



200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131
www.brzoninglaw.com

305.377.6231 office
305.377.6222 fax

VIA CSS

January 5, 2025

Rogelio Madan,
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

RE: **DRB24-1074** - Letter of Intent for Modification of Design Review Approval for the Property Located at 3900-4000 Alton Road, Miami Beach, Florida

Dear Mr. Madan:

This law firm represents 3900 Alton Road Owner LLC (the "Applicant") with respect to the property located at 3900 Alton Road identified by Miami-Dade County Folio No. 02-3222-011-0432 (the "Property") within the City of Miami Beach (the "City"). This letter serves as the required letter of intent for an application to modify the design review approvals of associated with the Property to include a variance from the required front setback to allow development of a fence at the same height of the existing fence located at the adjacent property.

Property and Existing Use Description. The Property is part of unified development site uniquely located between the Alton Road ramp to the I-195 Julie Tuttle Causeway and Alton Road, south of 41st Street and the Julie Tuttle Causeway. The unified development site consists of three parcels: (1) 4000 Alton Road, which is further identified Miami-Dade County Folio No. 02-3222-011-0430 (the "Talmudic Parcel") and (2) the property identified by Miami-Dade County Folio No. 02-3222-011-0432 ("Multi-Family Parcel").



Figure 1, Aerial

The Multi-Family and the Talmudic Parcel currently comprise a unified development site pursuant to a Declaration of Restrictive Covenants in Lieu of Unity of Title, recorded in Official Record Book 29338, Page 3635 of the Public Records of Miami-Dade County (the "CIL"). The Talmudic Parcel is developed with the Talmudic University. The Multi-Family Parcel is currently being developed with a 178-unit multi-family building approved under DRB File No. DRB21-0664. The Property (Multi-Family Parcel) is approximately 99,425 square feet (2.28 acres) in size. The Talmudic Parcel is 49,092 square feet (1.12 acres) size.

Relevant Prior DRB Approvals. Please find a summary of development approvals for the Property available through Miami-Dade County's Official Records search:

- DRB File No. 17-0166 – On October 3, 2017, the DRB approved the replacement of an existing fence and installation of a new fence along portions of the property and a variance to exceed the maximum allowed height for a fence within required yards. See Exhibit A, DRB 17-0166 (the "Approved Variance").
- DRB File No. 21-0664 – On December 17, 2021, the DRB approved of a new 9-story multi-family building. See Exhibit B, DRB21-0664. The building has been substantially constructed in accordance with Building Permit No. BC2219887.

Request. The Applicant seeks to modify the existing fence at the Talmudic Parcel and construct new fence within the Multi-Family Parcel at the same height as the existing fence, which was developed with a variance from the maximum allowed height for fences within required yards. Achieving the desired fence height along the property line requires a variance from the required front setback of 20 feet applicable to the building pedestal. The maximum height of fences/gates pursuant to Section 7.5.3.2(h)(1)(A) is five (5) feet, as measured from grade. The existing fence was developed pursuant to the Approved Variance, which allowed the fence to exceed the maximum allowed height by 3'-11", up to 8'-11" (12.73' NGVD as measured from grade of 3.83').

The Applicant intends to provide vehicular access to and from Alton Road at the northeast corner of the Property, as well as access between the Talmudic Parcel and the Multi-Family Parcel. In addition, the Applicant intends to provide a fenced dog park amenity at the southeastern corner of the Multi-Family Parcel. For the security of the Talmudic University Campus and the new multi-family building, the owners within the unified development site require fences and access gates of adequate height. The existing grade at the midpoint of the sidewalk is 3.83' NGVD, while the grade elevation within the Property is 5.50' NGVD. Thus, without a variance, the maximum fence height would only be 3.33' from the lot elevation of the Property.

The Applicant seeks to match the existing fence elevation of 12.73' NGVD, to allow a fence and gate up to approximately 8'-6" in height, as measured from grade. The requested setback variance would be limited to development of the proposed fences and gates. The proposed fences and gates are limited to the northeast corner of the Property at the shared access driveway between the Multi-Family Parcel and Talmudic Parcel, and the dog park amenity at the southeast corner of the Multi-Family Parcel. The requested variance allows the fences and gates to be approximately 7' tall within the Property, providing adequate security to the Talmudic College and Multi-Family Parcel.

