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VIA ELECTRONIC MAIL

October 11, 2023

Michael Belush, Planning & Design Officer
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

RE: **Letter of Intent** – DRB23-0958 – Modification of DRB File No. 22964 – Request for Two Non-Use Variances for Minor Addition at the Property Located at 428 S. Hibiscus

Dear Mr. Belush:

This law firm represents CASA ALAIA LLC (the "Applicant"), the owner of the property located at 428 South Hibiscus Drive (the "Property") in the City of Miami Beach (the "City"). The Applicant proposes to renovate and add a small amount of livable area to the center of the second-floor of the existing single-family home on the Property, as modification to DRB File No. 22964 approved by the Design Review Board (the "DRB") on May 7, 2013. Please allow this letter to serve as the letter of intent in connection with a request for two (2) Non-Use Variances from the unit size and lot coverage requirements.

Property Description. The Property is located in the Miami-Dade County Property Appraiser's Office identifies the Property with Folio No. 02-3232-006-0220. See Exhibit A, Property Appraiser Report. The Property is an irregular wedge-shaped waterfront lot, comprised of approximately 19,933 square feet to the centerline of the seawall. The Property contains an existing two-story, single-family home built in 2016. Located on Hibiscus Island in the RS-3, Single Family Residential Zoning District, the Property is surrounded with similar single-family homes. This residential area consists of two-story homes with pools, large yards, lush landscaping, and mature trees.

Prior Approval. As noted, on May 7, 2013, the DRB approved the replacement of the pre-1942 two-story home on the Property with a new two-story single-family home. See Exhibit B, DRB Order. Under the Code of the City (the "City Code") in effect at that time, the DRB granted a unit size no greater than 56.5% of the lot area, subject to the review and approval of staff. Through building permit the City approved a unit size of 56.4%; 10,947 sq. ft., which importantly, was less than the maximum 10,998 sq. ft. staff had the authority to approve. We note this was based on a lot size of 19,466 sq. ft. that may not have accounted for the entire area to the centerline of the seawall.

The Project. The Applicant's family is growing and they propose to renovate an existing study at the center of the rear of the second floor into a bedroom with a full bathroom and enclose the attached balcony facing the waterway. This includes the construction a modest addition of 128 square feet of living space on the second floor to create a workable room. Notably, the existing balcony railing in this area will remain and there will not be any change to the sides or roof of the home. The addition simply fills in this narrow center area on the second floor and won't be viewable in any way from the street or by either adjacent neighbor. As for the view from the water, due to the narrowness of the area to be enclosed and screening by existing landscaping, the additional will barely be perceptible from the waterway.

The Applicant has specifically chosen to renovate the existing home to make it work for their growing family rather than demolish this relatively new home and start from scratch. The small scale of the proposed renovation, which has no negative impact on anyone, makes a very large difference to meet the family's needs.

Variance Requests. The requested Variances, which are necessary to effectuate the minor renovation, are as follows:

1. A Variance to exceed the approved Maximum Lot Coverage approved for this Property of 31.4% (6,262 sq. ft.) of the lot area by 0.36% (72 sq. ft) for a total lot coverage of 31.8% (6,334 sq. ft.)
2. A Variance to exceed the Maximum Unit Size approved for this Property of 54.5% (10,864 sq. ft.) of lot coverage by 0.64 % (128 sq. ft) for a total unit size of 55.1% (10,992 sq. ft.) lot coverage.

The Variances requested satisfy the hardship criteria pursuant to Section 118-353(d) of the City 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;

By deed, the Applicant owns 20 feet beyond the platted lot, some of which is dry land up to the seawall. This dry land to the centerline of the seawall should be counted based on this ownership towards lot size. However, it appears that the Prior Approval did not include all of this portion, which is 1,558.18 sq. ft., or 7.8% of the Property's total lot size. Including this portion changes the impact of the development regulations both at the time of the Prior Approval and with the proposed addition. Further, the Code had changed since the Prior Approval, which has resulted in changes in the calculation of lot coverage and unit size. Notably, when comparing to the Prior Approval, the additional lot coverage and unit size are de minimis (0.36% and 0.64%, respectively) and the unit size is actually less than the Prior Approval.

