



200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131
www.brzoninglaw.com

305.377.6231 office
305.377.6222 fax

VIA HAND DELIVERY AND ELECTRONIC SUBMITTAL

September 13, 2021

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

RE: **DRB21-0664** – Resubmittal Letter of Intent – Design Review
Approval with Regard to a Proposed New Tower at 3900-
4000 Alton Road, Miami Beach, Florida

Dear Mr. Belush:

This law firm represents M 4000 Alton Owner, LLC (the "Applicant") in its application for design review approval of a new residential multi-family development located at 3900-4000 Alton Road. This letter serves as the required letter of intent for design review approval of the proposed development. Notably, this application seeks no waivers or variances.

Property and Existing Use Description. The subject property is uniquely located directly to the northwest of the intersection of Alton Road and 41st Street/Julia Tuttle Causeway. The subject property consists of three parcels: (1) 4000 Alton Road, which is further identified Miami-Dade County Folio No. 02-3222-011-0430 (the "Talmudic Parcel"), (2) the property identified by Miami-Dade County Folio No. 02-3222-011-0432 ("Developer Parcel"), and (3) a triangular parcel to the west of the Developer Parcel currently owned by the Florida Department of Transportation ("FDOT"),

which the Applicant has contracted to purchase (the "FDOT Parcel")¹ (collectively the "Property").

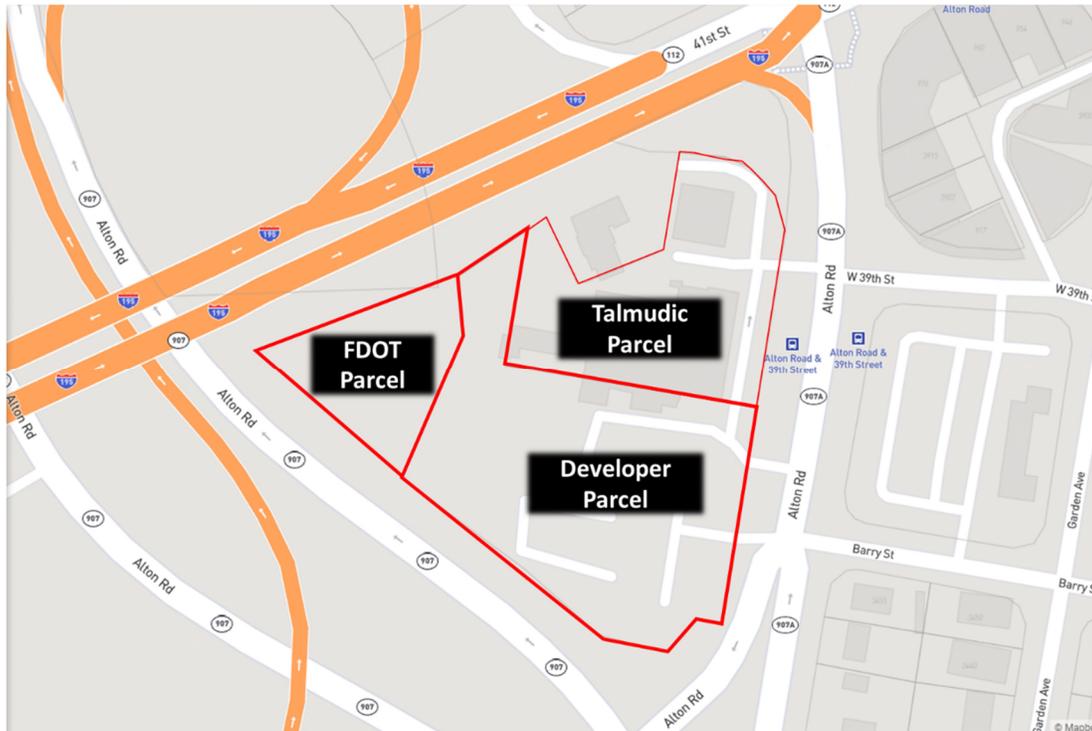


Figure 1, Aerial

It should be noted that the Developer Parcel and the Talmudic Parcel currently comprise a unified development site, pursuant to a Declaration of Restrictive Covenants in Lieu of Unity of Title, recorded in Official Record Book 29338, Page 3635 of the Public Records of Miami-Dade County (the "CIL"). See Exhibit A, Covenant in Lieu, attached. The Applicant intends to aggregate the Developer Parcel and the FDOT Parcel into the unified development site, and develop the project proposed by the application within the Developer Parcel and the FDOT Parcel (the "Project Site"). The Project Site is approximately 99,425 square feet (2.28 acres) in size, with the Developer Parcel comprising approximately 81,565 square feet, and the FDOT Parcel comprising approximately 17,860 square feet.

Currently, the Talmudic Parcel is used as Talmudic University and is improved with two (2) one-story buildings, a one-story structure, and an eight-story building. The Developer Parcel is currently improved with a temporary one-story sales center, and the FDOT parcel is currently vacant unimproved land.