The Property is an irregular shape and uniquely situated between two heavily traversed segments of Alton Road. The Applicant requires an adequate fence and gate to buffer the Property from the adjacent thoroughfares and must reconfigure the existing fence separating the Talmudic Parcel from the Multi-Family Parcel in connection with the new driveways for the multi-family building.

Variance Analysis. The project complies with the codified hardship criteria under 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.**

The Property is irregularly shaped unified development site located between two heavily utilized segments of Alton Road and containing numerous existing structures. The Property's irregular shape, unique location, and existing structures constitute special conditions and circumstances peculiar to the land involved, not applicable to other properties in the same zoning district.

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

The Property's shape, location, and existing structures do not result from any action 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**

Granting the variance will not confer any special privilege that is denied by the land development regulations to other lands, buildings, or structures in the same zoning district. Indeed, the existing fence at the Talmudic Parcel was developed in accordance with the Approved Variance, which is the exact same variance as requested in this application.

- 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;**

Literal interpretation of the setback requirements as applied to fences and gates would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district and would work an unnecessary and undue hardship upon the Applicant. Specifically, denial of the requested variance from the required minimum front setback to allow construction of a fence at a height of 8'-6" would deprive the Applicant of a fence that

provides adequate security, and which is the exact same height as the existing fence located at the adjacent Talmudic Parcel.

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

The requested variances are minor in scope as it merely allows visual continuity between the existing fence at the Talmudic Parcel and the proposed fence at the Multi-Family Parcel, while ensuring adequate security for both parcels.

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

The granting of the variance is consistent with the general intent and purpose of the land development regulations and would not be injurious to the area involved.

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; and

The granting of the variance is consistent with the comprehensive plan and does not impact levels of service.

8. The granting of the variance will result in a structure that complies with the sea level rise and resiliency review criteria in Chapter 7, Article 1, as applicable.

The granting of the variance results in a structure that complies with the sea level rise and resiliency criteria, as the requested variance improves the transition between the grade elevation adjacent to the Property and the elevation of the lot.

Design Review Criteria. The proposed fence is consistent with the City's design review criteria codified in Section 2.5.3.1 of the City's Resiliency Code. Below is each relevant criterion and the application's consistency with all of the standards.

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.**

The proposed fences respond to the existing grade elevation surrounding the property, as well as the surface elevation of the lot necessary to achieve compliance with flood plain standards. In addition, the proposed fence responds to the unique location and shape of the Property at the fork of Alton Road, as well as the existing fence developed at the Talmudic Parcel.

- b. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.**

The application does not impact the previously approved drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signed or lighting and screening devices. The proposed fence enhances the proposed ingress and egress routes to and from the property by providing for additional security and safety.

- c. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.**

The submitted plans comply with this criteria.

- d. The color, design, selection of landscape materials and architectural elements of exterior building surfaces and primary public interior areas for developments requiring a building permit in areas of the city identified in section 2.5.3.2.**

The Applicant has selected high quality materials and finishes for the project. The design proposed aluminum fencing set in concrete foundation. The fence will be painted white to match the parking garage screening.

- e. The proposed site plan, and the location, appearance and design of new and existing buildings and structures are in conformity with the standards of this article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and historic preservation board and all pertinent master plans.**

The proposed design complies with the requirements of the City Resiliency Code.

- f. The proposed structure, or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties.**

The proposed fence is sensitive and compatible with the surrounding built environment, as the proposed fence is exactly the same height as the existing fence at the Talmudic Parcel.

- g. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.**

The proposed fence complies with this criteria, as it contributes to safety and crime prevention.

- h. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safety and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site.**

The project complies with this criteria.

- i. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.**

This criterion is inapplicable to this application.

- j. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.**

This criterion is inapplicable to this application.

- k. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.**

This criterion is inapplicable to this application.

- l. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).**

This criterion is inapplicable to this application.

- m. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.**

This criterion is inapplicable to this application.

- n. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.**

This criterion is inapplicable to this application.

- o. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).**

This criterion is inapplicable to this application.

- p. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.**

The proposed fence is transparent and compatible with the pedestrian realm.

- q. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties**

This criterion is inapplicable to this application.