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

The Applicant played no role in the Prior Approval and assessment of land areas used to evaluate development criteria.

3. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;

The Applicant's requests seek variances that are so minute, that they do not confer upon the Applicant any special privilege that is denied to other properties within the same zoning district.

4. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;

A literal interpretation of the provisions of the land development regulations would deprive the Applicant rights to modest renovations enjoyed by other properties in the same zoning district. The surrounding properties in the same neighborhood are all of a similar size and many homes have similar lot coverage. The Property's unique, cone-like shape presents design challenges and limitations on accessibility to the right-of-way, which another property of a comparable size on a differently shaped lot would not face.

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

The variances sought are the minimum variances that will make possible the reasonable use of the residence. The variances requested represent miniscule variations from the City Code. With respect to the maximum unit size, the Applicant seeks only an increase of 0.64% above what is already approved, an area of only 128 sq. ft. Further, in regards to the lot coverage, the Applicant seeks only an increase of 72 sq. ft. or 0.36% of the already approved lot coverage.

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

The granting of the requested variances will be in harmony with the general intent and purpose of these land development regulations and will not be injurious to the area or otherwise detrimental to the public welfare. Instead, the variances will help promote the stated purpose of the RS Single-Family residential districts, which is to protect and preserve the image, identity, and character, of single-family neighborhoods, by allowing for the expansion of the existing home. Further, this allows the preservation of the existing home.

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

The variance requested is consistent with the comprehensive plan and will have no impact on the levels of service for the Property.

Practical Difficulty. Pursuant to the City Charter Subpart B – Related Special Acts, specifically Article I, Section 2, variances may be analyzed where there are practical difficulties or unnecessary hardships. The plain meaning of Article I, Section 2 of the Related Special Acts is to grant the Design Review Board the jurisdiction to determine whether there are “practical difficulties or unnecessary hardships.” *See G200 Exchange, LTD. v. City of Miami Beach and Shore Club Property Owner, LLC*, 26 Fla. L. Weekly Supp. 461 (Fla. 11th Cir. App. Ct. 2018).

The Applicant seeks a very minor renovation and addition to meet the growing needs of the family. The Property, by deed, contains more land area than originally evaluated for development and that needs to be included in the analysis. Further, the development regulations of the City Code have changed since the Prior Approval. Taken together, these represent practical difficulties that impact the Applicant's ability to make modest renovations. Importantly, the Applicant prefers to maintain the existing home, rather than demolish and start new. The proposed renovation only adds 72 sq. ft. to lot coverage (0.36%) and 128 sq. ft. to unit size (0.64%) and notably the unit size is less than that approved by the DRB for the Prior Approval. The addition is at the center of the second floor and completely invisible from the street and either adjacent neighbor, and will hardly be perceived from the water. As such, the addition has zero impact on the surrounding area, and yet this tiny addition makes a world of difference for the Applicant's family.

Sea Level Rise and Resiliency Criteria. The Project advances the sea level rise and resiliency criteria in Section 133-50(a) of the City Code, as follows:

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

A recycling and salvage plan for any proposed demolition will be provided at permitting.

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

Home is existing, and hurricane proof impact windows will be provided, where applicable.

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

The Applicant will provide, where feasible, passive cooling systems.

4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

Not applicable as no changes to landscaping.

5. Whether 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, including a study of land elevation and elevation of surrounding properties were considered.

Sea level rise projections and the elevation of surrounding properties were considered when designing the proposed addition, which is notably on the second floor.

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.

Not applicable as no change to driveway.

7. Where feasible and appropriate. All critical mechanical and electrical systems are located above base flood elevation.

Home and equipment are all existing and not subject to change. All mechanical and electrical systems comply with code when installed.

8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

Not applicable as home is existing and properly approved and built according to code in effect at that time.

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.

Home is existing with no habitable space located below BFE.

10. Where feasible and appropriate, water retention systems shall be provided.

Home is existing and no change to the footprint with this addition.

11. Cool pavement materials or porous pavement materials shall be utilized.

Home and driveway are existing and properly permitted so not applicable.