Recent Legislation. The Property is impacted by several ordinances adopted on November 18, 2020. Ordinance 2020-4373 amended the Future Land Use Map Designation of the FDOT

¹ The FDOT Parcel is not currently assigned a Miami-Dade County Folio Number.

Parcel from "PF - Public Facilities Governmental Use" to "RM-2 - Residential Multifamily, Medium Intensity.". Similarly, Ordinance 2020-4372 rezoned the FDOT Parcel from "GU – Governmental Use" to "RM-2 – Residential Multifamily, Medium Intensity."

Further, Ordinance 2020-4374, amended the RM-2 Zoning District regulations with respect to setbacks, liner requirements, and balcony projections for properties greater than 60,000 square feet in size that front the west side of Alton Road and 41st Street/Interstate 195. The Project Site is greater than 60,000 square feet in size, and is fronts the west side of Alton Road and 41st Street/Interstate 195. Accordingly, the setback regulations applicable to the Project Site are as follows:

Rear	Pedestal: 10 feet Tower: 15 feet
Side	Pedestal: 10 feet Tower: 15 feet

In addition, Ordinance 2020-4374 provides that, notwithstanding the regulations provided in Section 142-1132 of the Code, exterior unenclosed balconies may project a maximum of fifty percent (50%) of the required setback into any required yard. Lastly, Ordinance 2020-4374, exempts structures that are setback more than 50 feet from the east side of Alton Road from the liner requirements applicable to new construction under Section 142-219(1) of the Code.

Prior DRB Approvals and Current Status. Development Approval History. Please find a summary of development approvals for the Property available through Miami-Dade County's Official Records search:

- Planning Board ("PB") File No. 1718 – On June 28, 2005, the PB approved of a conditional use permit ("CUP") for a religious educational institution, inclusive of residential uses for faculty and students.
- Zoning Board of Adjustment ("ZBA") File No. 3105 – On May 6, 2005, the ZBA approved of several variances to permit the construction of a three (3) story building and six (6) story building.
- PB File No. 1718 – On February 6, 2014, the PB approved a modified CUP for the property, which permitted new five (5) and eight (8) story additions.

- PB File No. 2153 – On February 6, 2014, the PB approved of a division of land/lot split, which resulted in the current configuration of land that consists of the Talmudic and Mast Parcels.
- DRB File No. 23026. – On March 4, 2014, the DRB approved plans for the construction of a new five (5) story addition and an eight (8) story detached multi-family building. On September 1, 2015 the DRB consolidated all prior approvals and approved modifications plans and variances for the phased construction of a new five story addition to an existing building on the Talmudic Parcel and construction of a new eight-story detached multi-family building on the Mast Parcel. The eight-story multifamily residential tower contained 72 units. The approved development was never permitted or developed.
- ZBA File No. 3688 – On March 7, 2014, the ZBA approved several variances to allow the construction of a seven (7) story addition to the existing building constructed in two (2) phases.
- DRB File No. 17-0166 – On October 3, 2017, the DRB approved the replacement of an existing fence and installation of a new fence along portions of the property and a variance to exceed the maximum allowed height for a fence within required yards.

Covenant in Lieu of Unity of Title. The CIL provides that the Talmudic and Developer Parcels are a unified development site and should be developed substantially in accordance with the plans approved under DRB File No. 23026 or any other plans that may be approved by the City. Notably, the CIL expressly provides that the floor area on the property may be increased by the addition of land to the site. Any additional floor area created by the addition of land accrues only to the parcel to which the land is added. Modification, amendment, or release of the CIL requires approval of the Planning Director.

Proposed Development. The Applicant proposes a modern curvilinear eight-story residential tower on the Project Site (“3900 Alton Road”). 3900 Alton Road proposes 176 units, ample amenities, and covered parking. The proposed design responds appropriately to the unique site configuration between Alton Road and the Julia Tuttle Causeway by providing two wings on the east and west sides connected by a recessed central tower that breaks up the massing of the building and orients the spacious amenity deck towards the afternoon sun. The expressive curved façades of the two wings facilitate the flow of air and light around the building and serve to add variety and architectural interest to entrance of the 41st Street corridor. The Applicant has also implemented architectural features to break up the horizontal expanse of the

proposed building, such as decorative roof elements, alternating glass and aluminum balcony railings, and alternating bands of scored stucco at the ground level garage elevation.

For improved access to the site, the Applicant proposes a new right turn lane from the western portion of State Road 907/Alton Road, which will connect to an existing ingress egress driveway located on the east side of Alton Road. In addition, the existing central driveway between the Developer Parcel and the Talmudic Parcel will remain and service both developments, as provided in the CIL. Within the Project Site, internalized driveways lead to an elevated lobby and circulation area with an entrance/exit to the lobby level parking garage. A large terraced planter with abundant landscaping surrounds the elevated lobby area and vehicular ramps.