- r. In addition to the foregoing criteria, section 104-6 (t) the General Ordinances shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.**

This criterion is inapplicable to this application.

- s. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.**

See below analysis.

Cost Estimate. The estimated cost of the project is \$50,000.00

Sea Level Rise and Resiliency Criteria. The proposed 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.**

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.**

Hurricane proof impact windows are proposed for the entirety of 3900 Alton.

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

The Applicant proposes to include operable windows where appropriate. In addition, the abundant landscaping and permeable materials contribute to passive cooling, which represents a significant improvement from the existing paved surface parking lot.

- (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.**

The Applicant has worked with a landscape architect to provide landscaping that is appropriate for the Property, with plant species that are native, salt-tolerant, and Florida-friendly. The proposed plantings are appropriate for the area and specifically selected to increase flood resilience and improve stormwater drainage on the Property.

- (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.

3900 Alton features no residentially habitable space below base flood elevation. Indeed, 3900 Alton provides an elevated lobby provides all residential units between levels 2 through 8, which are all significantly elevated.

(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.

Exterior improvements on the Property along Alton Road will take into consideration the raising of the public right-of-way and the proposed design details will be coordinated with the City.

(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.

Proper precautions will be taken to ensure the 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.

It is not reasonably feasible to elevate the existing buildings.

(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.

Proper precautions will be taken to protect the Property from potential floods. There are no habitable spaces proposed below base flood elevation plus City Freeboard.

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

3900 Alton will retain all stormwater on site, and utilize abundant Florida-friendly and drought tolerant landscaping to augment water retention and drainage.

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

Cool and/or porous pavement material will be utilized where appropriate.

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

The Applicant proposes cool pavement, a light-colored roof, and extensive landscaping that will minimize the heat island effect.

Conclusion. We respectfully request your favorable review and recommendation with respect to this application. review. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Michael W. Larkin

Enclosures:

Nicholas Rodriguez, Esq.

**DESIGN REVIEW BOARD
City of Miami Beach, Florida**

MEETING DATE: October 03, 2017

FILE NO: DRB17-0166

PROPERTY: **4000 Alton Road: Talmudic University School Fence**

APPLICANT: M-4000 Alton Owner, LLC and Talmudic Coll 4000 Alton Rd, Inc.

LEGAL: See Attachment "A"

IN RE: The Application for Design Review Approval for the replacement of the existing fence and installation of a new fence along portions of the perimeter of the property including a variance to exceed the maximum allowed height for a fence within required yards.

ORDER

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 2, 3, and 5 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 5, and 10 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met
 - 1. Revised elevation, site plan and floor plan drawings for the proposed fencing at 4000 Alton Road shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The final finished color of the fence shall be limited to natural aluminum or silver or grey.



- b. Final details of all fencing shall be required, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- c. The proposed 'curly' detailing at the top of the fence shall be removed and substituted with a standard picket detail, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- d. No 'points' or 'spearheads' shall be permitted on top of the vertical pickets.
- e. Any new exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff.
- f. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- g. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

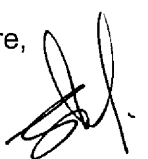
In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

I. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 - 1. A variance to exceed by 3'-11" the maximum allowed height of 5'-0" for a fence located adjacent to the front property line in order to construct a fence and gates up to 8'-11" (12.73' NGVD) in height measured from grade of 3.83' NGVD facing a street.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, as it relates to Variances II.A.1A and II.A1B allowing the granting of the variances if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, as it relates to the variances as noted above:

That 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;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

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

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That 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.

- C. The Board hereby **Approves** the Variance request(s), and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.



- D. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Talmudic University property located at 4100 Alton Road", as prepared by **Cesar I. Castillo, P. E.** dated, signed, and sealed August 4, 2017, and as approved by the Design Review Board, as determined by staff.

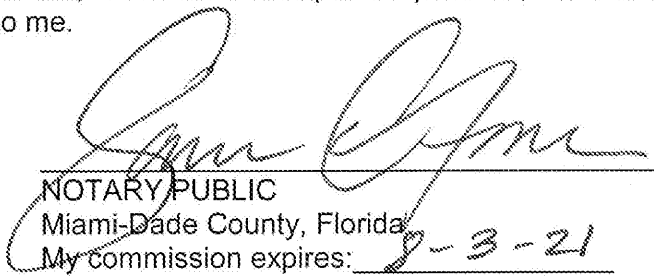
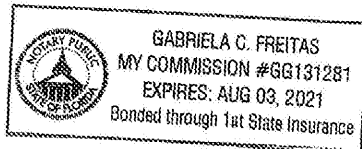
When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.


