MIAMI BEACH

PLANNING DEPARTMENT. 1700 CONVENTION CENTER DRIVE, 2[№] FLOOR MIAMI BEACH, FLORIDA 33139, WWW.MIAMIBEACHFL.GOV 305-673-7550

LAND USE BOARD HEARING APPLICATION

THE FOLLOWING APPLICATION IS SUBMITTED FOR REVIEW AND CONSIDERATION OF THE PROJECT DESCRIBED HEREIN BY THE LAND USE BOARD SELECTED BELOW. A SEPARATE APPLICATION MUST BE COMPLETED FOR EACH BOARD REVIEWING THE PROPOSED PROJECT.

BOARD OF ADJUSTMENT

, ,

- □ VARIANCE FROM A PROVISION OF THE LAND DEVELOPMENT REGULATIONS
- APPEAL OF AN ADMINISTRATIVE DECISION
- DESIGN REVIEW BOARD
 - DESIGN REVIEW APPROVAL
 - □ VARIANCE RELATED TO PROJECT BEING CONSIDERED OR APPROVED BY DRB.

X HISTORIC PRESERVATION BOARD

- CERTIFICATE OF APPROPRIATENESS FOR DESIGN
- CERTIFICATE OF APPROPRIATENESS TO DEMOLISH A STRUCTURE
- HISTORIC DISTRICT / SITE DESIGNATION
- X VARIANCE RELATED TO PROJECT BEING CONSIDERED OR APPROVED BY HPB.

PLANNING BOARD

- CONDITIONAL USE PERMIT
- LOT SPLIT APPROVAL
- AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS OR ZONING MAP

AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP

ELOOD PLAIN MANAGEMENT BOARD

FLOOD PLAIN WAIVER

OTHER

SUBJECT PROPERTY ADDRESS: 1024 Lenox Avenue, Unit 7

LEGAL DESCRIPTION: PLEASE ATTACH LEGAL DESCRIPTION AS "EXHIBIT A"

FOLIO NUMBER (S) 02-4203-204-0070

1. APPLICANT: X OWNER OF THE SUBJECT PROPERTY] TENANT 🔲 ARCHITECT 🔲 LANDSCAPE ARCHITECT				
NAME Rene Hagen					
ADDRESS 1024 Lenox Avenue, Unit 7, Miami B					
BUSINESS PHONE (305) 775-7546	CELL PHONE				
E-MAIL ADDRESS <u>rene@renehagen.com</u>					
OWNER IF DIFFERENT THAN APPLICANT:					
NAME					
ADDRESS					
BUSINESS PHONE	CELL PHONE				
E-MAIL ADDRESS					
an a	Non (Ma				
2. AUTHORIZED REPRESENTATIVE(S):					
ATTORNEY:					
NAME Michael W. Larkin & Matthew Amster, Be	ercow Radell & Fernandez PLLC				
ADDRESS 200 S. Biscayne Blvd, Suite 850, Miar	mi El 33130				
E-MAIL ADDRESS mlarkin@brzoninglaw.com& ma	CELL PHONE				
AGENT:					
NAME					
ADDRESS					
BUSINESS PHONE	CELL PHONE				
E-mail address					
C CONTACT:					
NAME					
NAMEADDRESS					
BUSINESS PHONE					
E-MAIL ADDRESS					
3. PARTY RESPONSIBLE FOR PROJECT DESIGN:					
	GINEER CONTRACTOR COTHER:				
NAME					
ADDRESS					
BUSINESS PHONE	CELL PHONE				
E- MAIL ADDRESS					
	FILE NO				
	THE INC.				

2

4. SUMMARY OF APPLICATION - PROVIDE BRIEF SCOPE OF PROJECT:

Rear setback variance for installation of outdoor in-ground lap pool.

See letter of intent for more details.