Vehicles enter and exit from the ground level parking garage via a driveway at the southeast corner of the site that connects to the east side of Alton Road. Along the north and south sides of the driveway along the east side of Alton Road, the proposed design provides pedestrian walkways that lead to the lobby level and ground floor bicycle storage, which serve to encourage pedestrianism and multimodal transport. The pedestrian walkway and lobby level will be lushly landscaped to provide screening of the lobby level ramps and improve the pedestrian experience approaching the building.

At level 1, 3900 Alton features a circular drop off area and residential elevated lobby, as well as the entrance to the residential parking garage. Level 2 features a spacious and lushly landscaped amenity deck that is oriented southwest to provide views of Biscayne Bay, as well as one, two, and three-bedroom units. Levels 3 through 8 contain the majority of the residential units, including one, two, and three-bedroom units between 575 and 1,440 square feet in size.

Notably, the proposed design does not require waivers or variances. 3900 Alton complies with the Code with respect to FAR, unit size, height, setbacks, and parking, as follows:

- Minimum unit size of 575 square feet where 550 square feet is permitted,
- Average unit size of 910 square feet where 800 square feet is permitted,
- Maximum height of 85 feet where 85 feet is permitted;
- 269 parking spaces where 241 parking spaces are required;²

² The existing use of the Developer Parcel includes parking for the Talmudic University. Following development of 3900 Alton, 12 parking spaces will remain dedicated for use by the Talmudic University, while 257 parking spaces will service 3900 Alton Road. For clarity, the parking requirement of the Proposed Development alone is 194 spaces, while the parking requirement for the unified development site is 241 spaces (47 for Talmudic, 194 for 3900 Alton). 3900 Alton proposes 234 parking spaces in addition to the 35 existing spaces located on the Talmudic Parcel, for a total of 269 spaces.

With respect to FAR, 3900 Alton provides 198,405 square feet of floor area where 198,490 square feet is permitted. Further, the project complies with the setbacks provided in Ordinance 2020-4374, and exterior unenclosed balconies do not project more than 50% into any required yard. Lastly, the provided 50-foot setback from the east side of Alton Road exempts the project from the liner requirement of Section 142-219(1). Instead, abundant landscaping screens the ground floor garage structure, while vertical angled striping provides architectural interest to break up the massing of the ground floor garage structure. Overall, the proposed curvilinear U-shaped building design responds appropriately to the irregular shape of the Project Site, and the challenging conditions with respect to the "island" affect caused by the surrounding roadways.

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.

Hurricane proof impact windows are proposed for the entirety of 3900 Alton.

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

The Applicant proposes to include operable windows where appropriate. In addition, the abundant landscaping and permeable materials contribute to passive cooling, which represents a significant improvement from the existing paved surface parking lot.

(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 Applicant has worked with a landscape architect to provide landscaping that is appropriate for the Property, with plant species that are native, salt-tolerant, and Florida-friendly. The proposed plantings are appropriate for the area and specifically selected to increase flood resilience and improve stormwater drainage on the Property.

(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.

3900 Alton features no residentially habitable space below base flood elevation. Indeed, 3900 Alton provides an elevated lobby provides all residential units between levels 2 through 8, which are all significantly elevated.

(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.

Exterior improvements on the Property along Alton Road will take into consideration the raising of the public right-of-way and the proposed design details will be coordinated with the City.

(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.

Proper precautions will be taken to ensure the critical mechanical and electrical systems are 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.

It is not reasonably feasible to elevate the 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.

Proper precautions will be taken to protect the Property from potential floods. There are no habitable spaces proposed below base flood elevation plus City Freeboard.

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

3900 Alton will retain all stormwater on site, and utilize abundant Florida-friendly and drought tolerant landscaping to augment water retention and drainage.

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

Cool and/or porous pavement material will be utilized where appropriate.

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

The Applicant proposes cool pavement, a light-colored roof, and extensive landscaping that will minimize the heat island effect.

Conclusion. The proposed new residential tower will serve as a gateway to Mid-beach and revitalize the 41st Street Corridor. The design of 3900 Alton responds to unique and challenging site conditions in a manner that is fully compliant with the Code and appropriate for the existing "island" condition that characterizes the Property. In light of the above, we respectfully request your favorable review and recommendation. If you have any questions or comments, please call me at 305-377-6232.

Sincerely,



Michael W. Larkin

Enclosures:

CC: Camilo Miguel
Christina Cuervo
Andrew Guasch
Nicholas Rodriguez, Esq.



