

Carter N. McDowell

Tel 305.350.2355

Fax 305.351.2239

cmcdowell@bilzin.com

January 9, 2023

**VIA ELECTRONIC &
HAND DELIVERY**

Thomas Mooney
Planning Director
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

Re: Amended Letter of Intent – Design Review Board Approval and Variances for Mixed-Use Project Located at 1920 Alton Road, Miami Beach, FL (Folio No. 02-3233-022-0030) (DRB22-0873)

Dear Mr. Mooney:

This firm represents Alton Office Holdings II, LLC, the applicant (the “Applicant”) and owner of the property located at 1920 Alton Road (the “Property”). Please accept this correspondence as the Applicant’s letter of intent in connection with the enclosed plans and application seeking review and approval by the Design Review Board (“DRB”) to demolish an existing two-story commercial building on the Property and construct a new five-story mixed-use development in its place.

The Property is located on the southwest corner of 20th Street and Alton Road within the Sunset Harbour Mixed-Use Neighborhood Overlay District. The Property is 25,538 square feet in size (+/- 0.586 acres), as confirmed by the enclosed survey, and is zoned CD-2 (Commercial Medium Intensity District).

The Applicant is proposing a project that will consist of approximately 25,222 square feet of Class A office space, approximately 8,284 square feet of restaurant space at the ground level (split between two separate tenants), three (3) residential units that will total approximately 13,273 square feet, and a screened-in parking garage on the second level of the building (the “Proposed Project”).¹ To achieve the Class A office component, the Applicant is seeking:

¹ On November 22, 2022, the Applicant received conditional use permit approval from the Planning Board – pursuant to Application No. PB22-0556 – to proceed with new construction on the Property in excess of 50,000 gross square feet and to permit two restaurants, each having an occupancy and seat

- (i) a variance from the DRB to permit three (3) additional feet of building height;
- (ii) a variance to allow a first floor height of 11 feet as measured from Base Flood Elevation (“BFE”) plus five (5) feet of Freeboard, where a height of 12 feet is required; and
- (iii) a variance to permit two (2) off-street loading spaces where three (3) spaces is required.

I. General Review Criteria for Variance Request

Pursuant to Section 118-353(d) of the Land Development Regulations (the “LDRs”), the DRB may approve a variance request provided that the following standards are met:

- (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 has a unique location and setting, requiring a height variance, a variance to allow a lower ceiling clearance, and a variance to remove one required off-street loading space, in order to respond to these characteristics. The Property partially abuts a major Florida Power & Light (“FPL”) substation facility on its western boundary. Unlike most of the substations in the City, which are enclosed within buildings, this substation is completely open and unenclosed, creating significant aesthetic and noise issues for the Proposed Project. In response to these issues, the Applicant had to push the new mixed-use building as far away from the FPL substation as reasonably possible. As a result, the available footprint for the building is smaller than would otherwise be possible. This smaller footprint and the mixed-use nature of the building – including Class A office space – has created the need for the three-foot height variance, a variance to allow a lower ceiling clearance, and the off-street loading space variance the Applicant is seeking.

With respect to the variance sought from the first floor height requirement of Section 142-306 of the LDRs, which requires the first floor of the building be at least 12 feet in height as measured from BFE plus maximum Freeboard, the Applicant maintains that the ground floor does provide at least 12 feet of clearance (15 feet from the slightly raised residential level to the underside of the second floor slab and 17 feet from the retail/restaurant level), but the clearance is measured from the finished floor level and not from BFE plus five (5) as the LDRs would require. If the Applicant were to attempt to meet this requirement of Section 142-306, it would compromise the Applicant’s ability to provide 13-foot floor plates as part of the building’s Class A office component. Consequently, the Applicant is seeking approval of a variance to allow 11 feet of clearance as measured from BFE plus five (5) feet of Freeboard.

count of 199. At the time of this filing, the Applicant projects that construction for the Proposed Project will total approximately 55 million dollars.

It should also be noted that the Property is located on a portion of Alton Road and 20th Street that has existing street level retail and restaurant frontage at or only slightly above the existing sidewalk level. In order to maintain the Proposed Project's relationship to the existing sidewalk elevation and adjoining retail/restaurant frontage, the Applicant has not sought to incorporate the maximum Freeboard within the retail/restaurant section of the building. The streets in this area have already been raised by the City and there are no current plans to further elevate the roadways. Nevertheless, if the street level were raised in the future, the Applicant could easily raise the ground level of the site to accommodate that change.

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

The proximity of the FPL substation did not result from an 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.

The CD-2 zoning district imposes a height limitation of 50 feet however, that height is measured from BFE plus Freeboard and the DRB is authorized to grant up to an additional five (5) feet in height. Additionally, although when measured from BFE plus five (5), the ground floor height is 11 feet, the ground floor maintains a clearance of 17 feet (on the retail/restaurant section of the building) and 15 feet (on the residential section of the building) when measured from the finished floor to the underside of the second floor slab.