4A. IS THERE AN EXISTING BUILDING(S) ON THE SITE	X YES	L) NO
4B. DOES THE PROJECT INCLUDE INTERIOR OR EXTERIOR DEMOLITION	XYES	□ NO
4C. PROVIDE THE TOTAL FLOOR AREA OF THE NEW BUILDING (IF APPLICABL	E)	SQ. FT.
4D. PROVIDE THE TOTAL GROSS FLOOR AREA OF THE NEW BUILDING (INCLU	DING REQUIRED P	ARKING AND ALL

5. APPLICATION FEE (TO BE COMPLETED BY PLANNING STAFF) \$_____

- A SEPARATE DISCLOSURE OF INTEREST FORM MUST BE SUBMITTED WITH THIS APPLICATION IF THE APPLICANT OR OWNER IS A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR TRUSTEE.
- ALL APPLICABLE AFFIDAVITS MUST BE COMPLETED AND THE PROPERTY OWNER MUST COMPLETE AND SIGN THE "POWER OF ATTORNEY" PORTION OF THE AFFIDAVIT IF THEY WILL NOT BE PRESENT AT THE HEARING, OR IF OTHER PERSONS ARE SPEAKING ON THEIR BEHALF.
- TO REQUEST THIS MATERIAL IN ALTERNATE FORMAT, SIGN LANGUAGE INTERPRETER (FIVE-DAY NOTICE IS REQUIRED), INFORMATION ON ACCESS FOR PERSONS WITH DISABILITIES, AND ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDINGS, CALL 305.604.2489 AND SELECT (1) FOR ENGLISH OR (2) FOR SPANISH, THEN OPTION 6; TTY USERS MAY CALL VIA 711 (FLORIDA RELAY SERVICE).

PLEASE READ THE FOLLOWING AND ACKNOWLEDGE BELOW:

- APPLICATIONS FOR ANY BOARD HEARING(S) WILL NOT BE ACCEPTED WITHOUT PAYMENT OF THE REQUIRED FEE. ALL CHECKS ARE TO BE MADE PAYABLE TO THE "CITY OF MIAMI BEACH".
- PUBLIC RECORDS NOTICE ALL DOCUMENTATION, SUBMITTED FOR THIS APPLICATION IS CONSIDERED A PUBLIC RECORD SUBJECT TO CHAPTER 119 OF THE FLORIDA STATUTES AND SHALL BE DISCLOSED UPON REQUEST.
- IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 2-482 OF THE CODE OF THE CITY OF MIAMI BEACH, ANY INDIVIDUAL OR GROUP THAT WILL BE COMPENSATED TO SPEAK OR REFRAIN FROM SPEAKING IN FAVOR OR AGAINST A PROJECT BEING PRESENTED BEFORE ANY OF THE CITY'S LAND USE BOARDS, SHALL FULLY DISCLOSE, PRIOR TO THE PUBLIC HEARING, THAT THEY HAVE BEEN, OR WILL BE COMPENSATED. SUCH PARTIES INCLUDE: ARCHITECTS, LANDSCAPE ARCHITECTS, ENGINEERS, CONTRACTORS, OR OTHER PERSONS RESPONSIBLE FOR PROJECT DESIGN, AS WELL AS AUTHORIZED REPRESENTATIVES ATTORNEYS OR AGENTS AND CONTACT PERSONS WHO ARE REPRESENTING OR APPEARING ON BEHALF OF A THIRD PARTY; SUCH INDIVIDUALS MUST REGISTER WITH THE CITY CLERK PRIOR TO THE HEARING.