CFN 20140694982
OR Bk 29338 Pgs 3635 - 3646 (12pgs)
RECORDED 10/06/2014 15:36:11
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument prepared by:

Name: Matthew Amster, Esq.
Address: Bercow Radell & Fernandez, P.A.
200 S. Biscayne Boulevard, Suite 850
Miami, FL 33131

(Space reserved for Clerk)

**DECLARATION OF RESTRICTIVE COVENANTS
IN LIEU OF UNITY OF TITLE**

KNOW ALL BY THESE PRESENTS that the undersigned owner, Talmudic College 4000 Alton Road, Inc. (the "Owner"), hereby makes, declares and imposes on the land herein described, the easements and covenants running with the title to the land, which shall be binding on the Owner, its heirs, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them; and

WHEREAS, Owner holds the fee simple title to the land in the City of Miami Beach, Florida (the "City") legally described on the attached Exhibit A, with the street address of 4000 Alton Road and hereinafter called the "Property"; and

WHEREAS, pursuant to the Division of Land/Lot Split Final Order of the Planning Board of the City of Miami Beach, Florida as a result of the meeting on February 6, 2014, PB File No. 2153, recorded at ORB 29324 Pages 3234 – 3237, the Owner has received approval to split the Property (the "Lot Split") into the northern portion of the Property (as more particularly described on Exhibit B attached hereto) (the "Talmudic Site") and the southern portion of the Property (as more particularly described on Exhibit C attached hereto) (the "South Site"); and

WHEREAS, one of the conditions of the Lot Split was that the Owner enter into this Declaration ("Declaration") and an Easement and Operating Agreement (as hereinafter defined); and

WHEREAS, the Owner received approval to improve the Property with regards to the Talmudic Site, a 5-story attached addition (the "Approved Addition") to the front of the existing 7-story building for accessory uses for the existing Talmudic University, a religious educational institution, and with regards to the South Site, an 8-story detached multifamily building for residential use; and

WHEREAS, the Owner intends that the Property be developed in two phases, with each phase developed in accordance with City's Land Development Regulations; and

WHEREAS, this instrument is executed in order to impose conditions, easements and limitations upon the Property so that the phased development or development of the Property by

future multiple ownership will not violate the City's existing or future Land Development Regulations.

NOW THEREFORE, in consideration of the premises, Owner hereby agrees as follows:

1. The Property will be developed as a unified development site in substantial accordance with the plans entitled "4000 Alton Road, Miami Beach, Florida – Design Review Board and Board of Adjustment Applications," as prepared by Zyscovich Architects, dated March 2014 and approved by the Miami Beach Design Review Board on March 4, 2014 (DRB File No. 23026) (hereinafter the "**Approved Plans**") or any other plans that may be approved by the City (hereinafter the "**Approved Amended Plans**"). Any modification to the Approved Plans or the Approved Amended Plans, as applicable, as pertains solely to the uses and improvements located solely on either portion of the Property may be effectuated without the consent of the then owner(s) of the other portion of the Property (i.e. a modification to a portion of the Approved Plans or the Approved Amended Plans, as applicable, relating solely to the uses and improvements on the South Site would not require the consent of the then owner(s) of the Talmudic Site and vice versa). However, no (a) modification to the "shared components" of the Approved Plans or the Approved Amended Plans, or (b) changes to the building(s) and/or amenity area(s) on the South Site that result in direct views from the south elevation of the building on the Talmudic Property to the pool deck on the South Site, shall be effectuated without the written consent of the then owner(s) of the Property, which consent shall not be unreasonably withheld, and the Director of the City's Planning Department; provided the Director or the Design Review Board, as appropriate, finds that the modification is in compliance with the City's Land Development Regulations. For purposes of this Declaration, the term "shared components" shall be limited to the main entrance and drive aisle through the center of the Property, including the drop off and loading area for the Talmudic Site, the basketball court and the fire lane and associated egress to Alton Road through the Talmudic Site, all as shown on the Approved Plans; provided, however, that in the event that the Approved Amended Plans incorporate two independent entry drives, the same shall no longer be considered "shared components"; provided, further, however, that for as long as the exterior stairs and the ingress and egress to the basement level parking of the building located on the Talmudic Site remain in the location existing on date of recordation of this Declaration in the Public Records of Miami-Dade County, Florida, then the owner of the South Site shall provide continued access thereto to and from Alton Road to the owner of the Talmudic Site pursuant to the terms of the Easement and Operating Agreement as hereinafter defined and recorded in the Public Records of Miami-Dade County, Florida. The owner of the South Site acknowledges and agrees that it shall provide the owner of the Talmudic Site with copies of any proposed modifications to the Approved Plans or any Approved Amended Plans that would result in direct views from the south elevation of the building on the Talmudic Site to living units on the South Site at least ten (10) days prior to the date the same are submitted to the City; it being the understanding of the owner of the Talmudic Site, however, that such proposed modifications are being provided in advance as a courtesy only and that the owner of the Talmudic Site has no right to consent to any such proposed modifications, except as provided herein.

