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Via Online Submission

Honorable Chair and Members of the Planning Board
Planning & Zoning Department
City of Miami Beach
1700 Convention Center Drive, Second Floor
Miami Beach, Florida 33139

Re: Letter of Intent for a Conditional Use Permit for a Neighborhood Impact Establishment for the Restaurant Amenity located at Murano Grande Condominium at 400 Alton Road, Miami Beach, Florida 33139 ("Property")

Dear Chair and Board Members:

Our Law Firm represents Murano Grande at Portofino Condominium Association, Inc., as the property owner and La Terrazza LLC, the tenant of the restaurant amenity on the 5th floor pool deck (collectively, the "Applicant") in this application for a Conditional Use Permit for a Neighborhood Impact Establishment ("NIE"), pursuant to §2.5.2.2 and §7.5.5.4 of the City's Resiliency Code. Please allow this letter, as well as the enclosed operations plan, to serve as the Applicant's Letter of Intent ("LOI") in connection with the foregoing application.

The Murano Grande was constructed in 2003 by the Related Group of Florida. The building consists of three interconnected towers that cascade in a sleek and elegant design with a total of forty (40) stories containing residential units along with amenities for the residents and their invited guests. On the 5th floor of the building, there is a resort style pool with a sundeck for its residents to enjoy and relax along with their invited guests. As an additional amenity for the residents and their invited guests, the pool deck also contains a 440 square foot restaurant space so that the residents and their invited guests can enjoy a bite to eat along with a drink while relaxing on the pool deck.

This application relates to a restaurant amenity for the Murano Grande Condominium residents only, i.e. there is not access to the general public. A new ordinance was recently passed by the City Commission on October 18th under Section 1.2.2 (c) of the City of Miami Beach Resiliency Code, which now defines "an alcoholic beverage establishment or restaurant located on the top floor of a building, whether fully enclosed, partially open, or open to the sky, including all open-air portions above the rooftop, which is located on a property that is within 200 feet of a property containing a residential unit." The Planning Staff considers this restaurant amenity space located on the 5th floor to be a top-floor NIE under the new ordinance, provided however, the "top floor" of this building site is located on the 40th story.[1] The intention behind the new ordinance was to impose additional regulations for rooftop alcohol establishments, including but not limited to, hours of operation, occupancy, noise and lighting spillage, which tend to be associated with entertainment venues and establishments

[1] The Applicant is still reviewing the licensing and permitting records related to the subject restaurant amenity space, and therefore reserves the right to amend this LOI, including that the subject restaurant space is either legally non-conforming, or in the alternative, should not be considered a NIE under §2.5.2.2 and §7.5.5.4 of the City's Resiliency Code.

with an occupancy greater than 299 persons, i.e. rooftop bar(s), hotel(s), rooftop restaurant(s) open to the general public, rooftop entertainment establishment(s), etc. It was not intended for this new ordinance to apply to residential condominiums that contain a restaurant amenity on the 5th floor pool deck of a 40 story building, in which the restaurant is not open to the general public, but only to the residents of the condominium and their invited guests.

This restaurant space was previously licensed by the City as a 48 seat restaurant, a copy of the prior Business Tax Receipt (BTR) is included with the application materials, and the restaurant amenity under this application is anticipated to accommodate 48 patrons in the associated restaurant seating area. Now that the pool has undergone certain renovations, including the installation of a new grease trap, the prior tenant, La Terrazza LLC, is seeking to re-open the restaurant space with the same operational plan as was previously licensed under the prior BTR.

The Property is located within the C-PS4 (Commercial Performance Standard District) zoning district, which is designed to accommodate a range of business, commercial, office and hotel uses, as well as medium to high density residential development.

Neighborhood Impact Establishment Criteria. In addition to the other materials submitted with this application, the following supplemental information relating to this request is provided pursuant to §7.5.5.4(a)(1) of the City's Resiliency Code:

(A) 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:

Satisfied. The Applicant has provided a detailed operational and business plan (included in the Operations Plans with the application materials), which addresses the hours of operation, number of employees required to effectively operate the food and beverage operations, menu items, goals of the business, and other operational characteristics pertinent to the application.

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

Satisfied. The Property is a residential building, which contains an on-site parking garage, where the residents park their car either through self-park or valet. An invited guest of a resident is required to valet their car, which will be parked in the on-site parking garage.

(C) 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:

Satisfied. The restaurant space at the Property is located on the 5th floor pool deck is only open to residents and their invited guests. The restaurant space is not open to the public. Given that this is not open the public and is purely an amenity for the residents and their guests, it is not anticipated that there will be large groups of people waiting to gain entry into the restaurant. Furthermore, as this restaurant previously operated in the past as evidenced by the prior Business Tax Receipt, it is known that there will not be large groups of people waiting to gain entry.