*With respect to the variance sought from the off-street loading space provisions of Section 130-101 of the LDRs – which requires one (1) off-street loading space for up to 10,000 square feet of retail floor area and two (2) spaces for office buildings with 10,001 to **100,000 square feet of floor area** – the Applicant notes that it is providing the required loading space for the retail component of the Proposed Project and is only seeking a variance in order to provide one instead of two off-street loading spaces for the 25,222 square feet of office space that comprises the Proposed Project. In support of this request, the Applicant urges the DRB to consider the fact that Section 130-101 imposes the same two-space off-street loading requirement on an office building about **four times** the size of the office use being proposed by the Applicant. Moreover, as a mixed-use building the Proposed Project does provide two loading spaces that will be shared by all tenants. Further, in addition to the two off-street loading spaces that are being provided, the Applicant has noted there is an existing on-street loading space on the north side of 20th Street that, in conjunction with the two off-street loading spaces, can adequately meet the loading needs associated with the proposed uses as most office deliveries will be FedEx or UPS deliveries and most of those deliveries will utilize the existing on-street loading space in any case.*

- (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.

Confirmed. The Property has a unique location and setting, requiring modest variances in order to respond to these characteristics. Please refer to responses 1 and 3 above. In particular the loading space requirements are excessive for a small mixed-use building.

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

Confirmed. The Applicant is requesting the minimum variances necessary to allow the proper design of and circulation within the Proposed Project. Please refer to responses 1 and 3 above.

- (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.

Confirmed. As discussed in responses 1 and 3 above, granting the requested variances will allow for the functional use of the site and a Proposed Project that will be in harmony with the surrounding neighborhood, both in terms of design and use. The Applicant will also implement all tools necessary to mitigate any potential harmful effects of the development, as further explained in the Operations Plan included with the above-referenced Planning Board application.

- (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 voting on the applicant's request.

Confirmed. The proposed uses are permitted within the CD-2 zoning district and the Proposed Project is consistent with the mixed-use commercial and residential character of this area. Additionally, as the enclosed traffic impact analysis confirms, the Proposed Project (which will replace an existing 20,682-square-foot retail building) is not expected to have an impact in excess of the thresholds for the level of service provided for in the Comprehensive Plan.

- (8) The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

Confirmed. See Section II below.

II. Sea Level Rise and Resiliency Criteria

The DRB shall also consider how the project addresses the City's Seal Level Rise and Resiliency Review Criteria set forth in Section 133-50(a) of the City Code:

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

Prior to the total demolition of the existing structure on the Property, the Applicant will work with staff to ensure an adequate recycling and salvage plan is provided to the City.

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

All windows within the proposed building will be hurricane proof impact-resistant windows.

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

Where appropriate, operable windows will be incorporate into the project design to allow for a passive cooling system.

- (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.

Landscaping shall comply will all Code requirements.

- (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.

Adopted seal level rise projections and the study of the land elevation of the Property and adjacent parcels were considered by Gensler when designing the Proposed Project.

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-way 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 of up to three additional feet in height.

The ground floor, driveways and garage ramping are adaptable to future raising of public rights-of-way and adjacent land, although the streets in this area have already been raised by the City and there are no current plans to further elevate the roadways.

- (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.

All critical mechanical and electrical systems will be located above BFE.

- (8) Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard.

The existing buildings will be demolished as part of the Proposed Project.

- (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 54 of the city Code.

Habitable space located below BFE plus City of Miami Beach Freeboard will be wet or dry flood proofed in accordance with Chapter 54 of the City Code.

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

Stormwater retention systems will be provided per civil engineer design at time of permitting.

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

Porous pavement materials will be utilized where most effective.

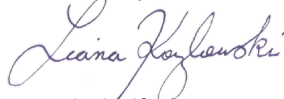
- (12) The design of each project shall minimize the potential for heat island effects on-site.

The Proposed Project eliminates the existing surface parking lot and relocates parking to a garage to minimize the heat island effect. Hardscape areas will be limited and landscaped areas will be planted with shade trees.

III. Conclusion

The Proposed Project complements and enhances the surrounding neighborhood's existing developments, reinforces the City's live-work-play goals and is in keeping with the character and spirit of the Sunset Harbour Neighborhood. For the foregoing reasons, we respectfully request that the DRB support this application and grant the variances sought herein. Thank you for your consideration and please do not hesitate to contact me should you need additional information.

Sincerely,

A handwritten signature in blue ink that reads "Liana Kozlowski". The signature is written in a cursive style with a large initial "L".

on behalf of,

Carter N. McDowell

CNM
Enclosures

cc: Liana Kozlowski, Bilzin Sumberg