2. As and to the extent that (a) the Owner constructs upon the Property in accordance with the Approved Plans or any Approved Amended Plans, and (b) the Approved Plans or the Approved Amended Plans, as applicable, require the creation or existence of an



emergency fire lane in the location shown on the Approved Plans, then: (x) the emergency fire lane shown on the Approved Plans on the Talmudic Site, more specifically connecting the paved area on the west side of the existing building (covering portions of the basketball court and the open area on the north side of the existing building) with the north parking area, shall remain unobstructed and clearly marked as an emergency fire lane, and (y) the ground materials used to construct the fire lane shall properly support emergency fire vehicles pursuant to the requirements of the State of Florida Fire Prevention Code. Access to and from the fire lane and the exit drive from the north parking area on Alton Road shall be required to be maintained and unobstructed.

3. In order to implement the Approved Plans, and any other Approved Amended Plans, the floor area on the Property shall be allocated between the Talmudic Site and the South Site as follows:

Talmudic Site: 98,184 square feet (based on land area of 49,092 square feet).
South Site: 163,088 square feet (based on land area of 81,544 square feet).

Based on the City's Land Development Regulations, there is no floor area that remains unallocated for development on the Property. This Declaration shall not be construed to allow any structure(s) to be permitted or constructed that would exceed the maximum floor area permitted on either portion of the Property pursuant to the City's Land Development Regulations. In the event that the City's Land Development Regulations are later amended so that the Property may be developed with additional floor area, the additional floor area shall be allocated 37.58% to the Talmudic Site and 62.42% to the South Site. The floor area permitted on the Property may also be increased by the addition of land to the Property. Any additional floor area created by the addition of land shall accrue only to the portion of the Property to which the land was added.

4. In the event of multiple ownerships subsequent to the recordation of this Declaration, each of the subsequent owners shall be bound by the terms, provisions and conditions of this Declaration.

5. Owner further agrees that it will not convey portions of the Property to such other parties unless and until the Owner and such other party or parties shall have executed and mutually delivered, in recordable form, an instrument to be known as an easement and operating agreement, or condominium documents as provided below (the "Easement and Operating Agreement"), which shall contain where appropriate, among other things:

- (i) Easements in the common area of each parcel for ingress to and egress from the other parcels;
- (ii) Easements in the common area of each parcel for the passage and parking of vehicles;
- (iii) Easements in the common area of each parcel for the passage and accommodation of pedestrians;
- (iv) Easements for access roads across the common area of each parcel to public and private roadways;



- (v) Easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in each such parcel;
- (vi) Easements on each such parcel for construction of buildings and improvements in favor of each such other parcel;
- (vii) Easements upon each such parcel in favor of each adjoining parcel for the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations;
- (viii) Easements on each parcel for attachment of buildings;
- (ix) Easements on each parcel for building overhangs and other overhangs and projections encroaching upon such parcel from the adjoining parcels such as, by way of example, marquees, canopies, lights, lighting devices, awnings, wing walls and the like;
- (x) Appropriate reservation of rights to grant easements to utility companies;
- (xi) Appropriate reservation of rights to road right-of-ways and curb cuts;
- (xii) Easements in favor of each such parcel for pedestrian and vehicular traffic over dedicated private ring roads and access roads; and
- (xiii) Appropriate agreements between the Owner of the several parcels as to the obligation to maintain and repair all private roadways, parking facilities, common areas and common facilities and the like.

If the Property is developed in a condominium form of ownership, the above easement provisions, if necessary, may be incorporated into a declaration of condominium rather than an easement and operating agreement if the declaration of condominium is accepted by the Planning Director and the City Attorney for such purpose. The easement provisions or portions thereof may be waived by the Director if they are not applicable to the Property (such as for conveyances to purchasers of individual condominium units). These provisions of the Easement and Operating Agreement or declaration of condominium shall not be amended without prior written approval of the City Attorney. In addition, such easement and operating agreement or condominium documents shall contain such other provisions with respect to the operation, maintenance and development of the Property as to which the parties thereto may agree, or the Director may require, all to the end that although the Property may have several Owners, it will be constructed, conveyed, maintained and operated in accordance with the Approved Plans or Approved Amended Plans.

6. The owner(s) of the Talmudic Site and South Site may each apply for and receive permits with respect to its portion of the Property without the necessity of joinder of the then owner(s) of the other portion of the Property. With regard to the phased approval of the Approved Plans, and any Approved Amended Plans, if either the owner(s) of the Talmudic Site or South Site secure a full building permit for one of the phases within the time limitations established by the City, then (x) such action shall preserve the other phase and allow the full building permit for the other phase to be issued at a reasonable time even after the expiration of the otherwise applicable time limitations, (y) the phase that obtained the full building permit shall be entitled to be constructed and obtain a Certificate of Occupancy, notwithstanding the failure of the other owner(s) to obtain the full building permit for the other phase, and (z) the

failure of the other owner(s) to obtain the full building permit for the other phase will not invalidate any prior approvals, or prevent subsequent associated approvals for the phase that secured the full building permit within the applicable time limitations.