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

Satisfied. The restaurant space at the Property is only open to residents and their invited guests. The condominium staff/management company along with La Terrazza's employees will monitor the restaurant space during all hours of operation. The Applicant's staff will specifically enforce patron age restrictions.

(E) 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:

Satisfied. The Property has been in existence since 2003 and the restaurant space that is the subject of this application has previously operated in the past. As the restaurant space is only open to the residents of the Property along with their invited guests, there will not be an impact of projected traffic on the immediate neighborhood. Furthermore, the restaurant space was previously licensed and permitted.

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

Satisfied. Trash is picked up three (3) days a week (Monday, Wednesday, and Friday) around 12:00 p.m. (noon). The trash is taken out from the restaurant space utilizing the elevator to the service level, where the trash room is located. The loading space(s) are located in the receiving room on the service level of the Property.

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

Satisfied. A sound study was not required to be submitted with the application as the Applicant is not proposing to have entertainment. The Applicant will comply with the City of Miami Beach Noise Ordinance.

(H) Proximity of proposed establishment to residential uses:

Satisfied. The restaurant space that is the subject of this application is purely to service the residents of the Property along with their invited guests. This amenity will allow for the residents and their invited guests enjoy a bite to eat along with a drink while relaxing on the pool deck.

(I) Cumulative effect of proposed establishment and adjacent pre-existing uses:

Satisfied. The restaurant space at the Property was previously fully licensed and permitted as a forty-eight (48) seat restaurant and is only open the residents and their invited guests. In light of the foregoing, the Applicant's operations are not anticipated to have any adverse effect when the pre-existing uses are considered.

Standard Conditional Use Criteria. In addition to the other materials submitted with this application, the following information is submitted in accordance with the conditional use review guidelines under §2.5.2.2 of the City's Resiliency Code

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

Satisfied. The proposed food and beverage operations at the Property are accessory uses which are consistent with the comprehensive plan future land use designation of the Property of C-PS4.

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

Satisfied. The Property is existing and therefore, will not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.

(3) Structures and uses associated with the request shall be consistent with the land development regulations.

Satisfied. The residential, condominium use is a main permitted use within the C-PS4 zoning district. Further, accessory food and beverage uses, such as the restaurant operation as described in this application that are classified as a NIE, are permissible accessory conditional uses in the C-PS4 zoning district.

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

Satisfied. As set forth in the cumulative application materials, the proposed use and controlled operation of the venue will not adversely affect the public health, safety, morals, and general welfare.

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

Satisfied. The Property is a residential building, which contains an on-site parking garage, where the residents park their car either through self-park or valet. An invited guest of a resident is required to valet their car, which will be parked in the on-site parking garage.

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

Satisfied. As set forth in the cumulative application materials, the proposed use and controlled operation of the venue will not adversely affect the public health, safety, morals, and general welfare. In addition, the Applicant has provided for necessary safeguards in its Operations Plans attached hereto, providing for the protection of surrounding the properties, persons and neighborhood values.

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

Satisfied. The restaurant use at the Property described herein was previously licensed by the City as indicated by the prior Business Tax Receipt included within the application materials. Further, the safeguards included in the Operations Plans attached hereto will ensure there is no negative impact on the surrounding neighborhood. The Applicant's use is unique and serves to improve the Property.

(8) The structure and site comply with the sea level rise criteria in Chapter 7, Article I, as applicable.

Satisfied. Both the structure and site comply with the seal level rise criteria as further described herein.

(9) Appropriate consideration is given to the safety of and friendliness to pedestrian traffic; passageways through alley is encouraged where feasible and driveways shall be minimized to the extent possible.

Satisfied. The Property is a residential building and the restaurant space will only be utilized by the residents of the Property along with their invited guests. There is an on-site parking garage where the residents park their car either through self-park or valet. Invited guests are required to valet. There is no anticipated effect to pedestrian traffic as this restaurant space was previously licensed and permitted in the past and will operate in the same manner.

Below please find the Applicant's responses to satisfy each of the Sea Level Rise and Resiliency Review criteria pursuant to §7.1.2.4 of the City's Resiliency Code.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

(D) Resilient landscaping (salt tolerant, highly water-absorbent, native, or Florida-friendly plants) shall be provided, in accordance with Chapter 4 in Land Development Regulations.

Not Applicable.

(E) 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.

Not Applicable.

(F) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public right-of-ways 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 3 additional feet in height.

Not Applicable.

(G) 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.

Not Applicable.

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

Not Applicable.

(I) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry floor proofing systems will be provided in accordance with Chapter 54 in General Ordinances.

Not Applicable.

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

Not Applicable.

(K) Cool pavement materials or porous pavement materials shall be utilized.

Not Applicable.

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

Not Applicable.

Conclusion. In light of the foregoing, and the application materials submitted herewith, we respectfully request the Planning Board's approval of this application.

Very Respectfully Submitted,

/s/ James E. Rauh

James E. Rauh, Esq.
For the Firm

Enclosures