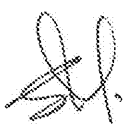
If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.



Dated this 06 day of October, 2017.DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDABY: JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIRSTATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)The foregoing instrument was acknowledged before me this 6 day of October, 2017 by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 8-3-21

Approved As To Form:

City Attorney's Office:  (10/6/17)Filed with the Clerk of the Design Review Board on Jason G. Murphy 10/6/17)

Attachment A:**Full Legal Description for 4000 Alton Road:**

NAUTILUS SUB PB 8-95
LOTS 52-53-54 LESS R/W BLK 1 &
LOT E PER PB 35-46
& PORT OF LOT 55 BLK 1 DESC AS
BEG 26FTW IN SE COR OF LOT 54
BLK 1 CONT N 80 DEG W 149.93FT
SELY AD 62.62FT S 76 DEG E
72.65FT N 41 DEG E 48FT TO POB &
COMM SE COR OF LOT 54 BLK 1 TH
N 80 DEG W 175.93FT NWLY AD
41.77FT N 54 DEG W 34.06FT FOR
POB CONT N 54 DEG W 128.73FT N
23 DEG E 161.81FT N 05 DEG W
62.09FT N 55 DEG E 45.03FT S 05
DEG E 146.08FT S 00 DEG W
101.19FT S 04 DEG W 64.92FT TO
POB & COMM SE COR OF LOT 54
BLK 1 TH N 80 DEG W 175.93FT
NWLY AD 41.77FT N 54 DEG W
34.06FT N 04 DEG E 64.92FT N 00
DEG E 101.19FT N 05 DEG W
103.61FT FOR POB TH N 05 DEG W
42.47FT N 55 DEG E 69.95FT S 25
DEG E 78.82FT N 67 DEG E 95.22FT
S 09 DEG W 74.16FT N 80 DEG W
165.54FT TO POB & LESS BEG SE
COR OF LOT 54 TH N 09 DEG E
228.03FT N 80 DEG W 269.11FT N
09 DEG E 144.42FT S 55 DEG W
90.82FT S 05 DEG E 62.09FT S 23
DEG W 161.81FT S 54 DEG E
162.79FT SELY AD 104.39FT S 76
DEG E 72.65FT N 41 DEG E 48FT
S 80 DEG E 26FT TO POB
LOT SIZE 49085 SQ FT M/L



Full Legal Description for 3900 Alton Road:**OVERALL PARCEL - SOUTH SITE:**

All of Lot 53 and a portion of Lots 52, 54 and 55, Block 1 of NAUTILUS SUBDIVISION, according to the Plat thereof as recorded in Plat Book 8 at Page 95, and a portion of Lot D of RE-SUBDIVISION OF LOTS 48, 49, 50 AND 51 OF BLOCK 1, NAUTILUS SUBDIVISION, according to the Plat thereof as recorded in Plat Book 35 at Page 46 of the Public Records of Miami - Dade County, Florida, and a portion of Sections 22 and 27 in Township 53 South, Range 42 East, City of Miami Beach, Miami-Dade County, Florida, and being more particularly described as follows:

Begin at the Southeast corner of said Lot 54 of Block 1 of NAUTILUS SUBDIVISION; thence North 09° 11' 22" East along the Easterly line of said Lots 52, 53 and 54, also being the Westerly Right-of-Way line of Alton Road (State Road 907) as shown on the Florida Department of Transportation Right-of-Way Map Section 87090-2402 dated 12-2009, Sheet 16 of 18, for 228.03 feet; thence North 80° 48' 38" West for 269.11 feet; thence North 09° 11' 22" East for 144.42 feet; thence South 55° 48' 22" West along the Southeasterly Right-of-Way line of the Julia Tuttle Causeway per State Road 112/1-195 of said Florida Department of Transportation Right-of-Way Map Section No. 87090-2402, Sheet 16 of 18, for 90.82 feet; thence South 05° 59' 58" East for 62.09 feet; thence South 23° 11' 59" West for 161.81 feet; the following two (2) courses being along the Northerly boundary of Alton Road (State Road No. 25), as shown on said Florida Department of Transportation Right-of-Way Map; (1) South 54° 07' 39" East for 162.79 feet to a point on a circular curve; (2) thence Southeasterly along a 600.92 foot radius curve leading to the right, through a central angle of 09° 57' 10" for an arc distance of 104.39 feet; thence South 76° 03' 15" East for 72.65 feet; thence North 41° 11' 22" East along the existing Limited Access Right-of-Way line of the Westerly Right-of-Way line of said Alton Road (State Road 907) as shown on said Right-of-Way Map Section 87090-2402 for 48.00 feet; thence South 80° 48' 38" East along the Southerly line of said Lot 54 for 26.00 feet to the Point of Beginning.

