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VIA ELECTRONIC & HARD COPY SUBMITTAL

September 11, 2023

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

Re: **DRB23-0952** – Design Review and Variances for the
Property Located at 4230 N. Bay Road – Lot 1, Miami Beach

Dear Mr. Belush:

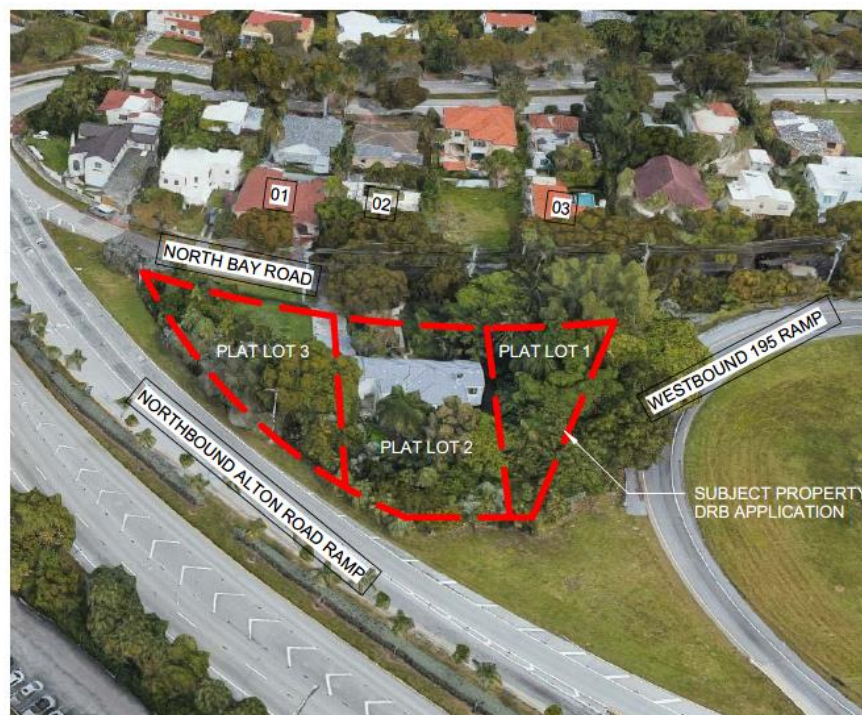
This law firm represents Ernesto and Ashley Arguello (collectively the "Applicant"), owners of the property located at 4230 N. Bay Road (the "Property") within the City of Miami Beach (the "City"). On July 25, 2023, the City's Planning Board approved the separation of the existing building site into three (3) building sites in accordance with newly created platted lot lines (the "Lot Split").¹ Please allow this letter to serve as the letter of intent in connection with a request to the Design Review Board ("DRB") for Lot 1 of the Lot Split for design review with side yard open space waivers, and the following variances:

1. To permit fifty percent (50%) unit size, when the maximum permitted is forty percent (40%) for lots created pursuant to a lot split.
2. To permit a second story front setback of thirty (30) feet, when forty (40) feet is required if the first story is setback twenty (20) feet.
3. To permit a side facing a street setback of ten (10) feet, when fifteen (15) feet is required.

¹ Application File No. PB23-0595.

4. To permit a sum of the side setbacks of twenty (20) feet, when twenty-two (22) feet is required.

Property Description. The Property is uniquely located between Alton Road on the west, North Bay Road on the east, and I-195 interchange ramp on the south. See Figure 1 below, Aerial. The Miami-Dade County Property Appraiser's Office identifies the Property with Folio No. 02-3222-011-0390. See Exhibit A, Property Appraiser Summary Report. According to the surveys prepared by Lannes and Garcia, Inc., and included in the application materials, the Property was approximately 27,146 square feet in size prior to the Lot Split, and the resulting Lot 1 is 7,769 square feet in size.



NORTHEAST AERIAL VIEW

Figure 1, Aerial

Since the Property was platted, this area of the City underwent massive changes. The platted lots were waterfront originally, but are now completely unrecognizable due to the development of I-195 and the massive extension of land to the west of the Property to include the highway and what is now Mount Sinai Hospital campus in the late 1950s and early 1960s. None of the similarly-situated lots in the subdivision remain, but instead were all subsumed by the highway development.

