

November 5, 2023

Mr. Thomas Mooney  
Planning Director  
City of Miami Beach  
1700 Convention Center Drive, 2<sup>nd</sup> Floor  
Miami Beach, Florida 33139

Re: **Revised Letter of Intent for Design Review Approval for DRB File No: DRB23-0934 for a Multi-Family Residential Project to be Located at 1940 Bay Drive, Miami Beach, Including Waiver and Variance**

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Dear Tom:

As you know, this firm represents 1940 Apartments LLC (the “Applicant”) in an application seeking Design Review Approval for to a multi-family residential project, for the property located at 1940 Bay Drive (the “Property”). This letter serves as the Applicant’s revised letter of intent in connection with its request for design review approval, including waiver and variance, for a new multi-family residential project.

Description of the Property. The Property is located along the west side of Bay Road, just south of Normandy Drive. It is approximately 35,400 square feet in size. Currently it is occupied by a 23-unit apartment building that comprises approximately 29,213 square feet. It is identified by Miami-Dade County Folio No. 02-3210-002-1200.

The Property is located within the RM-1, Residential Multifamily Low Intensity Zoning District. Directly adjacent on the north and south of the Property are multi-unit condominium buildings, while directly across, on the east side of Bay Drive, there are two multi-unit apartment buildings.

Development Program and Requests. The Applicant is proposing to re-develop the site with a five (5) story, twelve (12) unit multi-family condominium project. Over the past year, the Applicant has worked closely with its architect and City staff to design a structure that is befitting the fabric of the neighborhood.

This modern, curvilinear design, which plays on movement, steps the structure away from the property line, softening the harsh lines of the existing structure. Each unit will be comprised of open living spaces, clean lines, and a vast amount of windows. The windows provide clarity and create an openness to the space, as well as providing incredible views of the Miami Beach skyline.



Curb appeal of the property is not only improved by the amazing architectural design, but also through the incorporation of landscaping. The proposed design increases the amount of existing landscaping along all façades of the Property. Special attention was paid along both the front and rear facades in order to create an appealing and inviting spaces. This new design incorporates ground coverage and vertical landscaping that plays throughout the building.

The new proposed design will not only enhance the appeal of the neighborhood, but it will also decrease vehicular impact on the area and the City. Currently, on the Property sits a 23-unit apartment building, with minimal on-site parking. The proposed project not only reduces the unit count to nearly half (12-units), but also provides on-site parking for all residents. In this area of Miami Beach, parking is a commodity which is not easily attained. The provision of parking for the units reduces the impacts to the adjacent properties, as well as the neighborhood as a whole.

Waiver. The Applicant respectfully requests a waiver pursuant to Code Section 142-155(e) in order to exempt 1,371 square feet of permeable pavers in the drive aisle area, from the lot coverage calculations. In the RM-1 Residential Multifamily Low Intensity Zoning District, the City of Miami Beach Code of Ordinances was expanded to include impervious parking areas and driveways in the lot coverage calculations. This is not the case in all zoning districts. The amendment of the Code results in the lot coverage, for the proposed project, exceeding the allowable percentage, despite the fact that the proposed project is less intense than the existing structure and its structure is under the allowable lot coverage. The Applicant proposes a structure that is 14,053 square feet of construction, which translates to approximately 39% lot coverage. However, the addition of the drive aisle, which is 1,371 square feet, results in a lot coverage of approximately 48%. The Code allows the Design Review Board to waive the requirement of calculation of the pervious driveway from its overall lot coverage calculations. In this instance we believe that a waiver would be appropriate. Permeable pavers laid on sand are appropriate for single-family homes and rear yards, where shifting of the pavers would happen over longer periods of time and would not pose any major impacts or safety concerns. However, due to their shifting nature, that system is not preferable where vehicular circulation will be more prevalent. Pavers on a slab are more suitable as they avoid displacement when there is a more intense use, such as daily vehicular circulation from various vehicles. Unlike the existing structure, the proposed project will house all required parking on site. That means that the 12-unit vehicles will traverse the drive aisle on a daily basis. Similarly, the residents will also walk over the area in order to access the street. For the safety of the residents, a more stable, non-shifting, system of pavers is preferred for the drive aisle. As such the Applicant requests a waiver of the calculation of the non-permeable pavers from the overall lot coverage calculations.