F:\PLAN\DRB\DRB17\10-03-2017\OCT17 Final Orders\DRB17-0166 4000 Alton Rd.OCT17.FO.docx

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: December 17, 2021

PROPERTY/FOLIO: **3900-4000 Alton Road**
4000 Alton Road 02-3222-011-0430
3900 Alton Road 02-3222-011-0432

FILE NO: DRB21-0664

IN RE: An application for Design Review Approval for the construction of a new
9-story multifamily building on the vacant portion of the site.

LEGAL: See "Exhibit A"

APPLICANTS: M 4000 Alton Owner, LLC

ORDER

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review


- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 9 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is consistent with the Sea Level Rise Criteria 1, 10, 11 and 12 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 - 1. Revised elevation, site plan, and floor plan drawings for the new residential building at 3900-4000 Alton Road shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed URBAN HEAT ISLAND ORDINANCE Sec. 130-69. - Commercial and noncommercial parking lots. 3) Open - air parking lots, open to the sky, shall be constructed with (i) a high albedo surface


DS

- consisting of a durable material or sealant in order to minimize the urban heat island effect, or ii) porous pavement. The provisions of this paragraph shall apply to all parking areas, and all drive lanes and ramps.
- b. The proposed driveway that is within the required front yard and that runs parallel with the front property line shall be approved as proposed and shall not exceed a width of 22'-0".
 - c. The loading area shall be approved as proposed, fully enclosed within the garage structure.
 - d. The final details, color and finish of the metal railings shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. All glazing shall consist of a uniform color, subject to the review and approval of staff.
 - f. The final color, finish and design details of the textured stucco proposed for the stair towers shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - g. The final color and finish and design details of the white "metal fins" screening proposed for the garage levels shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - h. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - i. Any proposed outward-facing decorative illumination of the building above the amenity deck level shall be turned off by 11PM nightly.
 - j. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
 - k. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
 - l. A dedicated right-turn lane shall be required on the westbound approach at the intersection of Alton Rd East and Alton Road West, located at the south east corner of the site, as indicated in the Traffic Study provided by the applicant, in a manner to be reviewed and approved by staff.

DS
1/18

2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 126-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
 - a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
 - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
 - c. Any tree identified to be in good overall condition shall be retained and protected in their current location if they are not in conflict with the proposed construction, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
 - d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials in a manner that disturbs existing trees to be retained on-site shall be prohibited.
 - e. All stormwater runoff shall be retained within private property and any proposed on-site stormwater system must hold a 10-year, 24-hour rainfall event with an intensity of 8.75 inches of rainfall.
 - f. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
 - g. Any existing plant material within the public right-of-way may be required to be removed, at the discretion of the Public Works Department.
 - h. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain.

OS


- Right-of-way areas shall also be incorporated as part of the irrigation system.
- i. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
 - j. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventers and all other related devices and fixtures. The location of backflow preventers, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
 - k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right-of-way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
 - l. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.
3. The applicant may be required to submit a separate analysis for water and sewer requirements, at the discretion of the Public Works Director, or designee. Based on a preliminary review of the proposed project, the following may be required by the Public Works Department:
- a. A Declaration of Restrictive Covenants shall be required for the proposed basketball court over the utility easement with the 36" water main, or the easement shall be modified to permit the proposed basketball court, prior to the issuance of a TCO.
 - b. Remove/replace sidewalks, curbs and gutters on all street frontages, if applicable. Unless otherwise specified, the standard color for city sidewalks is red, and the standard curb and gutter color is gray.
 - c. Provide underground utility service connections and on-site transformer location, if necessary.
 - d. Provide back-flow prevention devices on all water services.
 - e. Provide on-site, self-contained storm water drainage for the proposed development.

