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VIA ELECTRONIC SUBMITTAL

March 10, 2024

Michael Belush, Chief of Planning and Zoning
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

RE: **DRB23-0982**: Final Submittal for Design Review Approval for the Project at 1100 5th Street and Alton Road

Dear Mr. Belush:

This law firm represents The Alton Venture LLC (the "Applicant") relating to the property located at 1100 5th Street in the City of Miami Beach (the "City"). This letter serves as the required letter of intent for a Land Use Board Hearing Application for Design Review Approval before the Design Review Board, in accordance with the City's Land Use Board Revised Process and Guidelines.

Description of the Property. The subject property is an "L" shaped parcel fronting Fifth Street to the north, Alton Road to the west, Lenox Avenue to the east, and 4th Street to the south, and identified by Folio No. 02-4203-009-8190 (the "Property"). The Property is approximately 32,650 square feet (approximately 0.75 acres) in size. On the portion of the Property on the corner of Fifth Street and Alton Road, there is two-story commercial office building that is 8,556 square feet in size and was formally a Pier One retail store. On the portion of the Property on the corner of Fifth Street and Lenox Avenue, there is a two-story 5,143 square-foot commercial office building now used as a Burger King fast food restaurant location.

The Property is zoned C-PS2, Commercial Performance Standard, General Mixed-use Commercial

("C-PS2"). The Property is near the Ocean Beach Historic District, but is not within the Ocean Beach Historic District or any other Historic District, and the existing structures on the Property are not classified as contributing structures.

Unified Development Site. The Property is part of a unified development site pursuant to the Covenant in Lieu of Unity of Title recorded in Official Record Book 33412, Page 3139 of the Public Records of Miami-Dade County (the "Covenant").

Estimated Cost of Construction. At this time, the estimated cost of construction is approximately $15,000,000.

Project. The Applicant seeks Design Review approval to develop an innovative and attractive five-story commercial office building with a first-floor restaurant referred as 1100 Fifth Street (the "Project"). The Project is consistent with the type of "commercial, office and hotel" development contemplated by the Commercial Performance Standards to encourage "more flexible and innovative design." §7.2.15.3(a)(i), City of Miami Beach Resiliency Code.

Overall, the Project is approximately 101,424 square feet in total size of gross new construction area, and approximately 65,274 square feet of floor area ratio ("FAR"), with 105 parking spaces. The Project introduces a new restaurant that will activate the corner of Fifth Street and Alton Road, and features a unique vehicular entrance and drive isle from Lenox Avenue to improve traffic circulation to and from the Project.

The ground floor will contain the entrance to the office lobby, along with the restaurant establishment, and sufficient back-of-house spaces. Near the entrance, the Project features an open court/patio that is open to the public. The Project is intentionally designed with loading and back-of-house operations located along a screened elevation on the east side of the Proposed Project, along Lenox Avenue. The Applicant demonstrates a significant commitment to traffic reduction in furtherance of resiliency policies by dedicating 1,647 square feet of the Project to serve as a Mobility Hub to house long-term bicycle racks & lockers, short-term bicycle racks and a bicycle workshop (as well as four onsite showers for use by bicyclist commuters).

The second level of the Project features the parking deck with required ADA parking spaces, four "CEO" VIP designated self-parking spaces for the office tenants (strictly controlled by security card with no public use), and the remainder are mechanical stacker parking spaces to be operated solely by valet staff. Levels three (3) through (5) feature the balance of the office space. No outdoor entertainment is proposed.

The Project will provide a compatible and appropriate transition from the busy commercial thoroughfare along Fifth Street, and the civic and residential uses to the south and east. The articulation presented by the Project's heavy reliance on balconies, glazing, and planters at all levels, as well as decorative columns that narrow with each floor of height, all give rise to a beautiful, light-filled modern workspace for the office use along Fifth Street, while stepping down in mass and height to the south and providing a perfectly appropriate and compatible transition to nearby civic and residential uses.

