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Chair and Members of the Planning Board
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

Re: PB22-0528: Proposed 4th Street Overlay
727 4th Street LLC - Recommended Revisions

Dear Chair and Members of the Planning Board:

We represent 727 4th Street LLC the owner ("Owner") of the properties at 701 4th Street and 747 4th Street, Miami Beach, Florida (the "Property"). The Property would be subject to the proposed amendment to the City of Miami Beach Code of Ordinances (the "Code") proposing to create the 4th Street Overlay (the "Overlay"). This item will be heard by this Board under process number *PB22-0528*. Please allow this letter to serve as the Owner's letter recommending revisions to the proposed Overlay.

Property. The Property spans the entire north blockface of 4th Street between Euclid Avenue and Meridian Avenue, within the CPS-2 zoning district and the Ocean Beach Historic District. The Property is improved with contributing historic structures built in 1926 and 1930 designed by architect Victor H. Nellenbogen. Mr. Nellenbogen is known for this Art Deco and Mediterranean Revival designs and is also responsible for the Savoy Hotel, Hotel Chelsea and the Alamac Apartments among others.

The Property is a gem of Mediterranean Revival style architecture. It features bright white stucco walls, red tiled roof accents, wrought iron balconettes, window grilles and articulated doorways along 4th Street. The Property currently houses luxury apartment-hotels and a fitness studio. The Owner has taken much care to ensure that the Property is well-maintained and its architectural heritage celebrated.



Figure 1. Property in 1955



Figure 2. Property in 2021

Recommended Revisions to Proposed 4th Street Overlay. The proposed Overlay makes several changes to the CPS-2 zoning district regulations and includes further restrictions for properties within 100 feet of the north side of 4th Street, such as the Property. These changes include prohibiting uses like convenience stores and smoke and vape shops, limiting height to 50 feet, and making outdoor ambient music and TV sets a conditional use to be approved by this Board. The Owner fully understands the concerns these amendments intend to address and, for the most part, the Owner takes no issue with the proposed Overlay. However, the Owner firmly disagrees with one of the proposed amendments to be codified in Sec. 142-693(k)(2).

Applicable to lots within 100 feet north of 4th Street, proposed Section 142-693(k)(2) states that ""[e]ntrances/exits to/from hotels, apartment hotels, and suite hotels, as well as food and beverage establishments serving alcohol, shall be limited to side streets only, and shall not be permitted on 4th Street. Additionally, a minimum setback of 25 feet from the north side of 4th Street, for all public entrances to the aforementioned uses, shall be required. " (the "Entrance Regulation") The Entrance Regulation is highly problematic.

The Property's historic entrances are located on 4th Street. The Owner has meticulously maintained the ornamental historic entrances to the Property so that they can be admired from the right-of-way. The Entrance Regulation proposes to make these historic entrances legally nonconforming which puts this Property's historic design in grave danger. For example, if the Owner needed to restore and renovate the Property at a cost of more than 50% of the depreciated value of the buildings, then the Property would lose its legally nonconforming status.[1] The gorgeous historic entrances on 4th Street would violate the Code. Those portions of the buildings that were specifically designed and have always functioned as entrances and are critical to circulation within the buildings, would be rendered unusable for their intended historic function. Not only are entrances on 4th Street the most logical way to access the Property, these doorways provide much needed visual intervention in the elevations that breaks up the row of windows. Further, the new entrances on the side streets would need to be setback 25 feet from 4th Street. A 25-foot setback from the right-of-way poses insurmountable design challenges for platted lots, such as the Property, that are just 50 feet wide.

As such, the Owner recommends that Section 142-693(k)(2) be amended as follows ""[e]ntrances/exits to/from hotels, apartment hotels, and suite hotels, as well as food and beverage establishments serving alcohol, shall be limited to side streets only, and shall not be permitted on 4th Street. Additionally, a minimum setback of 25 feet from the north side of 4th Street, for all public entrances to the aforementioned uses, shall be required. Notwithstanding the foregoing, lots

[1] Pursuant to Sec. 118-395 of the Code if a nonconforming building is repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official, then the entire building must meet all current development regulations for its zoning district. If certain requirements are met, the Historic Preservation Board (the "HPB") can offer protection for a contributing buildings' floor area, height, setbacks or parking credits. However, the HPB would not have the power to not enable the preservation of these historic entrances.

improved with a contributing historic structure(s) shall be exempt from compliance with this subsection 142-693(k)(2)."

While the Owner understands the general purpose of the Overlay is to create a further buffer between the commercial uses in the CPS-2 zoning district and the residential district to the south, the Entrance Regulation is not a proper way to achieve this goal. Efforts should include noise regulation and nuisance policing, much like the regulation in this Overlay which makes outdoor ambient music a conditional use to be approved by this Board. As such, we respectfully request that Section 142-693(k)(2) be revised as stated above.

Thank you for your attention to this matter. Should you wish to discuss further, please feel free to give me a call.

Sincerely,

AKERMAN, LLP

Neisen O. Kasdin

cc: Cecilia Torres-Toledo, Akerman LLP