The Property is further made of up of just fractions of the original platted lots. The introduction of I-195 interchange ramps sliced the previously platted lots, creating a building site that consists of slivers of three (3) originally platted lots. The I-195 construction created irregular lot lines, resulting in a triangular site that tapers to the west. Now, the Property contains one (1) single-family home where the Applicant resides.

The Property is zoned RS-4, Single-Family Residential District. The Property is not located in a local or national historic district. Additionally, the Property has no abutting neighbors.

Re-Plat Review Process. Prior to filing of the Lot Split, the Applicant reviewed the proposed new plat with the Planning Department and the Public Works Department. The City confirmed that the three (3) residential lots proposed on the tentative plat ("t-plat") would meet the size, orientation, and dimension requirements of the RS-4 Single-Family Residential District. See Exhibit B, Plat Review Letter dated February 21, 2023. Accordingly, the Applicant has submitted a t-plat application to Miami-Dade County Platting Section of the Department of Regulatory and Economic Resources. The County Plat Committee has reviewed the t-plat and provided comments, which the Applicant is working to address.

Lot Split Approval. The Planning Board approved the separation of the Property into three (3) lots, consistent with the t-plat lot lines. The dimensions of the resulting lots will be consistent with the City's land development regulations, resulting in lots that will be more compatible with the properties within the surrounding area. The average lot size for the regular-shaped, dry-lots fronting North Bay Road and fronting Alton Road between West 43 Street and West 41 Street is approximately 6,123 square feet.² Approval of the Lot Split resulted in three (3) new lots that are 7,769 square feet ("Lot 1"), 13,311 square feet ("Lot 2"), and 6,066 square feet in size ("Lot 3"). Enclosed with the application materials please find individual surveys of each Lot. The lots are comparable in size to the existing neighborhood context and exceed the minimum required lot size of the RS-4, Single-Family Residential District.

With respect to this unique application, the Applicant is going to great lengths to re-plat the irregular shaped Property. Also, the Applicant is preserving the majority of the existing pre-1942 home and demolishing approximately 952 square feet of the main home and 322 square feet of the garage to ensure there are no nonconformities created.

² This analysis does not take into consideration the northern most lot, at the intersection of North Bay Road and West 43 Street because it is not accessible on the Miami-Dade County Property Appraiser's website.

The City Code has no process for the Planning Board to review and approve newly created lot lines pursuant to a new plat. Therefore, although the Property was originally three platted lots, the Lot Split did not follow the original platted lines and Section 7.2.2.3.b.xi. of the Resiliency Code (the "Code") limits the development size of the new homes from fifty percent (50%) unit size to forty percent (40%) unit size and from thirty percent (30%) lot coverage to twenty-five percent (25%) lot coverage, unless variances are sought from the DRB.

Proposed Development. The Applicant proposes to construct an elegant, Modern two-story residence with an understory (the "Project"). This infill single-family home is designed around the extreme irregular shape of the lot and brings the exterior to the interior with large windows, planters, and balconies. The overall feel of the home resembles much of the Streamline Moderne buildings throughout the City. The home, following the shape of the lot, has curved forms, use of glass, flat roof line, and horizontal railings.

The understory is accessible from a centrally located singular driveway to a parking area entirely under the home and a pedestrian path to a modest vestibule to access the upper floors. The Project includes a custom triangular pool at the understory level. The shape of the home also provides a significant amount of pervious area at the front and rear yards. Further, the Project complies with the penalty lot coverage maximum of twenty-five percent (25%). The habitable areas of the home are centrally located within the site and oriented towards the densely landscaped easement between the south property line and I-195 ramp. For additional privacy and architectural interest, portions of the facades include aluminum screens to imitate Ipe Wood.

The proposed modern design of the new home will be sensitive to the irregular shape of the lot, only abutting neighbor to the west, and considerate of sea level rise with the understory. In order to accomplish this goal, the Applicant is required to seek Variances and Waivers of the Code due to the hardship and practical difficulties created by the irregular lot lines.