7. In the event of a violation of this Declaration by the then owner(s) of the South Site or the Talmudic Site, in addition to any other remedies available, the City is hereby authorized to withhold any future permits with respect to the South Site (to the extent the violation is by the then owner(s) of the South Site) or the Talmudic Site (to the extent the violation is by the then owner(s) of the Talmudic Site), and refuse to make any inspections or grant any approval, until such time as this Declaration is complied with. Any violation or any other non-compliance with any applicable governmental codes, requirements or regulations by the then owner(s) of the South Site with respect to the South Site, any and all permits applied for, pending, active, expired or otherwise open or not properly closed with respect to the South Site, and any and all notices of violation with respect to the South Site, shall not affect the then owner(s) of the Talmudic Site or the Talmudic Site and shall not be the responsibility of the then owner(s) of the Talmudic Site. Any violation or any other non-compliance with any applicable governmental codes, requirements or regulations by the then owner(s) of the Talmudic Site with respect to the Talmudic Site, any and all permits applied for, pending, active, expired or otherwise open or not properly closed with respect to the Talmudic Site, and any and all notices of violation with respect to the Talmudic Site, shall not affect the then owner(s) of the South Site or the South Site and shall not be the responsibility of the then owner(s) of the South Site.

8. With regards to parking requirements under the City's existing or future Land Development Regulations, the Talmudic Site and the South Site shall each provide their required parking on their respective portions of the Property, unless otherwise permitted by the City.

9. The provisions of this Declaration shall become effective upon their recordation in the public records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless released in writing by the then owner(s) of the Property and the Director of the Department of Planning, acting for and on behalf of the City upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the Property for the purposes herein intended.

10. The City and the State of Florida maintain an emergency operations and staging facility on Florida Department of Transportation property to the west of the Property, located south of the I-195/SR 112 ramp bound for Arthur Godfrey Road/41 Street, and north of the ramp bound for Alton Road, also known as Section #87004, State Road #112, Julia Tuttle Causeway. The Owner, on behalf of itself and all subsequent owners and successors in interest and assigns, hereby waives its rights to file any legal challenge to the existence or use of such facility, so long as such facility is operated and maintained in substantially the same fashion as it is being operated and maintained in the year preceding recordation of this Declaration in the Public Records of Miami-Dade County, Florida, and including without limitation emergency operations following a catastrophic event, such as a hurricane, on a temporary basis that may require 24-hour operations.

11. The provisions of this Declaration may be amended, modified or released by a written instrument executed by the then owner or owners of the Property, with joinders by all mortgagees, if any; provided, however, that in the event that any portion of the Property is submitted to the condominium form of ownership, then, in such event, the condominium association responsible for such portion of the Property shall execute any such amendment, modification or release in lieu of the then owners of that portion of the Property. Should this Declaration be so modified, amended or released, and the Director of the Department of Planning or his successor, approves, then such Director or successor shall forthwith execute a written instrument in recordable form effectuating and acknowledging such amendment, modification or release. No modification, amendment or release shall be effective without the Director's, or his successor's, approval.

12. Enforcement shall be by action against any parties or persons violating or attempting to violate this Declaration. The prevailing party to any action, suit or appeal pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements, allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

13. Invalidation of any of these covenants by judgment of Court shall not affect any of the other provisions, which shall remain in full force and effect.

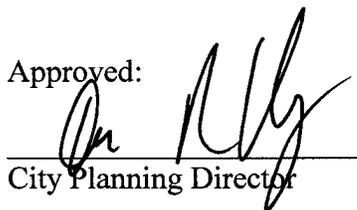
14. This Declaration shall be recorded in the Public Records of Miami-Dade County, Florida at the Owner's expense.

15. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

[the remainder of this page is intentionally left blank]



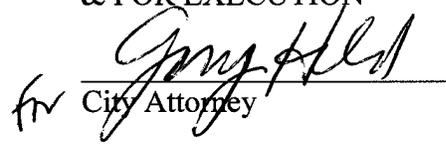
Signed, witnessed, executed and acknowledged on this 1st day of October,
2014.

Approved:


City Planning Director

10-1-2014
Date

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


for _____
City Attorney

10-1-2014
Date

[Execution Pages Follow]



IN WITNESS WHEREOF, the Owner has caused these presents to be signed in its name by its proper officials.

Witnesses:

Cher Zieg
Signature

Chana Zweig
Print Name

Rivka Greenberg
Signature

Rivka Greenberg
Print Name

Talmudic College 4000 Alton Road, Inc.
Address:
4000 Alton Road
Miami Beach, FL 33140

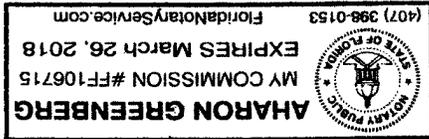
By [Signature]
Yitzchak Zweig, President

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by Yitzchak Zweig, President of Talmudic College 4000 Alton Road, Inc., on behalf of the corporation. He is personally known to me or has produced _____, as identification.