Waiver Request. In order to develop the Project, the Applicant respectfully requests Design Review Board Approval for one Waiver, as contemplated by Section 7.1.2.2(f)(2)(C)(IV) of the City of Miami Beach Resiliency Code. The Applicant proposes to raise the sidewalk along Lenox Avenue to the applicable Future Crown of Road elevation, in accordance with the Long Frontage Standards, but requests a relaxation of this requirement for the Fifth Avenue frontage. The Long Frontage Standards require elevation increases, except for "transition areas," and where there are "street crossings" and "intersections." §7.1.2.2(f)(1.), Resiliency Code. The unique situation presented by this particular Property is that more than half of the Fifth Avenue frontage is dedicated to a wide, landscaped public swale, with mature palms, all of which act as a "transition area" in the form of a pedestrian buffer for the rather complex street crossing configuration for pedestrians crossing Alton Road and Fifth Street (which includes a right-hand turning lane from Alton Road onto Fifth Street). Thereafter, progressing eastward toward the corner of Fifth Street and Lenox Avenue, there is an existing bus stop lane and associated shelter in place just prior to the to the intersection and crosswalks at Fifth Street and Lenox Avenue. As a consequence, the majority of the Fifth Street frontage is adjacent to a "crosswalk," "intersection" or "transition," making a wholesale elevation increase along this elevation difficult if not impossible in terms of compatibility and interaction with these unique existing site conditions. As a consequence, the Applicant is respectfully requesting from the Design Review Board its approval of a Waiver of the requirement to raise the Fifth Street sidewalk, as contemplated by Section 7.1.2.2(f)(2)(C)(IV) of the City of Miami Beach Resiliency Code.

This request presents a Waiver to the "minimum extent necessary" as contemplated by the Code in order to harmonize with the nearby environment and existing conditions, while furthering the public policies of the Code. The unique location and orientation of the Property has confronted the Project with different future crown of road values across its four elevations, as well a unique swale, turning lane, bus stop shelter and bus lane, and complex pedestrian crosswalks at both ends of the Fifth Street elevation. The proposed modest Waiver will harmonize this dynamic and the site while keeping the Project in compliance with other Code-based design requirements.

Companion Planning Board Application. The conditional use criteria in Section 2.5.2.2.a. of the Resiliency Code and inclusion of mechanical parking lifts are addressed in the companion application to the Planning Board for a Conditional Use Permit. *See* File No. PB23-0636. The Applicant also submitted the required traffic study to Transportation Department Staff and addressed comments by the City's peer Reviewer, as part of that application.

Variance Requests. The Applicant believes that the application is in compliance with the below two requirements, but in the alternative and in an abundance of caution, seeks two (2) variances from the City of Miami Beach Resiliency Code (the "Code") related to the open court requirement and maximum building height (the "Variances" or "Variance Requests"). The two Variance Requests are as follows:

1. A variance from Code Section §7.2.15.3.f.(3) requiring an open court for those lots greater than 100 feet in width (and requiring an open court with at least an area of 3 square feet for every linear front of lot frontage).

2. A variance from Code Section Code Section §7.2.15.3.f (chart) imposing a maximum building height of 75 feet for office buildings in the PS-2 District.

Compliance With Open Court Requirement. The Code contemplates an open court for those lots with greater than 100 feet in width. §7.2.15.3.f.(3), Resiliency Code. The Code defines "Court" as "an open space which may or may not have direct street access and around which is arranged a single building or a group of related buildings." §1.2.1, Resiliency Code. The open court requirement is three square feet for every linear foot of frontage. With this Property measuring 262 feet along the Fifth Street frontage, this requirement presents a requirement of 786 square feet of court area. In satisfaction of this requirement, the Project features an open patio area near the first-floor lobby entrance at the easternmost end of the Fifth Street elevation. The first-floor site plan on Sheet 1.1 and open court Compliance Diagram on Sheet 1.11 depict the details of this public area with stone tile as well as planter features and hardscape areas. Plan Sheets 1.1 and 1.11 confirm that this open patio is 1,351 square feet in area, in an amount 565 square feet greater than the Code's requirement. The large open patio and hardscape area at the eastern end of the north elevation is within the private property line and readily satisfies the open court requirement with an attractive, well-landscaped area that is open to the public at all times. In the alternative and in an abundance of caution, a variance from the open court requirement is requested below.

Compliance with maximum building height. Section §7.2.15.3.f (chart) imposes a maximum building height of 75 feet for office buildings in the PS-2 District. The plans depict a building height 76.33' as reflected on Sheet 2.7 entitled "Building Height Detail." However, the Code also provides a provision allowing for up to 5 additional feet height if the "nonresidential first habitable level is at least 14 feet in height, as measured from DFE to the top of the second floor slab." §7.2.15.3.f.(3), Resiliency Code. Sheet 2.7 also confirms that the ground floor height as measured from DFE is 18.16' in height, readily satisfying the Code provision allowing for up to an additional 5 feet of height in this circumstance. In the alternative and in an abundance of caution, the Applicant requests below a modest height variance in the amount of 1.33'.

