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VIA ELECTRONIC SUBMITTAL & HAND DELIVERY

November 21, 2022

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

RE: **Amended Letter of Intent** – PB22-0554 –Conditional
Use Permit for 1717-1731 Collins Avenue – The Surfcomber
Hotel.

Dear Mr. Madan:

This law firm represents Chisholm Properties So Beach Inc. (the "Applicant") with regard to the above-referenced property (the "Property") within the City of Miami Beach (the "City"). This letter serves as the required letter of intent for a Conditional Use Permit ("CUP"). The Applicant proposes to add both an Outdoor Entertainment and Neighborhood Impact Establishment, consisting of entertainment at ambient background levels, to the existing food and beverage venue located in the rear area of the historic Surfcomber Hotel.

Property Description. The Property consists of two oceanfront lots located between 17th Street and 18th Street, on the eastern side of Collins Avenue, and is approximately 85,522 square feet (1.98 acres) in size. The Miami-Dade County Property Appraiser identifies the Property with Folio Nos. 02-3234-019-0450 and 02-3234-019-0480. The Property is located within the federally-designated Miami Beach Architectural District, as well as the locally-designated Ocean Drive-Collins Avenue Local Historic District. The Surfcomber has 186 guest rooms and two (2) restaurants – the Social Club and the High Tide Beach Bar and Grill.

Description of Proposed Outdoor Entertainment. The Applicant seeks to introduce ambient outdoor entertainment to complement the existing outdoor restaurant use located at the rear of the Property, for the restaurant known as the "High Tide Beach Bar and Grill" ("High Tide"). The High Tide is accessible from the Beach Walk at the rear of the Property by a walkable wooden deck path, as well as from the ground floor and pool deck area of the Surfcomber Hotel at the Property. While accessible from the Surfcomber Hotel, the main entrance to the High Tide is from the Beach Walk, and the majority of patrons access the High Tide from the Beach Walk. Public access is limited to the High Tide and separated from the private pool deck by management at the Surfcomber Hotel through the use and monitoring of wristbands as well as a system of ropes and stanchion sets. A DJ station for the ambient entertainment will be located at the rear of the Property, between the High Tide and the hotel's pool deck. While the High Tide will be open from 10 a.m. to 8 p.m. daily, the DJ will only operate from 12 p.m. to 4 p.m. on Friday, Saturday and Sunday. The DJ will use the existing system to play music at an ambient level, and will not operate any additional amplification devices or microphones.

Satisfaction of CUP Criteria. The Applicant's request satisfies the CUP Standards in Section 118-192(a)(1)-(8) of the Code of the City of Miami Beach (the "Code") as follows:

(1) The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.

CONSISTENT – Policy RLU 1.1.7 provides that the RM-3 Future Land Use Designation permits accessory uses and conditional uses approved at public hearings as permitted by the Land Development Regulations. The proposed use is consistent with Policy RLU 1.1.7 as it is a permitted conditional use that is incidental and customarily associated with hotels.

(2) The intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.

CONSISTENT – The proposed CUP does not result in an impact that will exceed the thresholds for the levels of service required by the Comprehensive Plan. Further, the proposed operating hours the High Tide do not differ significantly from other similarly situated ocean front hotels in the area.

(3) Structures and uses associated with the request are consistent with these land development regulations.

CONSISTENT – The structure and use associated with the Applicant’s proposed CUP is a contributing building within the Collins Waterfront Historic District. As such, any inconsistencies with the land development regulations are legal nonconformities. The proposed outdoor entertainment will not alter the existing structures on the Property. Additionally, the proposed use is consistent with permitted conditional uses as it is incidental and customarily associated with hotels. Accordingly, all structures and uses associated with the CUP request are consistent with the land development regulations.

(4) The public health, safety, morals, and general welfare will not be adversely affected.

CONSISTENT – The Applicant’s proposed CUP does not adversely affect the public health, safety morals, or general welfare. The uses, hours of operation, and operation characteristics of the High Tide are generally consistent with the uses, hours of operation, and characteristics of oceanfront hotels in the RM-3 District. Adding ambient outdoor entertainment to the Surfcomber Hotel will serve to further activate this historic hotel, which benefits the public health, safety, morals, and general welfare of the community.

(5) Adequate off-street parking facilities will be provided.

CONSISTENT – The addition of outdoor ambient entertainment on the Property will not create a need for additional parking, as the underlying restaurant use is already lawfully permitted. The Surfcomber Hotel does not provide off-street parking and will continue to use a valet parking vendor. The valet parking vendor operates the ramp at the Surfcomber Hotel, which has parking for eight (8) temporary spaces, and utilizes fifty (50) parking spaces at the parking garage located at the intersection of Lincoln Road and Meridian Avenue. There are also numerous nearby parking lots and garages, and metered self-parking on surrounding streets. The Applicant further anticipates that many patrons will arrive by foot, ride-share services, or taxi.

(6) Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

CONSISTENT – Public access will be limited to the existing Social Club and High Tide, and separated from the private pool deck by management at the Surfcomber Hotel through the use and monitoring of wristbands as well as a system of ropes and stanchion sets, monitored by security personnel. Additionally, according to the Acoustic Report prepared by Criterion Acoustics, dated August 8, 2022 (the “Acoustic Report”), the Applicant will install a sound level limiter in the rear yard to ensure that any ambient music does not exceed 87dBA. As a result, there will be adequate protections to ensure that the proposed use does not negatively impact the surrounding properties, persons, and neighborhood values.