Witness my signature and official seal this 2 day of October, 2014, in the County and State aforesaid.



My Commission Expires:

Aharon Greenberg
Notary Public-State of Florida
Aharon Greenberg
Print Name



Exhibit "A"

PROPOSED TRACT "A"

A portion of Lot 52, Block 1 of NAUTILUS SUBDIVISION, according to the plat thereof as recorded in Plat Book 8 at Page 95, and a portion of Lots D and E of RE-SUBDIVISION OF LOTS 48, 49, 50 AND 51 OF BLOCK 1, NAUTILUS SUBDIVISION, according to the plat thereof, as recorded in Plat Book 35 at Page 46, both of the Public Records of Miami-Dade County, Florida, being a portion of Sections 22 and 27 in Township 53 South, Range 42 East, City of Miami Beach, Miami-Dade County, Florida, and being more particularly described as follows:

Commence at the Southeast corner of Lot 54 of said Block 1 of NAUTILUS SUBDIVISION; thence North 09°11'22" East along the Easterly line of said Block 1 and also being the Westerly Right-of-Way line of Alton Road (State Road 907) as shown on Florida Department of Transportation Right-of-Way Map, Section 87090-2402, Sheet 16 of 18, dated 12-2009, for 228.03 feet to the Point of Beginning of the hereinafter described parcel; thence North 80°48'38" West for 269.11 feet; thence North 09°11'22" East for 144.42 feet; thence North 55°48'22" East along the Southeasterly Right-of-Way line of the Julia Tuttle Causeway, also known as State Road 112 and I-195, as shown on said Florida Department of Transportation Right-of-Way Map Section 87090-2402, Sheet 16 of 18, for 24.15 feet; the following three (3) courses being along the exterior boundary of a pump station; (1) thence South 25°20'17" East for 78.82 feet; (2) thence North 67°28'20" East for 95.34 feet; (3) thence North 09°05'09" East along a line 0.10 feet Easterly and parallel with the West line of said Lot "E" for 106.04 feet; the following four (4) courses being along the Southerly Right-of-Way line of said Julia Tuttle Causeway and the Westerly Right-of-Way line of said Alton Road (State Road 907); (1) thence South 89°48'36" East for 32.92 feet to a point of curvature; (2) thence Southeasterly along a 78.80 foot radius curve leading to the right, through a central angle of 93°40'27" for an arc distance of 128.83 feet to a point of compound curvature; (3) thence Southerly along a 622.07 foot radius curve leading to the right, through a central angle of 05°19'22" for an arc distance of 57.79 feet to a point of tangency; (4) thence South 09°11'22" West for 129.15 feet to the Point of Beginning.

TOGETHER WITH

PROPOSED TRACT "B"

All of Lot 53 and a portion of Lots 52, 54 and 55, Block 1 of NAUTILUS SUBDIVISION, according to the plat thereof as recorded in Plat Book 8 at Page 95, and a portion of Lot D of RE-SUBDIVISION OF LOTS 48, 49, 50 AND 51 OF BLOCK 1, NAUTILUS SUBDIVISION, according to the plat thereof, as recorded in Plat Book 35 at Page 46 of the Public Records of Miami-Dade County, Florida, and a portion of Sections 22 and 27 in Township 53 South, Range 42 East, City of Miami Beach, Miami-Dade County, Florida, and being more particularly described as follows:

Begin at the Southeast corner of said Lot 54 of Block 1 of NAUTILUS SUBDIVISION; thence North 09°11'22" East along the Easterly line of said Lots 52, 53 and 54, also being the Westerly Right-of-Way line of Alton Road (State Road 907) as shown on the Florida Department of Transportation Right-of-Way Map Section 87090-2402 dated 12-2009, Sheet 16 of 18, for 228.03 feet; thence North 80°48'38" West for 269.11 feet; thence North 09°11'22" East for 144.42 feet; thence South 55°48'22" West along the Southeasterly Right-of-Way line of the Julia Tuttle Causeway per State Road 112/I-195 of said Florida Department of Transportation Right-of-Way Map Section No. 87090-2402, Sheet 16 of 18, for 90.82 feet; thence South 05°59'58" East for 62.09 feet; thence South 23°11'59" West for 161.81 feet; the following two (2) courses being along the Northerly boundary of Alton Road (State Road No. 25), as shown on said Florida Department of Transportation Right-of-Way Map; (1) South 54°07'39" East for 162.79 feet to a point on a circular curve; (2) thence Southeasterly along a 600.92 foot radius curve leading to the right, through a central angle of 09°57'10" for an arc distance of 104.39 feet; thence South 76°03'16" East for 72.65 feet; thence North 41°11'22" East along the existing Limited Access Right-of-Way line of the Westerly Right-of-Way line of said Alton Road (State Road 907) as shown on said Right-of-Way Map Section 87090-2402 for 48.00 feet; thence South 80°48'38" East along the Southerly line of said Lot 54 for 26.00 feet to the Point of Beginning.

