

Updated: December 11, 2023

VIA ELECTRONIC DELIVERY

City of Miami Beach Design Review Board
c/o Mr. Thomas Mooney, Planning Director
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Final Submittal / Letter of Intent for Design Review Board Application DRB22-0897 (the “Application”) / Properties located at 1656, 1664, 1676, 1680 & 1698 Alton Road; 1677, 1681 & 1683 West Avenue; and 1245 Lincoln Road, Miami Beach, Florida (collectively, the “Overall Property”)

Dear Chairperson and Design Review Board Members:

Our firm represents BH The Alton LLC, (the “**Applicant**”), in connection with certain land use and zoning matters relating to the Overall Property before the Design Review Board. Please consider this correspondence as the letter of intent requesting design review and variance approvals for the construction of a 7-story mixed use/office development with Class A office space and mechanical parking. Please note, the Applicant submitted a concurrent Planning Board Application (PB22-0562) in furtherance of the development of the Property, in compliance with Section 2.5.2.2. of the Miami Beach Resiliency Code (the “**Resiliency Code**”) that was approved on September 26, 2023.

Additionally, the Design Review Board unanimously approved the Project and the corresponding Height Variance (defined herein) on October 11, 2023. The updated Application is solely for the review of the Ground Floor Clearance Variance, defined and discussed in Section III of this Letter of Intent.

I. The Overall Property

The Overall Property consists of several parcels of land on the city block located between Alton Road, Lincoln Road, West Avenue and 17th Street. Additionally, the Overall Property is zoned CD-2, Commercial Medium Intensity District, which allows residential uses as well as a wide array of business, professional office and commercial uses as permitted uses. Specifically, the Overall Property consists of the following parcels of land as reflected in the Overall Parcel Plan Image provided on the next page and on Sheet A0.02 of the Plans (defined and discussed herein):

- 1245 Lincoln Road, owned by Alton JAL, Inc., currently improved with approximately 8,828 square feet of restaurant space (the “**South Parcel**”) and is highlighted in beige on the Overall Parcel Plan Image;
- 1681, 1683 West Avenue, owned by 1681 West Ventures LLC, and 1698 Alton Road, owned by 1698 Alton Road Ventures LLC., currently improved with approximately 26,790 square feet of ground floor commercial and grocer uses and 26 hotel units (the “**North Parcel**”) and is highlighted in dark grey on the Overall Parcel Plan Image; and

1677 West Avenue and 1656, 1664, 1676, 1680 Alton Road, owned by the Applicant, currently improved with various commercial and retail uses as well as surface parking (the “**Main Parcel**”) and is highlighted in blue on the Overall Parcel Plan Image.