(7) The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

CONSISTENT – This outdoor entertainment use will not create a negative impact on the surrounding neighborhood since the resulting music will only be played at an ambient level to complement the existing restaurant use at the Property. According to the Acoustic Report, the existing relatively high environmental, ambient noise level of the surrounding area mitigates the effect of music by the DJ at the High Tide. The high environmental ambient noise level is caused by neighboring hotels’ pool deck event spaces to the north and south, which produce music subjectively as loud or louder. Therefore, the proposed ambient outdoor entertainment use at the Property will not create a negative impact on the surrounding neighborhood.

(8) The structure and site complies with the sea level rise and resiliency review in Chapter 133, Article II, as applicable.

CONSISTENT – The sea level rise and resiliency criteria in Section 133-50(a) of the Code is not applicable to this CUP application since the proposed outdoor entertainment does not require the construction or renovation of any structure. The proposed outdoor entertainment will complement an existing outdoor restaurant use at the Property.

Satisfaction of Neighborhood Impact Establishment Criteria. The Applicant’s request satisfies the Neighborhood Impact Establishment standards in Section 142-1362(a)(1)-(9) of the Code of the City of Miami Beach (the “Code”) as follows:

- (1) An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.**

CONSISTENT – The Applicant has prepared an operational plan addressing the hours of operation, number of employees, menu items, business goals, and other information.

- (2) A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, selfpark, shared parking, after-hour metered spaces and the manner in which it is to be managed.**

CONSISTENT – The Applicant's operational plan addresses how parking is to be provided, describing that the Surfcomber Hotel employs a third-party valet parking vendor. The valet parking vendor operates the ramp at the Surfcomber Hotel, which has parking for eight (8) temporary spaces, and utilizes fifty (50) parking spaces at the parking garage located at the intersection of Lincoln Road and Meridian Avenue. There are also numerous nearby parking lots and garages, and metered self-parking on surrounding streets. The Applicant further anticipates that many patrons will arrive by foot, ride-share services, or taxi.

- (3) An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises will be controlled.**

CONSISTENT – The Applicant's operational plan describes how security and staff are trained to manage all crowd control, including the flow of hotel and non-hotel guests to the appropriate areas, music levels, restaurant and bar seating capacities, pool chair and cabana reservations, and incoming and outgoing traffic from these areas. Further, staff, security, and management will closely monitor that only hotel guests have access to the pool, which will be enforced through the use of wristbands and a rope and stanchion set system.

- (4) A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.**

CONSISTENT – The Applicant’s operational plan describes the security systems in place at the Surfcomber Hotel, including a camera system. Security and staff are also responsible for monitoring the pool system to enforce age restrictions of patrons wherever applicable.

(5) A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.

CONSISTENT – A traffic circulation analysis is not applicable for this application, since the restaurant uses at the Surfcomber Hotel are existing uses, and the Applicant seeks only to add ambient entertainment to complement this existing use, which will not increase the number of vehicle trips accessing the hotel.

(6) A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.

CONSISTENT – The Applicant’s submitted operations plan addresses sanitation protocols to ensure safe and sanitary operations.

(7) A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance.

CONSISTENT – Consistent with the Acoustic Report, the Applicant will install a sound limiter in order to maintain an ambient noise level of 87dBA.

(8) Proximity of proposed establishment to residential uses.

CONSISTENT – The proposed ambient entertainment use does not affect any nearby residential uses, since the property is located in an area immediately surrounded by hotel uses.

(9) Cumulative effect of proposed establishment and adjacent pre-existing uses.

CONSISTENT – Consistent with the Acoustic Report, the proposed ambient outdoor entertainment use will have minimal impact on the area, as music from neighboring properties to the north and south is clearly audible and

dominant. Further, music will be consistent with sound levels due to the relatively high environmental, ambient noise level of the arousing area. The Acoustic Report specifically states that the high environmental ambient noise level is caused by the neighboring hotels' pool deck event spaces to the north and south, which produce music subjectively as loud or louder. The Applicant will nevertheless install a sound limiter to ensure an ambient level of music at the High Tide, and employ best practices for noise mitigation to prevent impacts.

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

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

To the extent required, a recycling or salvage plan shall be provided.

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

To the extent new windows are proposed, new windows will be hurricane proof impact windows.

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.

All landscaping will be Florida friendly and resilient.

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 were considered and informed design decisions to increase permeable open space and improve stormwater drainage. The Property contains an existing contributing building that cannot be elevated further.

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.

Any new ground floor driveways or ramping shall be adaptable to the raising of public rights of way and adjacent land.

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

To the extent possible, all mechanical and electrical systems will be located above base flood elevation.

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

It is not feasible to elevate the existing hotel to base flood elevation.

9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Habitable spaces below base flood elevation plus freeboard will use flood proofing system in accordance with the Code.

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

Where feasible, water retention systems will be provided.

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

Cool pavement materials or porous pavement materials will be utilized where possible.

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

The proposed design provides a number of shaded open spaces and non-air conditioned green space to reduce heat island effect on the Property.

Conclusion. The proposed Conditional Use Permit would allow limited outdoor entertainment at the Surfcomber Hotel in order to complement and significantly enhance the existing food and beverage venue at the rear of the Property. The proposed outdoor entertainment would not have an adverse impact on other venues within the Surfcomber Hotel, nor would it impact adjacent properties or pedestrians along the Beach Walk. Overall, the proposed ambient level entertainment request is consistent with the Code. Accordingly, we look forward to your favorable review of the application. If you have any questions or comments in the interim, please give me a call at 305-377-6236.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Larkin', with a stylized, wavy line above the name.

Michael Larkin

cc:

Nicholas Rodriguez, Esq.
Robert Alexander, Esq.