3

FILE NO.___

IN ACCORDANCE WITH SEC.118-31. - DISCLOSURE REQUIREMENT. EACH PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION FROM THE PLANNING BOARD, DESIGN REVIEW BOARD, HISTORIC PRESERVATION BOARD (INCLUDING THE JOINT DESIGN REVIEW BOARD/HISTORIC PRESERVATION BOARD), OR THE BOARD OF ADJUSTMENT SHALL DISCLOSE, AT THE COMMENCEMENT (OR CONTINUANCE) OF THE PUBLIC HEARING(S), ANY CONSIDERATION PROVIDED OR COMMITTED, DIRECTLY OR ON ITS BEHALF, FOR AN AGREEMENT TO SUPPORT OR WITHHOLD OBJECTION TO THE REQUESTED APPROVAL, RELIEF OR ACTION, EXCLUDING FROM THIS REQUIREMENT CONSIDERATION FOR LEGAL OR DESIGN PROFESSIONAL SERVICES RENDERED OR TO BE RENDERED. THE DISCLOSURE SHALL: (I) BE IN WRITING. (II) INDICATE TO WHOM THE CONSIDERATION HAS BEEN PROVIDED OR COMMITTED, (III) GENERALLY DESCRIBE THE NATURE OF THE CONSIDERATION, AND (IV) BE READ INTO THE RECORD BY THE REQUESTING PERSON OR ENTITY PRIOR TO SUBMISSION TO THE SECRETARY/CLERK OF THE RESPECTIVE BOARD. UPON DETERMINATION BY THE APPLICABLE BOARD THAT THE FOREGOING DISCLOSURE REQUIREMENT WAS NOT TIMELY SATISFIED BY THE PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION AS PROVIDED ABOVE, THEN (I) THE APPLICATION OR ORDER, AS APPLICABLE, SHALL IMMEDIATELY BE DEEMED NULL AND VOID WITHOUT FURTHER FORCE OR EFFECT, AND (II) NO APPLICATION FROM SAID PERSON OR ENTITY FOR THE SUBJECT PROPERTY SHALL BE REVIEWED OR CONSIDERED BY THE APPLICABLE BOARD(S) UNTIL EXPIRATION OF A PERIOD OF ONE YEAR AFTER THE NULLIFICATION OF THE APPLICATION OR ORDER. IT SHALL BE UNLAWFUL TO EMPLOY ANY DEVICE, SCHEME OR ARTIFICE TO CIRCUMVENT THE DISCLOSURE REQUIREMENTS OF THIS SECTION AND SUCH CIRCUMVENTION SHALL BE DEEMED A VIOLATION OF THE DISCLOSURE REQUIREMENTS OF THIS SECTION.

WHEN THE APPLICABLE BOARD REACHES A DECISION A FINAL ORDER WILL BE ISSUED STATING THE BOARD'S DECISION AND ANY CONDITIONS IMPOSED THEREIN. THE FINAL ORDER WILL BE RECORDED WITH THE MIAMI-DADE CLERK OF COURTS. THE ORIGINAL BOARD ORDER SHALL REMAIN ON FILE WITH THE CITY OF MIAMI BEACH PLANNING DEPARTMENT. UNDER NO CIRCUMSTANCES WILL A BUILDING PERMIT BE ISSUED BY THE CITY OF MIAMI BEACH WITHOUT A COPY OF THE RECORDED FINAL ORDER BEING INCLUDED AND MADE A PART OF THE PLANS SUBMITTED FOR A BUILDING PERMIT.

THE AFOREMENTIONED IS ACKNOWLEDGED BY:	X OWNER OF THE SUBJECT PROPERTY
	AUTHORIZED REPRESENTATIVE
SIGNATURE: KUU	
PRINT NAME: Rene Hagen	

FILE NO.

4

OWNER AFFIDAVIT FOR INDIVIDUAL OWNER

STATE OF Florida COUNTY OF Miami-Dade

Rene Hagen 1.

, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for removing this notice after the date of the hearing. 1/10

Sworn to and subscribed before me acknowledged before me by _	HAGEN . who has produce	016. The fore	SIGNATURE going instrument was lentification and/or is
NOTARY SEAL OR STAMP	ALEJANDRA ROMERO Notary Public - State of Florida Commission # FF 24 <u>2568</u> My Comm. Expires Jun 21, 2019	C.A.	NOTABY PUBLIC
My Commission Expires: 06/21/3	Bonded through National Notary Assn.	Rene H	

ALTERNATE OWNER AFFIDAVIT FOR CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY (Circle one)

STATE OF

COUNTY OF

N/A 1. ___. being duly sworn, depose and certify as follows: (1) I am the_ (print title)of (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner or tenant of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (7) I am responsible for removing this notice after the date of the hearing.

					SIGNATURE
Sworn to and subscribed before me this	day of	of	,20	The	foregoing instrument was acknowledged before me by
as identification and/or is personally known to	o me and who	did/did no	take an	oath.	, on behalf of such entity, who has produced
NOTARY SEAL OR STAMP:					
					NOTARY PUBLIC
My Commission Expires:					
					PRINT NAME
					FILE NO.

5

POWER OF ATTORNEY AFFIDAVIT

STATE OF Florida COUNTY OF Miami-Dade

Pono Hagon

disclosure of interest.

being duly sworn and deposed, ce	rtify as follows: (1) I am the owner or
representative of the owner of the real property that is the sub-	ject of this application (2) I harden
authorize Matthew Amster, Bercow Radell & Fernandez to be my representative before	the HP Board (3) Lalco boroby
authorize the City of Miami Beach to enter the subject property for th	a colo purposo of apolicity Multi
Public Hearing on the property, as required by law. (4) I am responsible t	a sole purpose of posting a Notice of
the hearing.	or removing this notice after the date of
	11/100
Rene Hagen	(VINO)
PRINT NAME (and Title, if applicable)	CONTRACT INC.
	SIGNATURE
Sworn to and subscribed before me this 29 day of FESCULT, 2016. The to by RENE HAGEN of	
by Q S N F HAGEN	regoing instrument was acknowledged before me
identification and/or in nersearch la second la littli la second	who has produced as
identification and/or is personally known to me and who did/did not take an oath.	
	1 ml -
NOTARY SEAL OR STAMP	
Notary Public - State of Florida	NOTARY PUBLIC
] [.(; △)] Commission # FF 242568	No Hall TOBEIO
My Comm. Expires Jun 21, 2019	
My Commission Expires 06/21/20 Bonded through National Notary Assn.	Rene Hagen
	PRINT NAME

CONTRACT FOR PURCHASE

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries, or partners. If any of the contract purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.*

N/A	
NAME	DATE OF CONTRACT
NAME, ADDRESS, AND OFFICE	% OF STOCK
In the event of any changes of ownership or changes in contr this application is filed, but prior to the date of a final public	acts for purchase, subsequent to the date that hearing, the applicant shall file a supplementa

6

FILE NO.

CITY OF MIAMI BEACH DEVELOPMENT REVIEW BOARD APPLICATION

DISCLOSURE OF INTEREST

1. CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY

. . . .

۰.,

If the property that is the subject of the application is owned or leased by a corporation, partnership, or limited liability company, list ALL of the owners, shareholders, partners, managers, and/or members, and the percentage of ownership held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

N/A	
NAME OF CORPORATE ENTITY	
NAME AND ADDRESS	% OF OWNERSHIP
NAME OF CORPORATE ENTITY	
NAME AND ADDRESS	% OF OWNERSHIP
N/A	

IF THERE ARE ADDITIONAL CORPORATE OWNERS, LIST ALL SUCH OWNERS, INCLUNG CORPORATE NAMES AND THE NAME, ADDRESS, AND PERCENTAGE OF OWNERSHIP OF EACH ADDITIONAL OWNER, ON A SEPARATE PAGE.

NOTE: Notarized signature required on page 9

7

FILE NO.

CITY OF MIAMI BEACH DEVELOPMENT REVIEW BOARD APPLICATION DISCLOSURE OF INTEREST

2. TRUSTEE

· .

