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VIA ELECTRONIC SUBMISSION & HAND DELIVERY

May 30, 2023

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

RE: **PB23-0598** – Letter of Intent for Conditional Use Permit for 1
Collins Avenue, CU-1 and CU-2

Dear Mr. Madan:

This law firm represents Philippe Miami LLC (the “Applicant”) with regard to the above-referenced property within the South of Fifth Neighborhood in the City of Miami Beach (the “City”). This letter serves as the required letter of intent for a Conditional Use Permit (“CUP”) for a restaurant classified as a neighborhood impact establishment (“NIE”).

Description of the Property. The subject property consists of two commercial units within the One Ocean Condominium located at 1 Collins Avenue: 1) Commercial unit 1 identified by Miami-Dade County Folio No. 02-4203-371-0500 (“CU1”); and 2) Commercial Unit 2 identified by Miami-Dade County Folio No. 02-4203-371-0500 (“CU2”) (collectively the “Property”). The Property is approximately 6,660 square feet in size, with an exterior covered terrace that is approximately 2,500 square feet in size, and an exterior seating area along South Pointe Drive and Ocean Drive that is approximately 3,500 square feet in size.¹ The Property is within the Limited Mixed-Use Commercial Performance Standard 1 (CPS-1) district, which permits accessory neighborhood impact establishments without entertainment as a conditional use.

Property History. On July 3, 2012, the Design Review Board (“DRB”), through File No. 18988, approved of a modified design of a

¹ The exterior areas of the Property are limited common elements associated with CU1 and CU2.

previously approved condo-hotel project. On July 26, 2012, the Planning Board approved of a CUP for a mechanical parking garage with lifts for a portion of the required parking for the project, including 50 residential units, 3,290 square feet of retail, and 7,880 square feet of restaurant. Thereafter the Property was developed as the One Ocean Condominium in 2013 under Building Permit No. B1304440. The development allocated 89 parking spaces to CU1 and CU2 for restaurant and retail use. Notably, the plans associated with Building Permit No. B1304440 indicate a surplus floor area of approximately 2,007 square feet.

Proposed Legislation. The Property is the subject of a proposed ordinance that will restore the ability to only include one-half of the floor area of any areas developed below grade, with the top of the slab located above grade, in the total floor area calculation for the building (the "Partial Basement Exemption"). When the Property was developed in 2013, the definition of floor area included the Partial Basement Exemption. Thus, for projects such as the One Ocean Condominium, where a portion of the ground floor lobby was developed below grade with the ceiling slab located above grade, only one-half of the floor area located below grade counted towards the building's total permitted floor area. When the definition of floor area was amended in 2014 pursuant to Ordinance No. 2014-3876 to eliminate the Partial Basement Exemption, the portions of the lobby at the One Ocean Condominium located below grade counted fully towards the building's total floor area. This amendment to the definition of floor area eliminated any available surplus floor area indicated in the plans for Building Permit No. B1304440. The purpose of the legislation is to restore the Partial Basement Exemption for the One Ocean Condominium Property so that it may utilize the surplus floor area indicated in the original building permit plans. At the request of the Once Ocean Condominium Association, the Applicant intends to utilize the approximately 2,007 square feet of surplus floor area to enclose the exterior covered terrace located on the north side of the Commercial Units. Thus, the impact of the proposed legislation and this project is to increase the Once Ocean Condominium's built floor area by approximately 2,007 square feet (or less), but still within the permitted maximum floor area for the building, which is 174,762 square feet (2.0 FAR).

Proposed Restaurant. The Applicant is a rapidly expanding upscale Chinese Restaurant pioneered by its namesake, Executive Chef Philippe Chow ("Philippe Chow"). Philippe Chow has existing and planned locations in New York City, Washington D.C., and now Miami Beach. The Applicant seeks to establish its popular brand in Miami Beach with a beautifully designed restaurant specializing in serving Haute Beijing-style cuisine ("Philippe Chow Miami Beach"). Philippe Chow Miami Beach proposes a total of 329 seats, with 224 seats within the main dining room and 105 outdoor seats along South Pointe Drive and Ocean Drive, within the boundaries of the Property. The Applicant is requesting for the interior dining room to operate until 2AM, and for the exterior seating to operate

until 12AM. The Applicant also intends to open for lunch hours from 10AM to 3PM to meet growing demand for high-end daytime dining. Notably, no seating is proposed within the existing exterior covered terrace on the north side of the Property, between the commercial units and the residential tower. Rather, this exterior terrace is proposed to be enclosed and converted into back of house and kitchen space. The residents of the One Ocean condominium support enclosure of this space, rather than use as exterior seating associated with the commercial units. See Exhibit A, Support Letter from Once Ocean Condo.