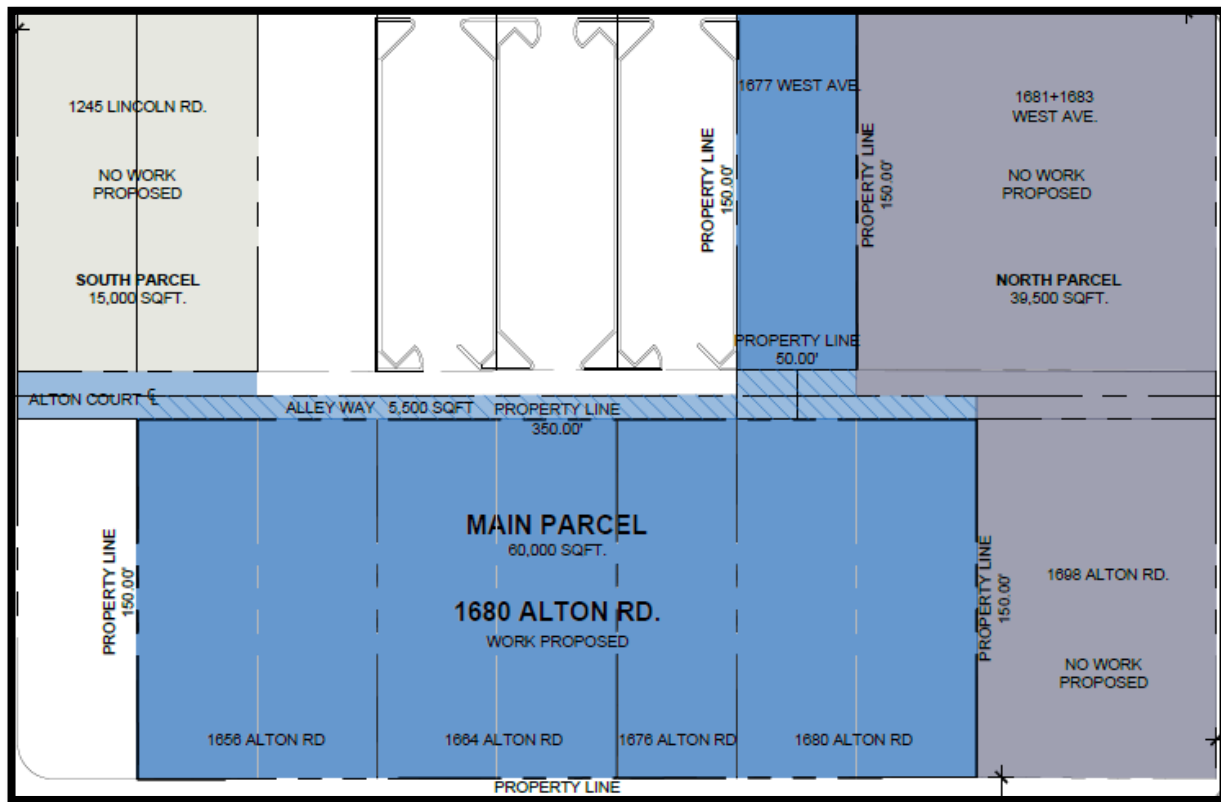


Image: Overall Parcel Plan (Sheet A0.02)

The Overall Property also includes certain portions of the abutting alley along Alton Court (the “**Alley**”) as reflected on the Plans, highlighted and hatched in light blue on the Overall Parcel Plan Image provided above and on the Plans (defined and discussed below). The Overall Property will be unified via a Covenant in Lieu of Unity of Title, in compliance with Section 2.2.3.4.c of the Resiliency Code and applied as one unified development site for zoning purposes. However, it is important to note that the proposed, mixed use development and construction is limited to the Main Parcel at the Overall Property. The Project (defined herein and discussed further below)

does not include any proposed demolition or alterations to the existing structures located on the North and South Parcels at the Overall Property.

II. The Project – Design Review Approval [Previously Approved on October 11, 2023]

On October 11, 2023, the Design Review Board provided design review approval of a state of the art, mixed-use development with Class A office space as the primary use. As detailed in the plans prepared by Foster + Partners and Kobi Karp Architecture & Interior Design, Inc., and dated August 7, 2023 (the “**Plans**”), the development consists of a 7-story building with ground floor commercial and restaurant space along with upper level residential and Class A office space (the “**Project**”). Specifically, the mixed-use Project contains the following:

- Ground level commercial uses including approximately 11,770 +/- square feet of retail with three (3) separate store fronts and approximately 5,000 +/- square feet of restaurant space occupied by four (4) separate tenants for a total of 193 seats as reflected on Sheets A2.30 and A2.31 of the Plans.
- Two (2) levels of internalized parking with 83 parking spaces on Level 2 and 96 total parking spaces on Level 3, which includes 48 mechanical lifts, for a grand total of 179 off-street parking spaces.
- Five (5) residential units on Level 3 located on the southern end of the Main Parcel with views facing Lincoln Road, Alton Road and West Avenue. The residential units range from 1,600 +/- square feet to 3,972 +/- square feet.
- The upper levels (Levels 4-6) contain Class A office space ranging from approximately 21,026 +/- square feet to 34,369 +/- square feet, with open terraces and designated planters along the Alton Road frontage.
- The rooftop deck serves as an amenity space for the residents and office tenants of the building designed with substantial landscaping and 360-degree views of the City.

The general vehicular circulation for the Project consists of an outdoor, two-way drive way with primary ingress and egress along the West Avenue frontage. The outdoor vehicular driveway is lined with lush landscaping and tall trees that complement the natural elements and vegetation designed throughout the Project. The 150-foot long driveway ends at the artistically curated, spiral ramping system that provides direct access to the upper level parking facilities. Additionally, the Project is also designed to allow secondary vehicular access to the parking facilities from Lincoln Road via the existing Alley. The Alley also provides access to the four (4) loading spaces located within the southwestern portion of the Main Parcel and internal to the building.

III. Variances

At the October 11, 2023 meeting, the Design Review Board (“**DRB**”) approved the Project and the corresponding Height Variance (defined herein). The review and approval of the Ground

Floor Clearance Variance (defined and discussed below) could not be approved at that time (due to scheduling/notice issues) and is therefore included in this updated Letter of Intent for DRB review and approval.

