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VIA DIGITAL SUBMITTAL

December 10, 2023

Debbie Tackett, Chief of Historic Preservation
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: **HPB23-0601** – Fence Variance Application
at 251 Washington Avenue, Miami Beach

Dear Ms. Tackett:

This firm represents 251 Washington, LLC (the "Applicant"), the owner of the property located at 251 Washington Avenue (the "Property") in the City of Miami Beach ("City"). Please allow this letter to serve as the Letter of Intent supporting a request to the Historic Preservation Board ("HPB") for a variance to permit two (2) feet of additional fence height relating to a new private school at the Property.

Property Description. The Property is currently an undeveloped, vacant lot located on the east side of the Washington Avenue, and south of 3rd Street. The Miami-Dade County Property Appraiser identifies the Property with Folio No. 02-4203-003-1090. See Exhibit A, Property Appraiser Summary Report. The total lot area is approximately 13,000 square feet (0.29 acres) in size, and surrounded by a variety of uses. The Property is zoned "Medium-High Density Residential Performance Standard" District ("R-PS3"), and is also located within the Ocean Beach Local Historic District.

Prior Approvals. In 2019, the HPB approved an after the fact Certificate of Appropriateness for demolition of the structures previously located on the

Property. See File No. HPB19-0336. The same day, the HPB approved a Certificate of Appropriateness for the construction of a temporary structure to be used as a private school and variances to reduce the required school setbacks. See File No. HPB19-0316. The proposed setbacks were consistent with the setbacks of non-education facility related uses. Due to building standards, the temporary nature of the approved structure was not feasible.

On July 12, 2022, the HPB approved a Certificate of Appropriateness for the construction of a new educational facility on the Property, along with variances from the minimum required interior side yard setbacks for an educational facility use. See File No. HPB22-0513. Most recently, on March 14, 2023, the HPB granted two additional rear and side setback variances related to the placement of building, fire and domestic water backflow preventers and an FPL transformer and associated concrete pad. See File No. HPB22-0557.

Project Description. The four-story permanent structure is a continuation of the school located at 224 2nd Street for elementary and middle school grades (the "Project"). All parking will be under the structure and accessible from separate ingress and egress from Collins Court. The lower level of the building provides parking and bicycle racks. The first floor contains the main lobby, administration offices, flex space, kitchen, and access to the exterior raised play area. The play area is elevated over the parking level. The second level has classrooms and a projecting balcony fronting Washington Avenue. The third level has additional classrooms and additional outdoor space. The top floor will have another projecting balcony fronting Washington Avenue and cafeteria space, and the rooftop will be accessible for additional plantings and mechanical equipment.

The new structure will be centrally located within the Property. The structure will be setback five (5) feet from Washington Avenue, and seven and a half (7.5) feet from the interior side setbacks. The Project also complies with the City Code permitted height of fifty (50) feet, at fifty (50) feet NGVD with the finished floor at thirteen (13) feet NGVD. The height of all allowable projections, unless otherwise specified, cannot exceed twenty-five (25) feet above the height of the roofline of the main structure. In this case, the mechanical equipment, elevator and stair bulkheads, and restrooms are within twenty-five (25) feet above the height of the roofline of the main structure, and therefore, the design of the rooftop is consistent with the Code.

Fence Variance. Based on the proposed use, safety of the students and protection of the Property is the Applicant's upmost priority. Similar to every other school in the City, security measures must be taken. This includes fencing the perimeter. Installation

of the fence will provide both privacy and security. It is meant to deter criminal activity and act as a barrier preventing unauthorized access.

The design of the fence compliments the approved architecture of the new school. The proposed height of seven (7) feet aligns architecturally with the underside of the main level. It is an anodized aluminum picket fence. Swing gates are located on the north and south side yards and match the height of the fence. Additionally, the fence does not occur along the entire front Property line. The design includes a planter for a significant portion of the front setback area, which will enhance the pedestrian experience and breakup the continuation of the fence at the property line.

Installing a fence around the Property is necessary to provide security. A fence can deter criminals from targeting the school, making it less likely for them to attempt a break-in. Pursuant to Section 7.5.3 of the Resiliency Code, Supplementary Yard Regulations, for government facilities in GU and CCC districts, which would include schools, a fence surrounding the property may be located on the property line, is permitted to be six (6) feet in height, as measured from grade. In the North Beach Private and Public School Overlay District, for example, the maximum permitted fence height is eight (8) feet.

The Applicant's proposal substantially complies with the applicable land development regulations. The variance requested is necessary for the use of the Property as a private school to regulate access and ensure safety to the students. Therefore, the Applicant is requesting a Variance of Resiliency Code Section 7.5.3.2.h., to permit a seven (7) front and rear fence and gates, when facing a street, fences, walls and gates cannot exceed five (5) feet, as measured from grade.

Satisfaction of Hardship Criteria. The Applicant's variance request satisfies the hardship criteria pursuant to Section 2.8.3 of the Resiliency 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 and use, and application of land development regulations. The Property is comprised of two (2) separately platted lots, each fifty (50) feet in width. The Property also has frontage on Washington Avenue and Collins Court with abutting structures on both sides. The surrounding uses include residential, hotel, police satellite offices, park, and the

Applicant's existing school. These are peculiar circumstances that are not applicable to other lands proposing an educational facility use.

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 Applicant chose to invest and use this idle, vacant property as a location for a private school because of its location south of Fifth Street in close proximity to residences, businesses, and City-owned parks. The special conditions and circumstances which are peculiar to the land are not a result of the Applicant. Rather, the Applicant is taking every measure possible to address the intent of the Resiliency Code and develop a state-of-the-art new school in a walkable environment.