Overall, the Applicant intends to operate Philippe Chow Miami Beach in a manner that is consistent with the pedestrian-friendly character of the South of Fifth Neighborhood by providing a new and unique restaurant offering upscale Chinese cuisine within walking distance of residential communities. Philippe Chow will carefully control its operations to be mindful of the residential character of the neighborhood and ensure any impacts are appropriately mitigated. By activating this prominent corner of the City with a world-class restaurant, Philippe Chow Miami Beach will contribute to the City's desired identity as a hub for culinary arts, culture, and entertainment.

Satisfaction of CUP Criteria. The Applicant's request satisfies the CUP Standards in Section 118-192(a)(1)-(7) 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 1.1.27 provides that the C-PS-1 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 1.1.257 as it is a conditional use authorized by the City's Land Development Regulations.

(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, as the Property is an existing commercial unit within the One Ocean Condominium that was reviewed and approved in 2013. During the review and approval process for the Once Ocean Condominium, the City

determined the project, including the future restaurant/commercial uses satisfied applicable levels of service. Moreover, the Applicant's submitted traffic analysis reveals a net reduction of 146 weekend peak hour trips compared to the development that was originally proposed for the commercial units. Thus, this application results in a reduced impact on transportation levels of service when compared to the originally intended use of the commercial units.

(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 consistent with the Land Development Regulations. The Property is zoned CPS-1, which permits commercial uses and neighborhood impact establishment restaurants.

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

CONSISTENT – The proposed restaurant does not adversely affect the public health, safety morals, or general welfare. The uses, hours of operation, and operational characteristics proposed are generally consistent with the uses, hours of operation, and characteristics of other similar restaurant venues in the City. The Applicant has a proven track record of successfully operating restaurants in high-end communities similar to the South of Fifth neighborhood, such as in Downtown New York City. The Applicant is committed to establishing policies and best practices to avoid adverse impacts to the neighborhood.

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

CONSISTENT – The Property will use a valet parking vendor to park vehicles at the existing parking garage at 125 Collins Avenue. In addition, there are 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. Further, the Applicant has conducted a trip generation analysis and valet analysis to ensure that its valet facilities are adequately staffed and implementing best practices for safe and efficient valet operations.

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

CONSISTENT – The proposed CUP and associated operational plan contains safeguards for protection of the surrounding property, persons, and neighborhood values that are being retained, such as limitations on hours of operation, noise levels, and prohibitions on special events and outdoor bar counters.

(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 – As this proposed CUP will program a space that is intended for commercial uses in a zoning district that permits such uses, there will not be a negative impact on the surrounding neighborhood. Notably, the proposed CUP represents a reduced impact on traffic from the originally approved development program for the Property. Although there are similar restaurant uses in the neighborhood, the benefits of Philippe Chow Miami Beach outweigh the negative impacts that result from continued vacancy of the Property.

Review Criteria for Neighborhood Impact Establishments and Outdoor Entertainment Establishments. The proposed modification complies with the review criteria under Section 142-1362(a)(1)-(9) 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.

The Applicant has submitted an operations plan that addresses hours of operation, valet operations, goals of the new operator, and other pertinent operational characteristics of the proposed use.

(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.

The Applicant has submitted a proposed valet plan and circulation analysis to facilitate parking for the proposed restaurant. The valet storage lot will

be located at 125 Collins Avenue in accordance with the Applicant's agreement with the valet operator, Caribbean Parking Systems, Inc.

(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.

The Applicant's proposed operations plan addresses crowd control. The Applicant will utilize well-trained staff to ensure patrons enter and exit Philippe Chow Miami Beach in a safe and efficient manner.

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

The Applicant's operations plan provides for security and patron-age restriction enforcement. All employees will be trained to check identification to ensure patron age restrictions are followed and Philippe Chow Miami Beach will employ trained security professionals or off-duty Police Officers to ensure patron safety.

(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.