Open Court Variance. Due to the Property's size, confining characteristics, and topographical features, the Applicant requests a variance from Resiliency Code Section requiring an open court for those lots with greater than 100 feet in width. See §7.2.15.3.f.(3), Resiliency Code. The Code defines "Court" as "an open space which may or may not have direct street access and around which is arranged a single building or a group of related buildings." §1.2.1, Resiliency Code. As explained above, the open court requirement is best satisfied by the patio/court reflected on the existing plans near the eastern end of the Fifth Street frontage. The existing bus shelter and interaction with the existing bust stop lane and pedestrian crosswalks make the proposed patio the most desirable location for the open court. This area of the building fronts the narrowest area between the building and the public right-of-way along the north elevation of the building, thus allowing the proposed patio to serve as a "relief valve" and open public space for any pedestrians who may gather near the bus shelter and cross walks for Fifth Street and Lenox Avenue. Sheet 1.11 depict the details of this public area with stone tile as well as planter features and hardscape areas. Plan Sheets 1.1 and 1.11 confirm that this open patio is 1,351 square feet in area, in an amount 565 square feet greater than the Code's requirement. Finally, imposing a "notch" courtyard along the middle of the north elevation will greatly hinder the development program in light of the narrow shape of the lot fronting Fifth Street. The open seating area at the western end of the Fifth Street elevation, and the large open patio and hardscape area at the eastern end of the north elevation are within the private property line and provide attractive breaks in the northern elevation, and the patio on the eastern end readily satisfies the open court requirement with an attractive, well-landscaped area that is open to the public at all times.

Height Variance. Due to the Property's unique characteristics, the Applicant also requests a variance from Section §7.2.15.3.f (chart) imposing a maximum building height of 75 feet for office buildings in the PS-2 District. The plans depict a building height 76.33' as reflected on Sheet 2.7 entitled Building Height Detail. However, the Code also provides

a provision allowing for up to 5 additional feet height if the "nonresidential first habitable level is at least 14 feet in height, as measured from DFE to the top of the second floor slab." §7.2.15.3.f.(3), Resiliency Code. Sheet 2.7 also confirms that the ground floor height as measured from DFE is 18.16' in height, readily satisfying the Code provision allowing for up to an additional 5 feet of height in this circumstance. In the alternative and in an abundance of caution, the Applicant requests a modest height variance in the amount of 1.33'. The requested variance is necessary to provide a functional design for the building on such an elevated and narrow lot (for the portion fronting Fifth Street). The Project is compliant with the Future Crown of Road value for Fifth Street (published by the Public Works Department as 7.66' NGVD), with the first level floor elevation at 14" above this value, as depicted on Height Detail Sheet 2.7. Compliance with this important resiliency standard resulted in a compression of the Applicant's floor heights contemplated by its development program. Thus, the Project's compliance with the first level floor elevation in accordance with the Future Crown of Road value published by the Public Works Department, combined with the modest height variance of only 1.33', adequately provides for sea level rise resiliency and satisfies the intent of the City of Miami Beach Resiliency Code.

Satisfaction of Hardship Criteria. The Requested Variances requested satisfy the hardship criteria pursuant to Section 2.8.3.a. of the Code, as follows:

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;**

There are special conditions and circumstances that exist which are peculiar to the land, such as the narrow and irregular shape of the "upside down "L"" lot. For the open court requirement, the existing bus shelter, pedestrian crosswalks and bust stop lane features all work to narrow the space to the public right-of-way and make the eastern end of the northern elevation the best place for an open courtyard or patio. On the building height, the high Future Crown of Road value affiliated with Fifth Street, combined with the lower values for the remaining sides of the project, establish that the minor height exceedance will best harmonize the Project to accommodate the unusual site conditions, all while satisfying important Resiliency Code requirements and the public policies underpinning it.

2. **The special conditions and circumstances do not result from the action of the applicant;**

The special circumstances, in this case, do not result from the actions of the Applicant. The Property is an irregular-shaped lot, with special pedestrian, turning lane,

swale areas and bus shelter features along the Fifth Street frontage. The high Future Crown of Road planned for Fifth Street is not due to the actions of the Applicant. The Applicant has proposed a thoughtfully-designed plan for both the open court patio and the building elevation and height, all of which is focused on functionality in order to develop this unique site.