A. Ground Floor Clearance Variance [Proposed under New Resiliency Code]

By way of background, the Application was originally submitted to the City in December of 2022. Since that time (February 2023), the City adopted updated land development regulations (known as the “Resiliency Code”) pursuant to Ordinance 2023-4537. The updated Resiliency Code increased the required nonresidential ground floor height from 12-feet to 14-feet. As a result, the Applicant is requesting approval of the ground floor clearance height of 12 feet as measured from the design flood elevation (a 2-foot variance) for the Project (“**Ground Floor Clearance Variance**”). For the reasons delineated below and in compliance with Section 2.8.3.a of the Resiliency Code, the Ground Floor Clearance Variance should be approved.

- i. *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.*

Satisfied; Given the irregular site conditions coupled with the size and scope of the existing developments and operations on the North/South Parcels create unique design and construction restraints for the Project. Notwithstanding these constraints, the Project (as approved) is designed with substantial ground floor commercial/retail space for an activated streetscape along Alton Road, adequate on-site parking at the optimal floor clearance height required and is in furtherance of and exceeds many of the City’s sea level/resiliency provisions.

As it relates to the elevation details of the Project, the ground floor commercial programming (“nonresidential ground floor”) is by required to provide a minimum of 14 feet in height above the design flood elevation (formerly 12 feet under the City’s previous land development regulations), which includes BFE and freeboard. This Project is designed at 10’ NGVD at freeboard, with a ground floor clearance height of 12 feet. Additionally, the Project is designed with a height of 13’10” on Level 3 to accommodate the mechanical parking lifts and necessary parking spaces for the Project. Lastly, the Project’s upper levels also include substantial floor to ceiling height for the upper level office uses that is consistent with the type of Class A office space approved at the Main Parcel of the Overall Property.

Notwithstanding the Ground Floor Clearance Variance, the Project still carries forth the intent of the new Resiliency Code, as the commercial space is elevated (is measured from a Freeboard of 10’ NGVD), is buffered with an unobstructed pedestrian walkway and landscaping (circulation zone and transition zone), and still maintains adequate clearance for the high quality restaurant and commercial space located at the ground floor. Therefore, approval of the Ground Floor Clearance Variance is necessary to construct the Project (as approved), and is a result of the

unique circumstances and timing of the City's recently adopted Resiliency Code in relation to the submittal, review and approval of this Project.

- ii. *The special conditions and circumstances do not result from the action of the applicant.*

Satisfied; The requested Ground Floor Clearance Variance is necessary and does not result from the action of the Applicant. As mentioned above, the proposed Ground Floor Clearance Variance for the Project is a result of the updated Resiliency Code that was adopted and went into effect after the Application was submitted to the City and prior to approval of the Project.

- iii. *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.*

Satisfied; Granting approval of the Ground Floor Clearance Variance, which results in a 2-foot variance, would not confer on the Applicant any special privilege that is not otherwise held by other structures in the surrounding area.

Additionally, the proposed Ground Floor Clearance Variance is a difference of only 2 feet (from 14 feet to 12 feet), which is de minimis in quantity, but when taken into the aggregate would result in a taller building at the Main Parcel at the Overall Property. It is also important to note that the Project is designed to ensure that it is compatible and in scale with the as built, mixed use building located on the North Parcel.

- iv. *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.*

Satisfied; Denying this Ground Floor Clearance Variance would create a particular hardship for the overall Project, preventing the future construction of the type of Class A office space envisioned and approved at the Overall Property. It would also deprive the Applicant of the rights commonly enjoyed by the other properties in the area that were approved under the previous land development regulations applicable at the time this Application and Project design was submitted to the City.

As mentioned above, the Project was submitted to the City in December of 2022. Although the Project design has undergone several minor design iterations, the ground floor clearance height of 12 feet has stayed consistent and in compliance with the non-residential ground floor height required at that time.

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

Satisfied; The Ground Floor Clearance Variance is the minimum required to construct the Project, as approved, and with many of the state of the art and resiliency forward/sustainable design features that were lauded and ultimately approved by the DRB. Increasing the noncommercial ground floor height would only further increase the overall height of the building. The Project is designed in such a way to provide more than adequate ground floor clearance height for the commercial space, as well as provide substantial floor to ceiling heights for the upper-level office space, which is indicative and necessary for the type of Class A office space envisioned by the City and approved for the Main Parcel by the DRB.