Understory Request. As noted, the design of the Project includes an understory. The proposed non-airconditioned, understory area will be used for open air activities and parking, with an elevator and stairs to access the first floor located close to the center of the floor plan. The understory complies with the unit size requirements provided in the Single-Family Residential District land development regulations. This is a necessary design element to address sea level rise and resiliency.

The overall design sufficiently addresses the intent of the Code with the main massing centrally located and a variety of architectural articulations and materials, along with extensive plantings.

Waiver Request. The Applicant respectfully requests Design Review Board approval, pursuant to Code Section 7.2.2.3.b.ii.1, to waive the additional required open space of the two-story west and east side elevations located parallel to the property line exceeding fifty percent (50%) of the lot depth or sixty (60) feet. The additional required open space must be eight (8) feet in depth, open to the sky from grade, and not less than one percent (1%) of the lot area. The intent of this regulation is to break up long expanses of uninterrupted two-story volume at the required side yard setback line.

The Project provides a significant break in the west elevation. However, it does not strictly comply with the Code by approximately two (2) feet of depth. On the east elevation, the home follows the curvature of the property line, and provides large terraces. The massing of the home is centrally located on the lot and the stacking of the levels above the understory creates movement and interest. Additionally, to further the feeling of openness the break in the west elevation includes stacked glass windows, which is juxtaposed from the stucco portions of the elevation. The only abutting neighbor to the parallel volume will be the Applicant, who is supportive of the proposed massing and design. The east elevation has no abutting neighbor, and will never have an abutting neighbor due to the I-195 interchange ramp. Therefore, the intent of the Code is satisfied and the centrally located main home, with varying architectural interest in design and materials, has a minimal impact on the abutting neighbor. The result will be a more resilient home with a functional understory.

Variance Requests. The Project substantially complies with the Single-Family Residential District standards. The requested Variances are necessary to provide meaningful design for the irregular shape of the lot and pursuant to unit size that is consistent with new construction. Due to the Property's confining characteristics, the Applicant requests the following:

1. Variance pursuant to Section 7.2.2.3.b.xi. of the Code to permit fifty percent (50%) unit size, when forty percent (40%) unit size is required for lots created pursuant to a lot split approval.
2. Variance pursuant to Section 7.2.2.3.b.i. of the Code to permit a second story front setback of thirty (30) feet, when forty (40) feet is required.

3. Variance pursuant to Section 7.2.2.3.b.i. of the Code to permit a side facing a street setback of ten (10) feet, when fifteen (15) feet is required.
4. Variance pursuant to Section 7.2.2.3.b.i. of the Code to permit a sum of the side setbacks of twenty (20) feet, when twenty-two (22) feet is required.

Satisfaction of Hardship Criteria. The Variances requested satisfy the hardship criteria pursuant to Section 2.8.3.a. of the Code, 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;**

There are special conditions and circumstances that exist which are peculiar to the land, such as the subdivision of the lots by the development of I-195 and the massive extension of land to the west of the Property to include the highway and what is now Mount Sinai Hospital campus in the late 1950s and early 1960s. This subdivision is what resulted in the three (3) remaining lots and the need to seek a lot split along new lot lines. These conditions and circumstances are not applicable to any of other lands originally platted and peculiar to this Property.

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

The special circumstances, in this case, do not result from the actions of the Applicant. The Property was originally platted as three (3) waterfront lots. In the 1950s and 1960s, the Julia Tuttle Causeway was introduced and islands around Mount Sinai Hospital campus were filled in. The result of this development left the Property as portions of platted lots sandwiched between Alton Road, North Bay Road, and the I-195 entrance ramp. The Applicant has gone to great lengths to replat the Property in a compatible and sensitive manner and will allow the infill of single-family homes in the Single-Family Residential District.

- 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 sensitive development when neighbors are not impacted. The Variances ensure that the Project can be centrally located on the lot and follow the

irregular shape of the lot. The setback related Variances relate to the functionality of the site at the front before it is too narrow and introduction of a needed amenities. Additionally, although the south side setback is a side facing a street, the home is not accessible or visible from that street, as it is the I-195 entrance ramp. Therefore, it will function more as an interior side setback and complies with the interior side setback required.

