, lots 4 and 5 are considered a single development site based on extensive improvements crossing the mutual property line and the fact that the lots were owned and operated as a single parcel for substantially more than a decade. The common ownership is confirmed by the historical transfer of these lots by a single deed and operation of the lots as a single property. The Project will replace multiple existing structures on the Property. A portion of one of them was built in 1947, but the vast majority of the structures were built between 1996 and 2016.

The architectural concept for the Project features a design language of board form concrete walls and floor-to-ceiling glass. The board form concrete walls and vertical elements are repeated throughout the structure to create a series of "frames" for curated views of the surrounding site and Biscayne Bay.

The Project is designed to maximize the extraordinary landscaping on the site, designed by Raymond Jungles. The main residence is set back from the street approximately 200 feet, providing ample room for the centerpiece of the Project: an existing specimen banyan tree. This

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remarkable tree is positioned in the center of the design and serves as the crown jewel of the lushly landscaped site. In order to ensure the house is both sustainable and resilient, the design includes the allowable five feet of freeboard, which in turn allows the parking for the home to be provided in the understory area under the home.

In order to develop the Project as designed, the Applicant respectfully requests the following waivers and variances from the City of Miami Beach Land Development Regulations ("LDRs"):

Waiver Requests:

1. Subsection 142-105(b)(7) states that "height exceptions that are not integral to the design intent of a structure shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways". Specifically, 142-105(b)(7)(f) provides that elevators bulkheads shall be located as close to the center of the roof as possible. The proposed elevator has been developed as an integral part of the design intent of the house itself and is visually an integral part of the architecture. Moreover, the elevator location, while near the front of the house, is virtually in the middle of the lot and is setback more than 200 feet from the street behind the specimen banyan tree and more than 178 feet from the south property line and 105 feet from the north property line and therefore will never be seen from the street or the adjoining properties. While the elevator is integral to the design intent, the Applicant is requesting a waiver to allow for the proposed location of the elevator. It is worth noting that almost all of the new houses on Star Island include similar elevators and have been granted the same waiver on properties that are narrower than this one and therefore have smaller setbacks and are closer to neighboring properties.
2. Subsection 142-106(a)(2)(d) states that 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. The Applicant is requesting a waiver from this requirement for the two-story south elevation. The south elevation will be buffered from the abutting neighbor by thoughtfully designed, lush landscaping. The south elevation is also set back over 44 feet from the south property line, providing plentiful air and space between the proposed home and the neighboring property.

Variance Requests:

1. **Understory Enclosure:** Pursuant to Subsection 142-105(b)(4)(e)(1) of the LDRs, subject to review and approval of the DRB, the following may apply to the understory area(s): "Understory area(s) shall be used only for open air activities, parking, building access, mechanical equipment, non-enclosed restrooms and storage.... 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 on each side." Subsection 142-105(b)(4)(e)(3) further provides: "...the total area of enclosed and air-conditioned building access space shall be limited

to no greater than five percent (5%) of the lot area. All air-conditioned floor space located directly below the first habitable floor shall count in the total unit size calculations."

The Applicant is requesting a variance to allow less than 50 percent of each side of the understory area to be open and to allow an air conditioned area equivalent to the five percent that is otherwise allowed, that will include the vertical circulation, garage, and related space.

2. **Understory Edge Setback:** Pursuant to Subsection 142-105(b)(4)(e)(10) of the LDRs, subject to review and approval of the DRB, the following may apply to the understory area(s): "All allowable decking, gravel, pavers, non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments located in the understory area shall be setback a minimum of five feet from each side of the underneath of the slab of the first habitable floor above, with the exception of driveways and walkways leading to the property, and access walkways and/or steps or ramps for the front and side area."

The Applicant is requesting a variance to allow a setback of 0' where 5' is required along the understory edge as depicted in the attached diagrams. The understory area is set back 0' where there is earth adjacent to the understory wall or other design elements such as koi ponds. Where the understory is visible, it will be set back 5'.

3. **North Interior Side Yard Setback:** Based upon feedback from the Board and City staff, we have modified this request to be the minimum necessary to preserve and reutilize the existing guest house on the Property. Therefore, the requested variance has been reduced to request a setback of 9'-3" from the previous request of 7'-4". Pursuant to Subsection 142-106(a)(2)(c), for lots greater than 65 feet in width, each interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater. Due to the extraordinary lot width of 300 feet for this Property, the side setback requirement is 30'. The main house exceeds this requirement.

For all of the platted lots on Star Island this setback would be 10 feet, but because of the extraordinary width of this property and the fact that the LDRs do not cap the amount of the side setback to a reasonable number as it does for the rear setback, the Applicant is requesting a variance from this provision to allow it to retain and renovate the existing, currently conforming guesthouse structure in the northeast corner of the Property. Ultimately, the LDRs create a hardship by requiring a 30-foot setback for the same structure that only required a 10-foot setback when it was built on a 100'-wide lot.