The intent of the Code is to protect residential neighborhoods from large places of public assembly and provide ample space for the loading customarily associated with large places of assembly. This is true for this Property that has sat idle for almost sixteen years. A new school will beautify Washington Avenue, adding to the variety of uses, that are more family and residential friendly, than other commercial interests. Safety and security is necessary for a school.

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;

Schools are a necessary public service that are conditionally permitted in the R-PS3 District. The Code allows other similarly situated property owners to seek similar variances to accommodate development. The requested variance will not confer any special privilege because in other zoning districts where schools are permitted six (6) to eight (8) foot tall fences. A fence less than seven (7) feet is not appropriate for a school. It is easily breached and will not deter unauthorized entries or protection of students.

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 this particular Applicant rights enjoyed by other properties in the same zoning

district to develop private schools, and would result in an unnecessary and undue hardship. Specifically, strict application of the required fence height would put the safety of the children and teachers at risk.

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

A seven (7) foot fence and gates are the minimum necessary to make possible the reasonable use of the Property with a school. An amble-bodied, average height person can easily breach a five (5) foot fence or gate. It will be impossible to monitor and prevent access to the site at all times with only a five (5) foot fence. Additionally, it does not occur for the entire length of the front property line. The design includes a planter in the front setback that will soften the building, provide some access prevention, and minimizes the length of the fence to the minimum length necessary. Other zoning districts in the City have recognized that a five (5) foot fence is deficient for a school. In the North Beach Private and Public School Overlay District, for example, the maximum permitted fence height is eight (8) feet.

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. It will allow a neighborhood-serving and compatible use. The requested variance will not be injurious to the area involved or detrimental to the public welfare, but rather will serve a need in this community for families with young children.

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 requested variance is consistent with the City's Comprehensive Plan, which permits the conditional uses specifically authorized in the land use category R-PS3, such as schools. Additionally, the Project will not reduce the levels of service as set forth in the plan.

Practical Difficulty. In addition to the satisfaction of the hardship criteria provided above, complying with the strictness of the Resiliency Code also a practical difficulty. Compliance is an extreme practical difficulty in that there is no other mechanism to secure the school property. Specially, the lower fence and gate will not deter intruders. The additional two (2) feet is the minimum necessary to allow the Applicant to provide a safe environment for children.

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

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

A recycling or salvage plan for demolition, if any, will be provided at permit.

(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, including ground floor, driveways, and garage ramping will be adaptable to the raising of public rights-of-ways and adjacent land, and will provide sufficient height and space to ensure that entry ways and exits can be modified.

(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 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.

Where feasible, new construction will be elevated up to base floor elevation, plus Freeboard. The Applicant is proposing the finish floor at thirteen (13) feet NGVD with the full five (5) feet of freeboard.

(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 Project design will minimize the potential for heat island effects on site with ample and lush greenspace and landscaping, and opportunities for non-air conditioned educational spaces.

Conclusion. Approval of the requested variance will permit a better use of the Property for future generations of Miami Beach residents, by ensuring that the Project includes all necessary safety without comprising the innovative design. The Project has inspiration from the Ocean Beach Local Historic District and the proposed fence will follow the same pattern of the existing school at 224 2nd Street,

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

Sincerely,



Michael W. Larkin

Enclosures

cc: John Marshall
Emily K. Balter, Esq.



EXHIBIT A OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On: 11/19/2023

PROPERTY INFORMATION	
Folio	02-4203-003-1090
Property Address	251 WASHINGTON AVE MIAMI BEACH, FL 33139-7115
Owner	251 WASHINGTON LLC
Mailing Address	PO BOX 191038 MIAMI BEACH, FL 33119
Primary Zone	3003 MULTI-FAMILY
Primary Land Use	1081 VACANT LAND - COMMERCIAL : VACANT LAND
Beds / Baths /Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	13,000 Sq.Ft
Year Built	0



ASSESSMENT INFORMATION			
Year	2023	2022	2021
Land Value	\$7,150,000	\$2,603,125	\$2,603,125
Building Value	\$0	\$0	\$0
Extra Feature Value	\$0	\$0	\$0
Market Value	\$7,150,000	\$2,603,125	\$2,603,125
Assessed Value	\$5,726,874	\$2,603,125	\$2,603,125

BENEFITS INFORMATION				
Benefit	Type	2023	2022	2021
Non-Homestead Cap	Assessment Reduction	\$1,423,126		

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

SHORT LEGAL DESCRIPTION
OCEAN BEACH FLA SUB PB 2-38
LOTS 14 & 15 BLK 8
PER UNITY OF TITLE OR 33378-2931
LOT SIZE 13000 SQFT M/L

TAXABLE VALUE INFORMATION			
Year	2023	2022	2021
COUNTY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$5,726,874	\$2,603,125	\$2,603,125
SCHOOL BOARD			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$7,150,000	\$2,603,125	\$2,603,125
CITY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$5,726,874	\$2,603,125	\$2,603,125
REGIONAL			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$5,726,874	\$2,603,125	\$2,603,125

SALES INFORMATION			
Previous Sale	Price	OR Book-Page	Qualification Description
06/12/2019	\$6,125,000	31483-2015	Qual on DOS, multi-parcel sale
03/04/2015	\$8,250,000	29526-2117	Non-market financing or assumption of lease
02/28/2014	\$3,950,000	29055-4929	Qual on DOS, multi-parcel sale
11/01/2004	\$925,000	22848-3487	Sales which are qualified

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