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**VIA ELECTRONIC SUBMITTAL**

Mr. Michael Belush  
Chief of Planning and Zoning, Planning Department  
City of Miami Beach  
1700 Convention Center Drive, 2<sup>nd</sup> Floor  
Miami Beach, Florida 33139

**Re: XI LLC, a Florida LLC, as Trustee of the Haudenosaunee Trust u/t/d 12/18/2017 (a Florida Land Trust pursuant to F.S. 689.073) – 5446 North Bay Road  
File No. DRB22- 0877 - Letter of Intent for Design Review Board Application**

Dear Mr. Belush:

This shall constitute the Letter of Intent on behalf of XI LLC, a Florida LLC, as Trustee of the Haudenosaunee Trust u/t/d 12/18/2017 (a Florida Land Trust pursuant to F.S. 689.073) (the "Applicant"), in support of Application File No. DRB22-0877 (the "Application") to the Design Review Board ("DRB") for approval of an elevator bulkhead variance request pursuant to City of Code of Ordinances (the "Code") Section 142-105(b)(7)f. for the property located at 5446 North Bay Road, Miami Beach, Florida (the "Property"). The Property is an approximately +/-0.7-acre waterfront lot and is identified by Folio No. 02-3215-003-1800.

The Property is zoned RS-3 (Single-Family Residential District) and contains a +/-11,984 square foot single-family home that was approved by the DRB in 2013 pursuant to File no. 22944, recorded in Official Records Book 28547 at Page 1690 of the Public Records of Miami-Dade County, Florida, and constructed in 2014. The Applicant is seeking a variance approval of Code Section 142-105(b)(7)f. to permit an elevator bulkhead height of 13'-5" above the roofline, where 10'-0" is permitted.

As approved and constructed, the subject residence included an elevator. However, during the renovations of the home, it was determined that the elevator needed to be replaced. In order to install an elevator landing for access to the roof, the bulkhead will require a total height of 13'-5". The Applicant received bids from multiple elevator manufacturers, all of which concluded that this height was the minimum height necessary to install an elevator of appropriate quality and reliable performance to service all levels of the home. Without the variance, the elevator will not meet its intended purpose—to service an approximately 11,984 square foot residence and provide adequate accessibility to the roof of the residence. The location of the elevator within the home was previously approved, constructed, and is not changing.

Code Section 142-105(b)(7)f. requires that elevator bulkheads shall be located as close to the center of the roof as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations. As noted above, the location of the elevator is not changing with this request. Additionally, the plans submitted in connection with this application demonstrate that the proposed elevator bulkhead will not be visible from the street and the change is imperceptible from the waterfront.

This Application request satisfies Related Special Acts, Article 1, Section 2 of the Code, allowing the DRB to grant a variance if it finds that practical difficulties exist concerning implementing the proposed project at the subject property. In addition, the Application also satisfies the criteria under Code Section 118-353(d), as follows:

- (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 variance request is associated with the large size of the Property and the unique nature of the structures constructed thereon, which is commensurate with the scale and massing of neighboring properties on North Bay Road. Particularly, the design of the elevator requires additional height to accommodate the mechanical and electrical equipment necessary for the type of elevator being installed to service the residence and ensure safe and reliable rooftop accessibility. Therefore, this request is specific to this type of structure and does not apply to other structures in this zoning district.

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

This is a case of the Code not keeping pace with the current elevator technology, which, as such, creates a hardship for the homeowner. The elevator infrastructure has been permitted and constructed. However, technology for residential elevators is constantly evolving. During the renovation of the home, it was confirmed and determined that the subject variance was necessary to install the mechanical and electrical equipment required for the size and type of elevator needed to adequately serve all levels of the residence. This failure of the Code is further evidenced by the fact that a number of waterfront homes in single-family districts have been approved for similar variances for elevator bulkheads to provide adequate loading and accessibility.

- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;*

The approval of the variance will not confer any special privilege on the Applicant. As constructed, the bulkhead is located away from the street front and is visually recessive within the perimeter of the roof. The proposed elevator bulkhead will not be visible from the street and will be imperceptible from the waterfront.

The requested additional 3'-5" in height is necessary and typical for state-of-the-art multi-story residences equipped with commercial-like elevators to provide safe and reliable access to the different levels of a home of this size, including the roof. In

addition, approval of this variance request is consistent with previous approvals as well as the trend of development for waterfront homes in RS districts.

- (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 noted above, it is typical for multi-story residences to include elevators in order to provide adequate accessibility to all levels of a home. A denial of this Application would deprive the Applicant of their reasonable enjoyment of their Property and result in a significant, negative impact to the design, accessibility, and utility of the home.

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

The subject elevator bulkhead variance is for the minimum amount of additional height required to accommodate the mechanical and electrical equipment in the elevator bulkhead while ensuring that each level of the home is fully accessible for loading and passenger purposes. Approval of this variance request is not detrimental to the surrounding properties as this element is located at the most appropriate location within the home and thus its visibility has been minimized.

- (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 granting of this variance will be in harmony with the general intent and purpose of the Code, which provides height exceptions for elevator bulkheads. However, the Code provision for elevator bulkheads has not been updated over time and does not reflect current technology or the infrastructure requirements of modern home design.

The minimal increase in height that will be achieved with the approval of this variance will not be injurious to the area or otherwise detrimental to the public welfare. In accordance with Code Section 142-105(b)(7)f., the elevator bulkhead has been built as close to the center of the roof as possible, and it is visually recessive such that it is not an obvious vertical extension of the exterior building elevation.

- (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 Application request is consistent with the Comprehensive Plan and has no impact on infrastructure 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.*

The elevator is a necessary component of the single-family residence, which has been designed and constructed in accordance all applicable sea level rise and resiliency review criteria.

Further, the Application meets all applicable sea level rise and resiliency criteria set forth in City Code Section 133-50, as follows:

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

**Not applicable. The subject single-family home has been approved and constructed. With the approval of this variance request, a mere 3'-5' of height will be added to the allowable elevator bulkhead on the roof.**

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

**Not applicable.**

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

**Not applicable.**

- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

**Not applicable.**

- (5) Whether 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, including a study of land elevation and elevation of surrounding properties were considered.

**Not applicable.**

- (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.

**Not applicable.**

- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

**Satisfied. The subject elevator bulkhead will be located on the roof deck.**

- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

**Not Applicable.**

- (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) Where feasible and appropriate, water retention systems shall be provided.

**Not applicable.**

- (11) Whether cool pavement materials or porous pavement materials shall be utilized.

**Not applicable.**

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

**Satisfied, as constructed.**

The enclosed plans provide all pertinent details relating to the elevator bulkhead variance request. Overall, the marginal increase in height to accommodate the elevator bulkhead is not only adequate in relation to the site and the scale, character, and design of the home that will be relying on the elevator, but is also compatible with adjacent structures, the surrounding community, and similar previously granted variances.

Based on the foregoing, we respectfully request your favorable review and recommendation of approval of the Application. Thank you in advance for your considerate attention to these requests. If you have any questions or require additional information, please feel free to call me directly at 305-673-2585.

Respectfully submitted,

LSN Law, P.A.

A handwritten signature in blue ink, reading "Tracy Slavens". The signature is fluid and cursive, with the first name "Tracy" and last name "Slavens" clearly distinguishable.

Tracy R. Slavens, Esq.

Enclosures