4. **Sum of Side Yard Setbacks:** As with the minimum side setback above, the sum of the side yards setbacks is also not capped at a reasonable number as it should be and as it is for the rear yard setback. Pursuant to Subsection 142-106(a)(2)(a), the sum of the required side yards shall be at least 25 percent of the lot width. So, because of the extraordinary 300-foot lot width of this Property, the combined side yards must equal 75

feet. That is 75% of a typical platted lot on Star Island. Yet the main house does meet this extraordinary setback requirement. However, the preservation of the existing, now conforming guesthouse on the Property necessitates a variance from the required north interior side setback, which also creates a need for a sum of the side yard setback variance. Accordingly, because of the preservation of the existing guesthouse, the Applicant requests a variance from Subsection 142-106(a)(2)(a) to allow a sum of the side yard setbacks of 53'-9" where 75' is required. Note that still is equivalent to more than 50% of the typical platted star island.

5. **Elevator Bulkhead:** Pursuant to Subsection 142-105(b)(7), elevator bulkheads shall not exceed ten feet above the roofline of the structure. The Applicant is requesting a 3-foot height variance from this requirement to allow the elevator bulkhead to extend 13' above the main roofline in order to accommodate the elevator override equipment. The proposed elevator has been developed as an integral part of the design intent of the house itself and is visually an integral part of the architecture. Moreover, the elevator location, while near the front of the house, is virtually in the middle of the lot and is set back more than 200 feet from the street behind the specimen banyan tree, more than 178 feet from the south property line, and 105 feet from the north property line. Therefore, it will never be seen from the street or the adjoining properties. It is worth noting that almost all of the new houses on Star Island include similar elevators and have been granted the same variance on properties that are narrower than this one and therefore have smaller setbacks and are closer to neighboring properties.
6. **Driveway Width:** Based upon input from the Board and City staff, the Applicant has withdrawn this variance request.
7. **North Side Fence Height:** Based upon input from the Board and City staff, the Applicant has withdrawn this variance request.
8. **South Side Fence Height:** Based upon input from the Board and City staff, the Applicant has withdrawn this variance request.

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

- 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;

This Property is extraordinary, even by Star Island standards, which are already unique and exceptional when compared to anywhere else in Miami Beach. The typical lot on Star Island is 100 feet x 400 feet—substantially larger than anywhere else in the City. This Property is 300 feet by 400 feet. The application of generic RS-1 regulations applicable to other areas of the City creates hardships and conditions unique to this Property and effectively deprives this Property of the same rights enjoyed by other properties. For example, the application of side setbacks based upon the percentage of lot width with no

cap for larger lots imposes unreasonably large minimum side setback and sum of the side yard setback requirements on this Property. Why is a side setback of 10' reasonable for a structure on the adjoining property, while it imposes a 30-foot setback on this Property for the exact same building? Why is a combined 25 feet sum of the side yard acceptable for the adjoining 100 foot lot, while it imposes a 75 foot setback requirement on this Property?

Likewise, required building height exception limitations applicable to elevators on a typical RS-1 lot provide a side setback of the elevator of approximately 40 feet, where here the elevator will be set back more than 178 feet and 105 feet from the adjoining properties and is more than 200 feet from the street, making the elevator truly invisible from adjoining properties and the street. Similarly, understory regulations applicable to other City areas intended to disguise and hide understory areas that may be only 10 feet away from adjoining properties and 30 feet from the street create unnecessary and burdensome regulations on this Property where the side setbacks for the house are more than 30 feet and 40 feet, respectively, and the front setback is 200 feet. Applying a 50 percent opening requirement to the understory similarly creates a much greater impact on the understory for this unusual property and is not necessary to protect the Property or the adjoining properties since the main house will be elevated by freeboard to protect it from storm damage, and even including the understory area as unit area, the house is still substantially smaller than it is permitted to be.

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

None of special conditions or circumstances are the result of the action of the Applicant. The Property is truly unique.

- 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;

As described in 1) above, granting the requested variances will not confer any special privilege denied to others.

- 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;

As described under 1) above, the application of the land development regulations to this Property, without the relief requested, would impose unnecessary and undue hardships on the Applicant by imposing requirements far out of scale with requirements applicable to other properties and deprive it of the rights commonly enjoyed by others.

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

The Applicant has sought the minimum variances necessary for the project and meets most of the extraordinary requirements imposed on this exceptional 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;

As described in number 1) above, the granting of the requested variances will clearly be in harmony with the general intent and purposes of the land development regulations.

- 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 variances is consistent with the comprehensive plan as it will allow for the construction of a single-family home on a property with a residential land use designation. The Project will replace existing residential structures 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 structures, with the exception of the guesthouse, 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.

- 6) 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.

- 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.

All critical 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.

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

- 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 54 of the city Code.

Not applicable.

- 10) 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.

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

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

12) 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. The Applicant respectfully submits the proposed Project for review and approval by the Design Review Board.

Sincerely,

Carter N. McDowell

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Enclosures

CC: Carly Grimm, Bilzin Sumberg