These are no special privileges conferred to the Applicant, but rather necessary due to its irregular shape and location. The Code permits other similarly situated property owners to make similar requests to accommodate designs that contribute to the context of the neighborhood. Therefore, granting of the Variances in this case will 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;

A literal interpretation of the provisions of the land development regulations would deprive the Applicant rights enjoyed by other properties in the same zoning district. The requested unit size is the permitted unit size for new construction in the RS-4. The Applicant is penalized by subdividing the lot, even though the resulting lots exceed the minimum required lot size of the district. The requested setback Variances will produce an enhanced design that is consistent with the character of the neighborhood and directly related to the irregular shape of the lot. Therefore, strict compliance with the land development regulations would be 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 Variances relate to the same special conditions that prevents strict compliance with the Code and are the minimum variations of the Code that will make possible the reasonable use of the Property.

6. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

Granting of the Variances will be in harmony with the general intent and purpose of these land development regulations. The proposed modifications are intended to minimize the impact of the residents in the area and allow for a beautiful and functional home.

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 of adjustment voting on the applicant's request.

The purpose of the single family residential district is to provide development opportunities for and to enhance the desirability and quality of existing and new single family residential development. The Application is consistent with this purpose as an infill of additional single-family homes, which are compatible with the size of the surrounding single family homes. The additional single family home does not reduce the levels of service set forth in the comprehensive plan.

Practical Difficulty. The innovative design does the most possible to provide a functional and viable home. There are multiple practical difficulties that must be addressed in order to make practical use of the Property for a new single family home, such as the multiple frontages and irregular shape of the lot. The triangular shape of the lot leaves the Applicant with a confined developable area.

The Property was originally divided in such a manner that became portions of three (3) platted lots. The Lot Split provides for three (3) adequately sized lots and actually exceeds the minimum requirements of the applicable land development regulations for RS-4 zoned properties. The penalty is understandable in cases where the resulting lots do not meet the minimum required lot sizes, but in this case unfairly creates a practical difficulty that would not apply to other newly constructed homes to be built with a fifty percent (50%) unit size.

The triangular shape of the Property is a result of the creation of the I-195 expressway. The orientation of the home is away from the sole abutting neighbor and towards the heavily vegetated expressway bank. Complying with the front and side facing a street setback would result in an extremely narrow home without room for stairs, understory, and living spaces. The related setback reductions are the minimum necessary on the irregular shaped lot. Strict compliance with the land development regulations

would contradict the intent of the Code to provide resilient single-family homes that are compatible in size and orientation to the surrounding homes.

Sea Level Rise and Resiliency Criteria. The proposed project advances the sea level rise and resiliency criteria provided in Section 7.1.2.4.a of the Code as follows:

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

Not demolition is proposed. Lot 1 is currently vacant.

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

All new windows will be hurricane proof impact windows.

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

Where feasible, passive cooling systems will be provided.

(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.

Resilient, Florida-friendly landscaping will be provided.

(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 the land elevations of the subject property and surrounding properties.

(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 proposed design 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.

Critical mechanical and electrical systems for the new construction 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.

New construction will be elevated up to base floor elevation, plus Freeboard. The proposed new homes will feature beautifully designed understories.

(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.

Habitable space will be located above base flood elevation plus Freeboard.

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

Stormwater retention systems will be provided where feasible.

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

Cool pavement material and porous pavement materials will be utilized.

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

The new homes will minimize the potential for heat island effects on site with understories, ample and lush greenspace and landscaping, and opportunities for non-air conditioned living spaces.

Conclusion. Approval of the application will permit a beautiful, new single-family home. The approved Lot Split reviewed the impact of the proposed subdivision and approved the additional new home. The home will be compatible with the character of the residential neighborhood, resilient to sea level rise, and increase supply of single-family homes in the City. Additionally, the waivers and variances are the minimum requests necessary to make reasonable use of the site with a single-family home that is compatible with the homes on North Bay Road, east of Alton Road.

Based on these reasons, the Applicant respectfully requests your favorable review and recommendation of this design review application. If you have any questions or comments, please give me a call at (305) 377-6231.