If the property that is the subject of this application is owned or leased by a trust, list any and all trustees and beneficiaries of the trust, and the percentage of interest held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

TRUST NAME

NAME AND ADDRESS

% INTEREST

N/A

NOTE: Notarized signature required on page 9

3. COMPENSATED LOBBYIST:

Pursuant to Section 2-482 of the Miami Beach City Code, all lobbyists shall, before engaging in any lobbying activities, register with the City Clerk. Please list below any and all persons or entities retained by the applicant to lobby City staff or any of the City's land development boards in support of this application.

	NAME	ADDRESS	PHONE #
a. b. c.	Matthew Amster Michael W. Larkin	200 <u>S. Biscayne Blvd, Suite</u> 850 200 S. Biscayne Blvd, Suite 850	<u>(305) 374-5300</u> (305) 374-5300

Additional names can be placed on a separate page attached to this form.

*Disclosure shall not be required of any entity, the equity interests in which are regularly traded on an established securities market in the United States or other country, or of any entity, the ownership interests of which are held in a limited partnership or other entity, consisting of more than 5,000 separate interests, where no one person or entity holds more than a total of 5% of the ownership interests in the entity.

APPLICANT HEREBY ACKNOWLEDGES AND AGREES THAT (1) ANY APPROVAL GRANTED BY A LAND DEVELOPMENT BOARD OF THE CITY SHALL BE SUBJECT TO ANY AND ALL CONDITIONS IMPOSED BY SUCH BOARD AND BY ANY OTHER BOARD HAVING JURISDICTION, AND (2) APPLICANT'S PROJECT SHALL COMPLY WITH THE CODE OF THE CITY OF MIAMI BEACH AND ALL OTHER APPLICABLE CITY, STATE, AND FEDERAL LAWS.

APPLICANT AFFIDAVIT

STATE OF Florida

COUNTY OF Miami-Dade

I. <u>Rene Hagen</u>, being first duly sworn, depose and certify as follows: (1) I am the applicant, or the representative of the applicant. (2) This application and all information submitted in support of this application, including disclosures, sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief.

Sworn to and subscribed before me this 29 day of February , 20 16 acknowledged before me by, who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP



My Commission Expires: 06/21/2019.

NOTARY PUBLIC

ALEJANORA ROMERO

PRINT NAME

SIGNATURE

9

FILE NO._

EXHIBIT "A"

Condominium Unit No. 7, Lenox Villas Condominium, according to the Declaration of Condominium thereof, as recorded in Official Records Book 16880, at Page 4182, of the Public Records of Miami-Dade, Florida.

a/k/a

Lots 4 & 5, Block 124, Lenox Manor Subdivision, According to the Plat Thereof, as Recorded in Plat Book 7, Page 81, of the Public Records of Miami-Dade County, Florida.



DIRECT LINE: (305) 377-6236 E-Mail: MAmster@BRZoningLaw.com

VIA HAND-DELIVERY

March 17, 2016

Debbie Tackett, Preservation & Design Manager Planning Department City of Miami Beach 1700 Convention Center Drive, 2nd Floor Miami Beach, Florida 33139

Re: Letter of Intent in Support of a Variance Request for the Property located at <u>1024 Lenox Avenue, Unit No. 7, Miami Beach, Florida</u>

Dear Debbie:

This law firm represents Rene Hagen (the "Applicant") with regard to his application seeking approval of the installation of a lap pool at the above-referenced property (the "Property"). Please let the following serve as a letter of intent in connection with a variance request for the project.

Description of Property. The Applicant owns one of five units located in a 4story noncontributing townhome building that is located at the rear of a site also containing a contributing single-family home and a duplex residence. The Property is zoned RM-1 Residential Multifamily, Low Intensity and is located within the Flamingo Park Local Historic District as well as the National Miami Beach Architectural District. Adjacent to the Property are multifamily buildings to the north and south, and to the west, a multifamily building and a Walgreens store within the CD-2, Commercial Medium Intensity zoning district. The Property and the adjoining RM-1 zoning district are not separated from the adjacent CD-2 zoning district by an alleyway or right-ofway. However, there is a 6' decorative wall along the rear property line that separates the townhomes from all abutting properties.