DS


- f. Provide a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.
- g. Payment of City utility impact fees for water meters/services.
- h. Provide flood barrier ramps to underground parking or minimum slab elevation to be at highest adjacent crown road elevation plus 8".
- i. Right-of-way permit must be obtained from Public Works.
- j. All right-of-way encroachments must be removed.
- k. All planting/landscaping in the public right-of-way must be approved by the Public Works and Parks Departments.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A.** No variance(s) were filed as part of this application.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
- B. This approval is subject to the formal conveyance from the Florida Department of Transportation (FDOT) to the Applicant concerning the adjacent portion of the Property ('FDOT Parcel'), determined by FDOT as surplus land and presently in the process of being transferred to the Applicant. No building permit for the proposed project shall be issued until after the conveyance of the FDOT parcel to the Applicant as confirmed by an opinion of title in a form to be reviewed and approved by staff and the City Attorney's Office.
- C. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a

DS


Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

- D. As proffered voluntarily by the Applicant, and as accepted by the Board, the Applicant shall record, in a form acceptable to the City Attorney, a covenant prohibiting the rental of any unit on the Property on a short-term basis (i.e. for a period of time shorter than 6 months and one day).
- E. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- F. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- G. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- J. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "3900 Alton Road – DRB Re-Submittal File No. 21-0664", by **Arquitectonica**, dated, signed, and



sealed November 8, 2021, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated 2/25/2022 | 3:09 PM EST.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:

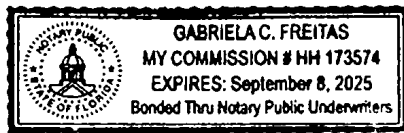


BY: DEC3EGF2EB68404...
Michael Belush, AICP
Chief of Planning and Zoning
For Chairman

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 25th day of February 2022 by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

DS

{NOTARIAL SEAL}

Notary:

Print Name *Gabriela C. Freitas*

Notary Public, State of Florida

My Commission Expires: *Sept. 8, 2025*

Commission Number: *HH173574*

DocuSigned by:

Approved As To Form:

City Attorney's Office:

[Signature]
8D8CB88CCAB8460

(2/25/2022 | 2:56 PM EST)

Filed with the Clerk of the

Design Review Board on

Jessica Gonzalez
10FC3F3E9D654A5

(3/1/2022 | 12:32 PM EST)

DS
[Signature]

"Exhibit A"

LEGAL DESCRIPTION:

ALL OF LOT 53 AND A PORTION OF LOTS 52, 54 AND 55, BLOCK 1 OF NAUTILUS SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 8 AT PAGE 95, AND A PORTION OF LOT D OF RE-SUBDIVISION OF LOTS 48, 49, 50 AND 51 OF BLOCK 1, NAUTILUS SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 35 AT PAGE 46 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND A PORTION OF SECTIONS 22 AND 27 IN TOWNSHIP 53 SOUTH, RANGE 42 EAST, CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID LOT 54 OF BLOCK 1 OF NAUTILUS SUBDIVISION; THENCE NORTH 09 DEGREES 11 MINUTES 22 SECONDS EAST, ALONG THE EASTERLY LINE OF SAID LOTS 52, 53 AND 54, ALSO BEING THE WESTERLY RIGHT-OF-WAY LINE OF ALTON ROAD (STATE ROAD 907) AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 87090-2402 DATED 12-2009, SHEET 16 OF 18, FOR 228.03 FEET; THENCE NORTH 80 DEGREES 48 MINUTES 38 SECONDS WEST FOR 269.11 FEET; THENCE NORTH 09 DEGREES 11 MINUTES 22 SECONDS EAST FOR 144.42 FEET; THENCE SOUTH 55 DEGREES 48 MINUTES 22 SECONDS WEST, ALONG THE SOUTHEASTERLY, LIMITED ACCESS, RIGHT-OF-WAY LINE OF THE JULIA TUTTLE CAUSEWAY AS SHOWN ON STATE ROAD 112/I-195 OF SAID FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION NO. 87090-2402, SHEET 16 OF 18, FOR 301.90 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE NORTHEAST AND WHOSE RADIUS POINT BEARS NORTH 42 DEGREES 50 MINUTES 30 SECONDS EAST FROM THE RADIUS POINT OF THE FOLLOWING DESCRIBED CIRCULAR CURVE; THENCE SOUTHEASTERLY ALONG A 768.51 FOOT RADIUS, CURVE LEADING TO THE LEFT THROUGH A CENTRAL ANGLE OF 06 DEGREES 58 MINUTES 09 SECONDS FOR AN ARC DISTANCE OF 93.48 FEET TO A POINT OF TANGENCY (SAID POINT BEING COINCIDENT WITH STATE ROAD NO. 907, STATION 17+34.46, AS SHOWN ON SAID FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 87090-2402, SHEET 16 OF 18); THENCE SOUTH 54 DEGREES 07 MINUTES 39 SECONDS EAST FOR 218.45 FEET TO A POINT OF CURVATURE (SAID POINT BEING COINCIDENT WITH STATE ROAD NO. 907, STATION 15+16.00 AS SHOWN ON SAID FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 87090-2402, SHEET 16 OF 18); THENCE SOUTHEASTERLY ALONG A 600.92 FOOT RADIUS CURVE LEADING TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 09 DEGREES 57 MINUTES 10 SECONDS FOR AN ARC DISTANCE OF 104.39 FEET (LAST MENTIONED THREE COURSES BEING COINCIDENT WITH THE NORTHERLY LIMITED ACCESS RIGHT OF WAY LINE OF ALTON ROAD (STATE ROAD NO. 25), AS SHOWN ON SAID FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP); THENCE SOUTH 76 DEGREES 03 MINUTES 16 SECONDS EAST FOR 72.65 FEET; THENCE NORTH 41 DEGREES 11 MINUTES 22 SECONDS EAST, ALONG THE WESTERLY LIMITED ACCESS RIGHT-OF-WAY LINE OF ALTON ROAD (STATE ROAD 907) AS SHOWN ON SAID RIGHT-OF-WAY MAP SECTION 87090-2402, FOR 48.00 FEET; THENCE SOUTH 80 DEGREES 48 MINUTES 38 SECONDS EAST, ALONG THE SOUTHERLY LINE OF SAID LOT 54, FOR 26.00 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THAT CERTAIN NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS AS DEFINED IN ARTICLE 1(C), A TEMPORARY NON-EXCLUSIVE EASEMENT FOR M-400 PHASE I CONSTRUCTION EASEMENT AS DEFINED IN ARTICLE 3(A), A NON-EXCLUSIVE EASEMENT FOR THE PURPOSES OF STORMWATER DRAINAGE AS DEFINED IN ARTICLE 6(B) AND A TEMPORARY NONEXCLUSIVE M-4000 CRANE SWING EASEMENT AS DEFINED IN ARTICLE 7(B) OF THAT CERTAIN EASEMENT AND OPERATING AGREEMENT EXECUTED BY AND BETWEEN TALMUDIC COLLEGE 4000 ALTON ROAD, INC. AND M-4000 ALTON OWNER, LLC, DATED OCTOBER 3, 2014 AND RECORDED OCTOBER 6, 2014 IN OFFICIAL RECORDS BOOK 29338, PAGE 3650, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

AND TOGETHER WITH ANY AND ALL RIGHTS IN AND TO THOSE CERTAIN COVENANTS, CONDITIONS AND LIMITATIONS CONTAINED IN THAT CERTAIN DECLARATION OF RESTRICTIVE COVENANTS IN LIEU OF UNITY OF TITLE DATED OCTOBER 1, 2014, RECORDED OCTOBER 6, 2014 AT OFFICIAL RECORDS BOOK 29338, PAGE 3635, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; BUT ONLY TO THE EXTENT THEY ARE DETERMINED TO BE INTERESTS IN REAL PROPERTY.

LANDS SHOWN HEREON CONTAINING 99,240 SQUARE FEET, OR 2.278 ACRES, MORE OR LESS.

LYING AND BEING IN SECTION 22 AND 27, TOWNSHIP 53 SOUTH, RANGE 42 EAST, MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.