Sincerely,



Michael W. Larkin

Enclosures

cc: Graham Penn, Esq.
Emily K. Balter, Esq.



EXHIBIT A

OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 4/10/2023

Property Information	
Folio:	02-3222-011-0390
Property Address:	4230 N BAY RD Miami Beach, FL 33140-2864
Owner	ERNESTO ARGUELLO ASHLEY TAYLOR ARGUELLO
Mailing Address	4230 N BAY RD MIAMI BEACH, FL 33140 USA
PA Primary Zone	0100 SINGLE FAMILY - GENERAL
Primary Land Use	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
Beds / Baths / Half	5 / 4 / 0
Floors	2
Living Units	1
Actual Area	4,696 Sq.Ft
Living Area	3,747 Sq.Ft
Adjusted Area	3,855 Sq.Ft
Lot Size	25,900 Sq.Ft
Year Built	1934



Assessment Information			
Year	2022	2021	2020
Land Value	\$2,175,600	\$1,694,248	\$2,175,600
Building Value	\$364,298	\$260,212	\$301,846
XF Value	\$0	\$0	\$0
Market Value	\$2,539,898	\$1,954,460	\$2,477,446
Assessed Value	\$2,149,906	\$1,954,460	\$1,755,127

Benefits Information				
Benefit	Type	2022	2021	2020
Save Our Homes Cap	Assessment Reduction			\$722,319
Non-Homestead Cap	Assessment Reduction	\$389,992		
Homestead	Exemption			\$25,000
Second Homestead	Exemption			\$25,000

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

Short Legal Description
NAUTILUS SUB PB 8-95
PORT LOT 43 DESC - BEG SE COR
LOT 43 WLY108FT NELY ALG CURVE AD
OF 144FT TH SLY ALG ELY/L 85FT TO
POB & LOT 44 LESS R/W & RIP RTS &

Taxable Value Information			
	2022	2021	2020
County			
Exemption Value	\$0	\$0	\$50,000
Taxable Value	\$2,149,906	\$1,954,460	\$1,705,127
School Board			
Exemption Value	\$0	\$0	\$25,000
Taxable Value	\$2,539,898	\$1,954,460	\$1,730,127
City			
Exemption Value	\$0	\$0	\$50,000
Taxable Value	\$2,149,906	\$1,954,460	\$1,705,127
Regional			
Exemption Value	\$0	\$0	\$50,000
Taxable Value	\$2,149,906	\$1,954,460	\$1,705,127

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
11/18/2022	\$525,000	33485-2203	Affiliated parties
05/18/2022	\$100	33208-2183	Corrective, tax or QCD; min consideration
10/13/2020	\$2,050,000	32156-4572	Qual by exam of deed
06/26/2017	\$730,000	30596-2363	Affiliated parties

EXHIBIT B

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

PLANNING DEPARTMENT

Tel: 305-673-7550 Fax: 305-673-7559

February 21, 2023

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Jorge Ubieta, Jr., P.S.M., Supervisor, Platting Section
Department of Regulatory and Economic Resources
Development Services Division
111 NW 1st Street 11th Floor
Miami, FL 33128-1970

Re: Tentative Plat Review for the "North Bay Road Villas" plat
4230 North Bay Road, Miami Beach
(Folio 02-3222-011-0390)

Dear Mr. Ubieta:

This letter serves as the City of Miami Beach's authorization for the Miami-Dade County review of a tentative plat application for the above-referenced plat located at 4230 North Bay Road.

The three residential lots delineated within the "North Bay Road Villas" tentative plat would all meet the size, orientation, and dimension requirements of the RS-4 single family residential zoning district.

Any tentative plat approval must be conditioned as follows:

Prior to approval of a final plat by the City of Miami Beach, the property owner shall obtain approval of a division of land and lot split from the City of Miami Beach Planning Board, pursuant to Section 118-321 of the Land Development Regulations of the City Code for the City of Miami Beach.

For additional information or clarification regarding this letter, please contact Rogelio A. Madan, AICP, Development and Resiliency Officer, at 305-673-7000 x6131 or rogelioadan@miamibeachfl.gov.

Sincerely,



Thomas R. Mooney, AICP
Planning Director