Variance. The Applicant requests a variance from the requirement that the total width of the entrance and exit drive aisles not exceed 22-feet. During emergencies, fire trucks are required to be a minimum of 50-feet from an entrance to a structure. Due to the setback requirements and configuration of the lot, fire trucks cannot service the property from the street. Therefore, sufficient clearance and turning radii must be provided in order to allow fire trucks access to the structure. The minimum drive aisle width which would permit safe clearance for all fire trucks is 14-feet. Therefore, the overall drive aisle access required for a fire truck to safely maneuver onto the site is 28-feet, where only 22-feet are permitted. As a result, the Applicant requests a variance of six feet from the maximum permitted 22-foot width for combined entry and exit drive aisles.

Satisfaction of Hardship Criteria. The Applicant's requests satisfy all of the hardship criteria 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;**

During an emergency, fire trucks are required to be a minimum of 50-feet from a structure entry. Due to the setback requirements and configuration of the lot, fire trucks cannot service the property from the street as the distance exceeds the permitted 50-feet. Therefore, sufficient clearance and turning radii must be provided to allow for a fire truck to safely service the structure. The minimum drive aisle width which would permit safe clearance for a fire truck to access this structure is 14-feet.

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

The turning radii for a fire truck is dependent on the size of the vehicle used by the Fire Department. Each vehicle size has a different turning radius requirement. As it is impossible to predict what may occur during an emergency the Applicant is preparing to allow access to all Fire Department vehicles. The size of fire trucks and minimum turning radii requirements do not result from any action of the part of the Applicant.

- 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 Applicant will not derive any special privilege from the approval of this variance. Granting the requested variance will enable the Applicant to develop the property and provide safety and security for its residents. The Code allows other similarly situated property owners to seek similar variances. Furthermore, the granting of the Applicant's modest request of six additional feet for the drive aisle entrance and exit does not confer any special privilege upon the Applicant and is in line with the purpose and intent of the Code.

- 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 these land development regulations would work an unnecessary and undue hardship on the Applicant. The variance requested is in order to effectuate the development of the Property while improving the conditions in the neighborhood.

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

The additional three feet for each the entry and exit drive aisles is the minimum variance that will make reasonable use of the lot. The proposed variance is modest and any less would result in a reconfiguration of the entire site, as this 14-foot width is the minimum required for fire trucks to safely access the structure during an emergency.

- 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**

This variance will not be injurious to the area or otherwise detrimental to the public welfare. On the contrary, the granting of this variance will ensure the general welfare of the residents of the building by providing clearance to fire trucks accessing the structure. This request is consistent with the purpose and intent of the Code and promotes the public welfare.

- 7. The granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan. The planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board voting on the applicant's request.**

The variance requested is consistent with the City's Comprehensive Plan and does not reduce the levels of service as set forth in the plan. Instead, this variance ensures the level 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 granting of this variance will result in a structure that complies with the sea level rise criteria, as more fully referenced below.

Sea Level Rise and Resiliency Criteria. The proposed development will also make for a more resilient property. This 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.**

**CONSISTENT** – 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.**

**CONSISTENT** - All new proposed windows will be hurricane rated.

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

**CONSISTENT** - Passive cooling is incorporated into the design. Refer to the plans.

**(4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 4 of the Land Development Regulations.**

**CONSISTENT** – The proposed landscaping includes native and Florida-friendly species, which have been previously approved throughout the City.

**(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.**

**CONSISTENT** – All habitable spaces will be above minimum freeboard (BFE + 1 Ft).

**(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.**

**CONSISTENT** – An increase in the roadways may be accommodated.

**(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.**

**CONSISTENT** – Proper precautions will be taken to ensure the any critical mechanical and electrical systems are located above base flood elevation.

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

This requirement is inapplicable.

- (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.**

This requirement is inapplicable.

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

**CONSISTENT** – The Applicant will take reasonable measures for water retention on the site.

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

**CONSISTENT** - The Applicant has taken reasonable measures to ensure the proposed paving is consistent with this requirement. Refer to the landscape plan for a complete list of all paving materials.

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

**CONSISTENT** – The proposed design plays on movement and incorporates materials, which reduce the heat footprint of the structure. It also incorporates landscaping, which improves the heat factor and increases air-flow.

Conclusion. The Applicant's proposal is consistent with the character of the neighborhood, as well as the intent of the Code. This Property will greatly benefit from the proposed Project as will the surrounding neighborhood. The project will help improve vehicle circulation and alleviate the parking deficit in the area. We respectfully request your recommendation of approval of the Applicant's requests.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,  
MHE LAW PA



Monika H. Entin

CC: Michael Belush,  
Planning and Design Officer

Giselle Deschamps,  
Principal Planner