<u>Description of Development Program</u>. The Applicant proposes to replace the above-ground spa in the rear yard with an in-ground, $7'-6'' \times 14'$ lap pool. The inground lap pool will be not be visible from any public right-of-way as it is in the rear yard of the noncontributing townhome and concealed by the existing 6' perimeter wall.

All mechanical equipment for the lap pool will be located inside the ground level garage area of the Applicant's unit. The Applicant will also replace the existing bamboo with equally tall and dense trees that will continue to screen the entire rear yard from view from the surrounding area. Given the lack of impacts on historic structures or public view corridors, City Staff has confirmed that HPB review of a Certificate of Appropriateness will not be required.

<u>Description of Variance Request</u>. The Applicant is requesting the following variance:

1) Waiver of 3'-7" of the required setback to permit installation of an inground lap pool with a rear setback of 3'-11" where 7'-6" is required pursuant to Section 142-1132(j) of the Miami Beach Code of Ordinances (the "Code").

Satisfaction of Hardship Critería. The Applicant's request satisfies all 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;

There exist three separate and detached structures located on the overall Property. The townhome building was constructed in close proximity to the rear property line in order to provide maximum space between the two historic structures at the front of the Property. A more intense zoning district exists immediately adjacent to the rear of the Property, with enclosed structures and parking areas located on the opposite side of the decorative wall along the property line.

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

The townhome was constructed with minimal rear yard space in order preserve the historic structures at the front. This results in small rear yards for the owners of the townhomes, specifically only $16' \times 20.6'$ for the Applicant, and therefore greatly restricts reasonable use of the rear yards for permitted accessory structures, such as the lap pool. The Applicant played no part in the development of the Property that resulted in the restricted rear yard space.

(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 related variances to accommodate both preservation of historic structures and the addition of new components.

(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 City approved construction of the multifamily townhome building with a limited rear setback. Not granting variances of limited scope would deny the unit owners proper use and enjoyment of their rear yards. Nevertheless, Planning Staff has supported the granting of similar rear setback variances to other unit owners given the practical difficulty presented by the Property's layout and design. <u>See</u> HPB File No. 7553 (variance reducing required rear setback for a fence structure).

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

This request is the minimum variance necessary to allow installation of a small, inground lap pool within the existing rear yard. Given the modest distance the townhome building is setback from the rear property line, it is not possible to locate the lap pool in the rear yard with the required 7.5' setback and maintain safe walking distance around the access from the Applicant's unit. An above-ground jacuzzi hot tub already exists in a similar location in the Applicant's yard and the Applicant will remove it, therefore, the Applicant is not intensifying any outdoor accessory uses beyond current conditions.

(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 Debbie Tackett, Preservation & Design Manager March 17, 2016 Page 4 of 4

This variance will not be injurious to the area or otherwise detrimental to the public welfare. The existing 6' decorative wall along the rear and north property line serves to visually screen any activity and mitigate noise created in the rear yard. Further, the existing 30' tall bamboo trees in the Applicant's rear yard will be replaced by another dense and tall species that will provide a better landscape barrier.

(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 anytime prior to the board of adjustment voting on the applicant's request.

This variance request is consistent with the City's comprehensive plan and does not reduce the levels of service as set forth in the plan.

<u>Conclusion.</u> The granting of the requested variance will be in harmony with the intent and purpose of the Code, will not be injurious to the area involved, or otherwise detrimental to the public welfare. We respectfully request your recommendation of approval of the Applicant's request. If you have any questions or comments with regard to the application, please give me a call at (305) 377-6236.

Sincerely,

Matthew Amster

cc: Mr. Rene Hagen Mr. Michael Belush