The Applicant has submitted a detailed traffic and valet operations analysis. Based on these analyses, the Applicant has committed to implement best practices with its valet operations to ensure minimal impacts, as well as other traffic mitigation strategies. Specifically, the Applicant shall utilize three of the five parallel spaces located along South Pointe Drive for valet circulation, and allocate the remaining two parking spaces for ride share/pick-up and drop off to ensure that valet operations do not impact the bicycle lane. The Applicant commits to ensuring that all valet operations occur within the rented on-street spaces and do not impact the bicycle lane or block traffic on South Pointe Drive.

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

The proposed modified operations plan addresses sanitation, such as trash pick-up procedures, as well as daily sanitation and cleaning practices.

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

The Applicant's submitted operations plan outlines the noise mitigation techniques that will be implemented to control noise from Philippe Miami Beach and ensure compliance with the noise ordinance. For example, Philippe Chow Miami Beach intends to employ acoustical experts to design the sound system such that it can only play ambient background level music. Further, the Applicant will utilize a decorative ceiling, landscaping, and covered trellises/umbrellas, to ensure unreasonable noise does not travel beyond the property lines.

(8) Proximity of proposed establishment to residential uses.

The Applicant has carefully considered its residential neighbors in developing the layout for Philippe Chow Miami Beach. The closest residential use is the Once Ocean Condominium, and Philippe Chow Miami Beach has committed to enclosing the rear outdoor covered terrace to ensure that noise does not impact the adjacent residences. All outdoor seating is oriented towards South Pointe Drive and Ocean Drive, a significant distance from residential uses.

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

The Property is within a mixed-use commercial zoning district intended for restaurant uses. Further, the Property is a pre-existing commercial space that was developed in 2013. As a result, the cumulative effect of the establishment was already reviewed in approved when the One Ocean Condominium was developed. It should be noted that while the original development did not call for an NIE restaurant, the Property can be developed with retail and restaurant establishments below NIE thresholds that would have a greater impact on the neighborhood than Philippe Chow Miami Beach. As an operator with a proven track record that will be subject to the continuing jurisdiction of the Planning Board, approving Philippe Chow Miami Beach as an NIE restaurant affords the City the greatest level of flexibility to address cumulative impacts of new commercial uses in the neighborhood.

Sea Level Rise and Resiliency Criteria. The project 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.

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.

The building is existing and was developed in 2013 in accordance with applicable floodplain regulations.

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.

Not Applicable.

Conclusion. Philippe Chow Miami Beach will be a welcomed addition to the South of Fifth community. The Applicant is making efficient use of a large space that has sat vacant for several years, and is taking every step possible to ensure any potential impacts are mitigated or eliminated. In light of the foregoing, we respectfully request your favorable review of this application. Should you have any questions, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Larkin", with a long horizontal line extending to the right.

Michael Larkin

cc: Abraham Merchant
Richard Cohn
Ryan Lloyd
Nicholas Rodriguez, Esq.

Exhibit A

January 31, 2023

Honorable Mayor Dan Gelber and Members of the City Commission
City of Miami Beach
1700 Convention Center Drive, 4th Floor
Miami Beach, Florida 33139

Honorable Members of the Planning Board
c/o Rogelio Madan
City of Miami Beach Planning Department
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

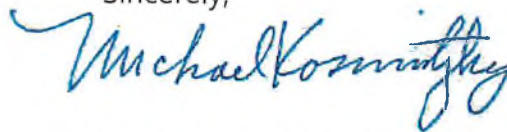
**RE: Construction of Wall Enclosing Terrace of Unit CU-1
One Ocean Condominium Association, Inc. ("Association")**

Dear Mayor Gelber and Members of the City Commission:

We are writing this letter in connection with RKR Zeus, LLC's ("Owner") request to construct a wall enclosing the limited common element terrace appurtenant to Unit No. CU-1 facing the garden ("Enclosure Wall"). The Owner has submitted a request to the Association to, among other things, permit the Owner to construct the Enclosure Wall in accordance with the enclosed plans and drawings. The Association's Board of Directors is agreeable to approving the Owner's request to construct the Enclosure Wall subject to and conditioned on the Owner and the Association executing an agreement with terms that are acceptable to the parties.

If you should have any questions, please do not hesitate to contact us to discuss this matter.

Sincerely,



The Board of Directors,
One Ocean Condominium Association, Inc.
Print Name: Michael Kosnitzky
Title: President