- vi. *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.*

Satisfied; The intended purpose of the requested Ground Floor Clearance Variance, as part of the Project, is to ensure that there is adequate clearance height for the ground floor commercial space without further increasing the overall height of the Project. In doing so, the Project is designed in a way that is in harmony with all the surrounding buildings – including the multi-family residential properties to the West and the commercial/office buildings to the East. By providing a slightly modified ground floor clearance for the commercial/restaurant space, the overall Project’s modest height is maintained (78 feet), and as such will not be injurious to the surrounding area or otherwise detrimental to the public welfare.

- vii. *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.*

Satisfied; The requested Ground Floor Clearance Variance will allow for the construction of the Project, as approved by DRB, that continues to include an activated ground floor that does not reduce the levels of service and is consistent with the City’s Comprehensive Plan.

B. Height Variance [Previously Approved on October 11, 2023]

As previously mentioned, the DRB ’s approved the variance to construct the building at 78’-0”, where 75’0” is the maximum permitted, (the “**Height Variance**”) in order to accommodate the state of the art, mixed use development with ground floor commercial, upper level residential and Class A office space that is largely consistent with the Comprehensive Plan and underlying zoning district.

Section 2.8.3.a of the Resiliency Code delineates the standards of review for a variance application. Specifically, a variance shall be approved upon demonstration of the following:

- i. *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.*

Satisfied; As mentioned above, the Overall Property consists of several parcels of land on this City block. However, the proposed development is limited to the Main Parcel only, which consists of parcels primarily along Alton Road, portions of the Alley and a singular parcel along West Avenue. As a result, the development site's fragmented configuration, again restricted to the Main Parcel, results in a property with multiple street frontages, interior setbacks and rear setbacks. These irregular site conditions, coupled with the size and scope of the existing developments and operations on the North/South Parcels and on this block create unique design and construction restraints for the Project.

As discussed below, the requested variance is necessary for providing ground floor commercial/retail and adequate on-site parking at the optimal floor clearance height required and in compliance with the City's Sea level/resiliency efforts.

- ii. *The special conditions and circumstances do not result from the action of the applicant.*

Satisfied; In order to address and design a Project in compliance with the City's Sea level and resiliency requirements, the requested Height Variance is necessary and does not result from the action of the Applicant.

- iii. *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.*

Satisfied; The requested Height Variance will not confer any special privilege on the Applicant, that would be otherwise denied or detrimental to similarly situated properties within the same zoning district. Multiple properties in the surrounding area received a similar variance and/or maintain comparable or higher height than currently proposed for the Project. For example, the North Parcel that is currently developed with the Trader Joe's is approximately 63 feet in height. Additionally, the 1111 Lincoln Road parking garage, directly across Lincoln Road is designed at well over 78 feet in height.

- iv. *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.*

Satisfied; Failure to approve the Height Variance would undermine the text and spirit of the land development regulations, particularly as it relates to the City's sea level and resiliency efforts. Specifically, the Project's ground floor commercial programming ("nonresidential ground floor") is by required Code to provide a minimum of 14 feet in height above the design flood elevation (formerly 12 feet under the City's previous Land Development Regulations), which includes BFE and freeboard. This Project is designed at 10' NGVD at freeboard. Additionally, the Project is designed with a height of 13'10" on Level 3 to accommodate the mechanical parking lifts and necessary parking spaces for the Project. Lastly, the Project's upper levels also include substantial floor to ceiling height that is consistent with Class A office space.

Denying this Height Variance would create a particular hardship for the Applicant in stifling the type of world class office development envisioned for the for the Alton Road Office Development Overlay and undermine the City's advanced sea level and resiliency efforts.

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

Satisfied; The Height Variance is the minimum required to develop the Main Parcel with not only a reasonable structure, but a state of the art structure that harnesses the natural elements (i.e. light, air and vegetation) and sustainability as essential pillars of the design. Specifically, the Project's design (inclusive of the requested Height Variance) creates an elevated building that lends to an activated, landscaped pedestrian passageway along the main frontage of the building, the provision of adequate on-site parking and Class A office space in line with the City's vision.