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

The proposed additional was designed in such a manner that minimizes potential for heat island effects on-site, notably there is no change to the previously permitted and built rooftop over this area.

Conclusion. Approval of the requested two requested Non-Use Variances represent very slim deviations from the Code as necessary to allow the Applicant to provide room for a growing family and preserve the existing home, previously approved by the DRB in May 2013.

We look forward to your favorable review of the application. If you have any questions or comments, please give me a call at (305)377-6236.

Sincerely,



Matthew Amster

Attachments

Exhibit A



OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On: 10/11/2023

PROPERTY INFORMATION	
Folio	02-3232-006-0220
Property Address	428 S HIBISCUS DR MIAMI BEACH, FL 33139-5136
Owner	CASA ALAIA LLC
Mailing Address	3507 KYOTO GDNS DR STE 110 PALM BEACH GARDENS, FL 33410
Primary Zone	0800 SGL FAMILY - 1701-1900 SQ
Primary Land Use	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
Beds / Baths / Half	6 / 8 / 1
Floors	3
Living Units	1
Actual Area	14,377 Sq.Ft
Living Area	10,982 Sq.Ft
Adjusted Area	11,474 Sq.Ft
Lot Size	18,375 Sq.Ft
Year Built	2016

ASSESSMENT INFORMATION			
Year	2023	2022	2021
Land Value	\$16,537,500	\$12,403,125	\$8,911,875
Building Value	\$14,560,506	\$14,715,405	\$14,870,304
Extra Feature Value	\$145,991	\$147,516	\$149,041
Market Value	\$31,243,997	\$27,266,046	\$23,931,220
Assessed Value	\$28,956,776	\$26,324,342	\$23,931,220

BENEFITS INFORMATION				
Benefit	Type	2023	2022	2021
Non-Homestead Cap	Assessment Reduction	\$2,287,221	\$941,704	
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

SHORT LEGAL DESCRIPTION	
32 53 42 4-5 54 42	
HIBISCUS ISLAND PB 8-75	
LOT 26 & 20FT STR IN BAY ADJ &	
LOT 27 & 20FT STR IN BAY ADJ	
BLK 1	



TAXABLE VALUE INFORMATION			
Year	2023	2022	2021
COUNTY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$28,956,776	\$26,324,342	\$23,931,220
SCHOOL BOARD			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$31,243,997	\$27,266,046	\$23,931,220
CITY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$28,956,776	\$26,324,342	\$23,931,220
REGIONAL			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$28,956,776	\$26,324,342	\$23,931,220

SALES INFORMATION			
Previous Sale	Price	OR Book-Page	Qualification Description
06/18/2019	\$27,750,000	31501-4851	Qual by exam of deed
08/01/2012	\$5,195,000	28213-1791	Qual by exam of deed
02/01/1997	\$0	17540-4996	Sales which are disqualified as a result of examination of the deed
07/01/1985	\$320,000	12612-2498	Sales which are qualified

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>



CFN 2014R0262760
 OR Bk 29106 Pgs 2972 - 2977; (6pgs)
 RECORDED 04/11/2014 12:01:14
 HARVEY RUVIN, CLERK OF COURT
 MIAMI-DADE COUNTY, FLORIDA

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: May 07, 2013

FILE NO: 22964

PROPERTY: 428 South Hibiscus Drive

CERTIFICATION
 THIS IS TO CERTIFY THAT THE ATTACHED DOCUMENT
 IS A TRUE AND ACCURATE COPY OF THE ORIGINAL ON
 FILE IN THE OFFICE OF THE PLANNING DEPARTMENT.
 CITY OF MIAMI BEACH

[Signature] 5-29-13
 (Signature of Planning Director or Designee) (Date)
 Personally known to me or Produced ID:

[Signature]
 Notary Public, State of Florida at Large
 Printed Name: TERESA MARIA
 My Commission Expires: (Seal) 12-2-13
 This document contains 6 pages.



LEGAL: Lot 26 and 2, of Block 1, of Hibiscus Island, according to the plat thereof, as recorded in Plat Book 8, at Page 75, of the Public Records of Dade County, Florida; together with that part of the 20 foot strip contiguous and abutting to said lots.