Exhibit "B"

PROPOSED TRACT "A"

A portion of Lot 52, Block 1 of NAUTILUS SUBDIVISION, according to the plat thereof as recorded in Plat Book 8 at Page 95, and a portion of Lots D and E of RE-SUBDIVISION OF LOTS 48, 49, 50 AND 51 OF BLOCK 1, NAUTILUS SUBDIVISION, according to the plat thereof, as recorded in Plat Book 35 at Page 46, both of the Public Records of Miami-Dade County, Florida, being a portion of Sections 22 and 27 in Township 53 South, Range 42 East, City of Miami Beach, Miami-Dade County, Florida, and being more particularly described as follows:

Commence at the Southeast corner of Lot 54 of said Block 1 of NAUTILUS SUBDIVISION; thence North 09°11'22" East along the Easterly line of said Block 1 and also being the Westerly Right-of-Way line of Alton Road (State Road 907) as shown on Florida Department of Transportation Right-of-Way Map, Section 87090-2402, Sheet 16 of 18, dated 12-2009, for 228.03 feet to the Point of Beginning of the hereinafter described parcel; thence North 80°48'38" West for 269.11 feet; thence North 09°11'22" East for 144.42 feet; thence North 55°48'22" East along the Southeasterly Right-of-Way line of the Julia Tuttle Causeway, also known as State Road 112 and I-195, as shown on said Florida Department of Transportation Right-of-Way Map Section 87090-2402, Sheet 16 of 18, for 24.15 feet; the following three (3) courses being along the exterior boundary of a pump station; (1) thence South 25°20'17" East for 78.82 feet; (2) thence North 67°28'20" East for 95.34 feet; (3) thence North 09°05'09" East along a line 0.10 feet Easterly and parallel with the West line of said Lot "E" for 106.04 feet; the following four (4) courses being along the Southerly Right-of-Way line of said Julia Tuttle Causeway and the Westerly Right-of-Way line of said Alton Road (State Road 907); (1) thence South 89°48'36" East for 32.92 feet to a point of curvature; (2) thence Southeasterly along a 78.80 foot radius curve leading to the right, through a central angle of 93°40'27" for an arc distance of 128.83 feet to a point of compound curvature; (3) thence Southerly along a 622.07 foot radius curve leading to the right, through a central angle of 05°19'22" for an arc distance of 57.79 feet to a point of tangency; (4) thence South 09°11'22" West for 129.15 feet to the Point of Beginning.

Exhibit "C"

PROPOSED TRACT "B"

All of Lot 53 and a portion of Lots 52, 54 and 55, Block 1 of NAUTILUS SUBDIVISION, according to the plat thereof as recorded in Plat Book 8 at Page 95, and a portion of Lot D of RE-SUBDIVISION OF LOTS 48, 49, 50 AND 51 OF BLOCK 1, NAUTILUS SUBDIVISION, according to the plat thereof, as recorded in Plat Book 35 at Page 46 of the Public Records of Miami-Dade County, Florida, and a portion of Sections 22 and 27 in Township 53 South, Range 42 East, City of Miami Beach, Miami-Dade County, Florida, and being more particularly described as follows:

Begin at the Southeast corner of said Lot 54 of Block 1 of NAUTILUS SUBDIVISION; thence North 09°11'22" East along the Easterly line of said Lots 52, 53 and 54, also being the Westerly Right-of-Way line of Alton Road (State Road 907) as shown on the Florida Department of Transportation Right-of-Way Map Section 87090-2402 dated 12-2009, Sheet 16 of 18, for 228.03 feet; thence North 80°48'38" West for 269.11 feet; thence North 09°11'22" East for 144.42 feet; thence South 55°48'22" West along the Southeasterly Right-of-Way line of the Julia Tuttle Causeway per State Road 112/I-195 of said Florida Department of Transportation Right-of-Way Map Section No. 87090-2402, Sheet 16 of 18, for 90.82 feet; thence South 05°59'58" East for 62.09 feet; thence South 23°11'59" West for 161.81 feet; the following two (2) courses being along the Northerly boundary of Alton Road (State Road No. 25), as shown on said Florida Department of Transportation Right-of-Way Map; (1) South 54°07'39" East for 162.79 feet to a point on a circular curve; (2) thence Southeasterly along a 600.92 foot radius curve leading to the right, through a central angle of 09°57'10" for an arc distance of 104.39 feet; thence South 76°03'16" East for 72.65 feet; thence North 41°11'22" East along the existing Limited Access Right-of-Way line of the Westerly Right-of-Way line of said Alton Road (State Road 907) as shown on said Right-of-Way Map Section 87090-2402 for 48.00 feet; thence South 80°48'38" East along the Southerly line of said Lot 54 for 26.00 feet to the Point of Beginning.