- vi. *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.*

Satisfied; The intended purpose of the requested Height Variance and Project is to further the general intent and purpose of the underlying land development regulations and to present a Project that is in harmony with the surrounding area. As such, the proposed height variance does not negatively impact the surrounding neighborhood, as the portion of the Project with the proposed increase in height is restricted to the massing along Alton Road, and even then only consists of a portion of the frontage along Alton Road. As reflected in the Plans, the Project's southern interior is thoughtfully designed with incremental step backs on each floor (above the second floor). Additionally, the building is significantly setback (25 feet) along West Avenue, pushing the massing and height toward Alton Road.

- vii. *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.*

Satisfied; The requested Height Variance will allow for the construction of an elevated mixed use development with activated ground floor commercial uses and Class A office space, adequate onsite parking all within a resiliency-focused design, consistent with the City Comprehensive Plan.

IV. Sea Level Rise and Resiliency Review Waiver

Section 7.1.2.4.a of the Resiliency Code provides review criteria for compliance with the City's sea level rise and resiliency criteria.

- i. **A recycling or salvage plan for partial or total demolition shall be provided.**

The Applicant will provide a recycling or salvage plan prior to the submittal of a building permit, as may be necessary. Please refer to the Plans for the detailed scope of demolition plans limited to the existing buildings on the Main Parcel of the Overall Property.

- ii. ***Windows that are proposed to be replaced shall be hurricane proof impact windows.***

As reflected on the Plans, all windows for the Project will be hurricane proof resistant.

- iii. ***Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.***

Passive cooling systems, such as operable windows, may be installed as appropriate.

- iv. ***Resilient landscaping (salt tolerant, highly water-absorbent, native, or Florida-friendly plants) shall be provided, in accordance with Chapter 4 of the Resiliency Code.***

The Project will include resilient landscaping, in accordance with Chapter 4 of the Resiliency Code.

- v. ***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.***

Project will evaluate Southeast Florida Regional Climate Action Plan.

- vi. ***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.

Project is designed with 10' NGVD at free board (more than three feet above base flood).

- vii. ***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.***

The critical mechanical systems are located on the roof of the building, with landscaping and appropriate screening concealing the equipment from view. Additionally, the mechanical room and FPL room located on ground floor is located at 6'5" NGVD.

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

As part of the Project, the existing structures located at the Main Parcel will be demolished and elevated accordingly. However, the existing structures at the North and South Parcel will remain as is, with no plans to be demolished or altered.

- ix. ***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 in General Ordinances.***

Habitable spaces located below BFE plus City of Miami Beach Freeboard will be wet or dry flood proofed in accordance with Chapter 54 in General Ordinances.

- x. ***As applicable to all new construction, stormwater retention systems shall be provided.***

Applicant will work with staff on appropriate water retention systems as applicable and appropriate for the Project.

- xi. ***Cool pavement materials or porous pavement materials shall be utilized.***

As reflected in the landscape sheets included in the Plans, the Project will utilize crushed aggregate as a permeable interlocking paving systems.

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

One of the Project's essential design features is lush landscaping consisting of various trees, shrubs, and other vegetation provided not only on the ground floor facilities, but is also a key component on each level of the Project. The substantial vegetation and green areas serves a natural cooling agent that will help reduce the urban heat island effect by shading the building surface.

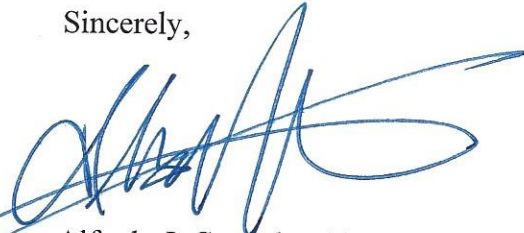
V. Project Cost Estimates

Based on current market evaluations, the Project's estimated construction costs are approximately \$62,000,000. The provided estimate construction costs may be subject to change based on pending entitlement approvals, construction documents, proposals from contractors/subcontractors, etc.

VI. Conclusion

At this time, the Applicant is requesting design review board approval of the proposed Ground Floor Clearance Variance to bring the previously approved Project (inclusive of the Height Variance) to fruition. The approval of this corresponding variance will allow for the new construction of a beautifully designed, mixed-use development with ground floor commercial space, residential units and Class A office space that will satisfy the growing demand for quality, Class A office space and increase the diverse work options for local residents. Based on the foregoing, we respectfully request your favorable consideration and approval of this Application and Ground Floor Clearance Variance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Alfredo J. Gonzalez', with a large, sweeping flourish extending to the right.

Alfredo J. Gonzalez, Esq.