IN RE: The Application for Design Review Approval for the construction of a new 2-story home, to replace an existing architecturally significant pre-1942 two (2) -story home, to be demolished.

ORDER

The applicant, Casa Ischia LLC, filed an application with the City of Miami Beach Planning Department for Design Review Approval.

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:

- A. 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 Design Review Criteria in Section 118-251 of the Miami Beach Code.
- B. The project would remain consistent with the criteria and requirements of section 118-251 if the following conditions are met:

[Handwritten signature]

1. Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The lot coverage shall be no greater than **29.8%** of the lot area (**19,000sf**) and the unit size shall be no greater than **56.5%** of the lot area (**19,000sf**) as presented in the submitted plan, subject to the review and approval of staff.
 - b. A high quality smooth stucco finish shall be required on the exterior of the home, except in areas where other non-stucco finishes are indicated on the plans.
 - c. The final design and details including all exterior materials, finishes, and colors shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. Hardwired speakers shall not be permitted on the roof deck.
 - e. All roof top lighting shall be located below the parapet level, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. Manufacturer's drawings and Dade County product approval numbers for all new windows, doors and glass shall be required, prior to the issuance of a building permit.
 - g. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - h. 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.
2. A revised landscape plan, and corresponding site plan, shall be submitted. 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 plan shall incorporate the following:
 - a. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. That the design of any new perimeter wall and/or fence shall be subject to the review and approval of staff.
 - c. Any existing plant material within the public right-of-way may be required to be removed, at the discretion of staff.

OK

- d. 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. Right-of-way areas shall also be incorporated as part of the irrigation system.
 - e. The utilization of root barriers and/or structural soil, as applicable, shall be clearly delineated on the revised landscape plan.
 - f. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures; such fixtures and devices shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of backflow preventors, 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 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 applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms; such transformers and vault rooms, and all other related devices and fixtures, shall not be permitted within any required yard or any area fronting a street or sidewalk. 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 in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - h. 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 final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
4. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
5. 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. 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.
 - b. Mill/resurface asphalt in rear alley along property, if applicable.
 - 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.
 - f. Meet water/sewer concurrency requirements including 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.
6. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy, in a manner to be reviewed and coordinated by staff.
7. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
8. At the time of completion of the project, only a **Final** Certificate of Occupancy (CO) or **Final** Certificate of Completion (CC) may be applied for; the staging and scheduling of the construction on site shall take this into account. All work on site must be completed in accordance with the plans approved herein, as well as any modifications approved or required by the Building, Fire, Planning, CIP and Public Works Departments, inclusive of all conditions imposed herein, and by other Development Review Boards, and any modifications required pursuant to field inspections, prior to the issuance of a CO or CC. This shall not prohibit the issuance of a Partial or Temporary CO, or a Partial or Temporary CC.
9. 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.
10. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.



11. 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 adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-11, inclusive) hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Design Review Board, as determined by staff, entitled "Bosch/Irvine Residence", as prepared by Choeff + Leyva P.A., dated 11-07-12, modified in accordance with the conditions set forth in this Order and staff review and approval.

No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance as set forth in this Order have been met. The issuance of Design Review 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 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 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 Design Review Approval was granted, the Design Review Approval will expire and become null and void, unless the applicant makes 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. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit should 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 Design Review Approval will expire and become null and void.



DR BK 29106 PG 2977, LAST PAGE

In accordance with Section 118-264 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.

Dated this 28th day of MAY, 20 13.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY:

[Signature]
THOMAS R. MOONEY, AICP
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

STATE OF FLORIDA)

)SS

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 28th day of MAY, 2013 by Thomas R. Mooney, Design and Preservation Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



TERESA MARIA
MY COMMISSION # DD 928148
EXPIRES: December 2, 2013
Bonded Thru Budget Notary Services

[Signature]
NOTARY PUBLIC
Miami-Dade County, Florida

My commission expires: 12-2-13

Approved As To Form:

Legal Department: [Signature] (5-21-13)

Filed with the Clerk of the Design Review Board on 5-29-13 (WJR)

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