BASS LAW

BEFORE THE CITY OF CORAL GABLES HISTORIC PRESERVATION BOARD
CORAL GABLES, FLORIDA

In Re Appeal of Historic
Significance Determination
-- 1211 Dickinson Drive

MOTION TO DISMISS APPEAL

The University of Miami (the "University"), by and through undersigned counsel, hereby moves to dismiss the appeal filed by Bonnie Bolton (the "Appellant") of the City of Coral Gables's Historic Significance Determination with respect to the property owned by the University and located at 1211 Dickinson Drive (the "Determination"). The appeal should be dismissed for the reasons that follow:

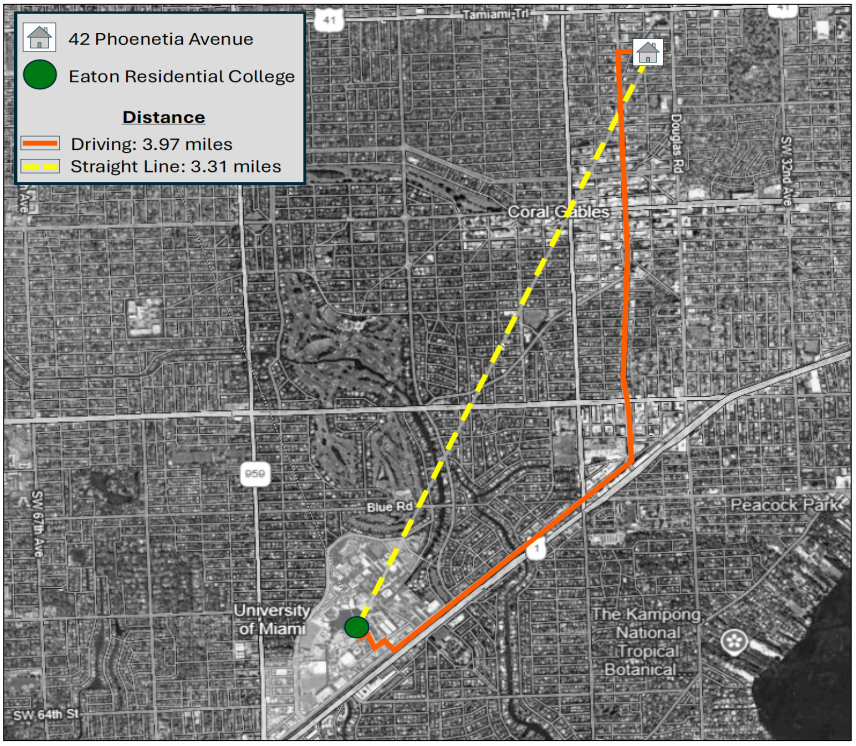
I. OVERVIEW

The Director of the City of Coral Gables Historical Resources and Cultural Arts Department reviewed the historical record surrounding the building located at 1211 Dickinson Drive – located within the City – and commonly known as Eaton (the "Building"). The Director issued the Determination upon her conclusion that Building does not satisfy the standard for designation. That decision was eminently correct on the merits for reasons separately explained in the University's separate filing today.

That said, the Appeal should be dismissed because the Appellant (1) does not – and cannot – demonstrate that the City's determination causes: (a) a legally cognizable injury (b) to a legally protected interest possessed by the Appellant (c) that differs in kind – rather than degree – from how it affects the community as a whole (2) nor can the Appellant demonstrate that she is "Aggrieved" as that term is defined within the City Code because the Appellant is not: (a) the applicant (b) the "City Manager"; or (c) a resident within "one-thousand (1,000) feet from the perimeter boundaries of the subject property." *See* City of Coral Gables Zoning Code Article 16 (Definitions). Consequently, she is neither an "Aggrieved" person as defined by the City Code and, correspondingly, she lacks a legally cognizable "special injury" to confer standing upon her under Florida law. The appeal should be dismissed accordingly.

II. THE APPELLANT LIVES OVER THREE (3) MILES FROM EATON

The Appellant listed her address as 42 Phoenitia Avenue on the appeal form that she filed with the City. As set forth on the diagram below, the Appellant lives 3.97 miles driving distance and 3.31 miles on a straight-line distance.



III. THE APPEAL SHOULD BE DISMISSED BECAUSE THE APPELLANT LACKS STANDING

A. Standing

"For a court of law operating as one of the three branches of government under the doctrine of the separation of powers, standing is a threshold issue which must be resolved before reaching the merits of a case." *Solares v. City of Miami*, 166 So. 3d 887, 888 (Fla. 3d DCA 2015); *see especially Friguls v. City of Coral Gables*, No. 16-091 AP, 2022 WL 334099, at *2 (Fla. 11th Cir. Ct. App. Oct. 20, 2016) (dispensing with oral argument and dismissing petition where petitioners failed to demonstrate special injury standing). The Florida Supreme Court, the Third District, and the other district courts universally require a litigant to first demonstrate their "special injury standing" in order to invoke the power of the courts to determine the

merits of an issue. *See Fla. Wildlife Fed'n v. State Dep't of Env't Regul.*, 390 So. 2d 64, 67 (Fla. 1980); *Renard v. Dade Cnty.*, 261 So. 2d 832, 836-37 (Fla. 1972); *Boucher v. Novotny*, 102 So. 2d 132, 135 (Fla. 1958); *Everett Brothers Recycling, Inc. v. Martin Cnty.*, 401 So. 3d 372, 375 (Fla. 4th DCA 2025); *Citizens for Responsible Dev., Inc. v. City of Dania Beach*, 358 So. 3d 1, 5 (Fla. 4th DCA 2023) ("Any litigant must demonstrate that he or she has standing to invoke the power of the court to determine the merits of an issue." (quoting *Giuffre v. Edwards*, 226 So. 3d 1034, 1038 (Fla. 4th DCA 2017))); *City of Ft. Myers v. Splitt*, 988 So. 2d 28, 32 (Fla. 2d DCA 2008) (Canady, J.) (holding that under the "special damages" rule, "an individual does not have standing to sue unless he can show special damages peculiar to himself differing in kind as distinguished from damages differing in degree suffered by the community as a whole") (internal citations and quotations omitted).

In *Everett*, the Fourth District Court recently reaffirmed its commitment to the *Renard* "special injury rule" – which requires for purposes of standing a showing of damages "different both in **kind** and **degree** from that suffered by the public at large." 401 So. 3d at 376 (first quoting *Fla. Wildlife Fed'n*, 390 So. 2d at 67, and then discussing *Renard*, 261 So. 2d 832, and *Boucher*, 102 So. 2d at 135) (emphasis added). Under the "special injury rule" properly formulated, injuries differing solely "in degree" are legally insufficient to establish judicial standing. *See id*.

B. Appellant is Not Aggrieved By the City's Determination and Lacks Standing to Challenge it

The appellant filed an appeal consisting of: (i) a single email sentence and (ii) a proposed designation report. Neither (i) nor (ii) alleges – must less demonstrates – that the City's Historic Significance Determination affects her in any way – much less causes a "special injury" as that phrase is defined above. As indicated by the graphic above, Appellant lives well over three (3) miles away from Eaton. Consequently, the Appellant cannot demonstrate that she possesses "special injury" standing under Florida law – nor can she demonstrate that she is an "Aggrieved" person under the City of Coral Gables Zoning Code. Consequently, she lacks standing and her appeal should be dismissed accordingly.

Sincerely,

/s/ Jeffrey S. Bass

Jeffrey S. Bass, Esq.
For the Firm