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 Code allows other similarly situated property owners to seek similar variances to accommodate unusual site configurations and existing site conditions. Indeed, the height variance sought is for only 1.33' which is permitted and contemplated by the Code (if under 3 feet). As noted, the Code contemplates an additional 5 feet of height in exchange for ground floor ceiling height in excess of 14 feet, which this Project satisfies. Moreover, the open the court/patio feature readily satisfies and in fact exceeds the square footage requirement of the Code imposed upon all other similarly situated developments. The Variances will not confer a special privilege to the Applicant and, instead, is a necessity due to the Property's unusual configuration, propose first floor elevation and special existing conditions at the site location. The Code permits other similarly situated property owners to make similar requests to accommodate designs that contribute to the context of the neighborhood. Therefore, granting of the Variances in this case will not confer any special privilege on the Applicant.

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;**

A literal interpretation of the provisions of the land development regulations would deprive the Applicant rights enjoyed by other properties in the same zoning district. The Project, with the requested Variances, is able to provide a beautiful new office project, adequate parking, satisfactory access, and a resilient structure. Strict compliance with the Code would unreasonably deprive the Applicant of the ability to develop a usable and resilient building. The design of the building ensures sufficient access, parking, and resiliency to sea level rise. The imposition of an open court in the middle of the Fifth Street frontage will impose undue hardship on the Applicant and its design allowing for adequate interior spaces and circulation in light of the narrow lot size (along Fifth Street). Imposition of a strict height limitation without the minor exceedance requested of 1.33'

will place the Project at odds with the overall elevation and first level floor elevation imposed by the Future Crown of Road elevation provided by Public Works, as well as the requirements of the Resiliency Code and the public policies underpinning it.

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

The Variances are the minimum variation of the Code that will make possible the reasonable use of the Property. The design provides as much floor-to-ceiling height as possible to ensure design quality and resiliency. The building conforms with the Code in all other ways. The modest height variance of 1.33' is sought only to adequately accommodate the design constraints and Code requirements, and is not sought for an additional floor or other significant departure from the Code. The proposed open court/patio along the east end of the northern elevation will provide the best location for pedestrians to gather in an area open to the public and near the existing bus shelter and existing crosswalks.

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; and**

Granting of the Variances will be in harmony with the general intent and purpose of these land development regulations. The Project adequately provides sufficient parking and building resiliency. The Property will have valet parking and implement a gate-controlled entrance system for the parking garage with all modern safety features. The minor height variance of 1.33' at this scale of Project will be nearly undetectable, and the proposed open patio will be a welcome improvement to the corner of Fifth Street and Lenox Avenue. The overall design of the light-filled project with massing and height along Fifth Avenue and stepping down toward the south will provide a perfectly compatible and complementary transition between Fifth Street and the uses to the south.

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 of adjustment voting on the applicant's request.**

The General Mixed Use Commercial "Performance Standard" Category (C-PS2) allows for "commercial uses" as its name implies, in accordance with flexible design

standards. See City of Miami Beach Comprehensive Plan at LU-12. The Application is consistent with this purpose as a new office work space and ground floor restaurant is consistent with surrounding uses. The Project will enhance the quality of the existing area and will not reduce the levels of service set forth in the Comprehensive Plan.

Practical Difficulty. There are multiple practical difficulties that must be addressed in order to make reasonable use of the Property, such as irregular lot shape, location, elevation required by Future Crown of Road values for Fifth Street and the lower values provided for the other adjacent rights-of-way, as well as the existing site conditions along Fifth Street including the existing pedestrian cross-walks and related pedestrian circulation, wide swale, narrow swale along the eastern end of the north elevation, with the bus lane and shelter. The innovative design does the most possible to provide a functional and viable new Project to tastefully transition from Fifth Street to the less intense uses to the south. Strict compliance with the land development regulations would prevent reasonable development and contradict the intent of the Code to provide resilient developments and enhance pedestrian experiences.

Sea Level Rise and Resiliency Criteria. The Project advances the sea level rise and resiliency criteria in Section 7.1.2.4 of the City's Resiliency Code, as follows:

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

A recycling and salvage plan for any proposed demolition will be provided at permitting.

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

Miami-Dade County product approved impact glazing will be provided.

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.

New landscaping provided 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 are being considered.

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.

The Project will be entirely new construction in compliance with new elevation standards, in accordance with the Future Crown of Road values provided by the Public Works Department.

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

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 Project will be entirely new construction in compliance with new elevation standards, in accordance with the Future Crown of Road values provided by the Public Works Department.

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.

The Project will be entirely new construction in compliance with new elevation standards, in accordance with the Future Crown of Road values provided by the Public Works Department, and to the extent any habitable space is below base flood elevation, flood proofing systems will be provided.

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 and/or porous pavement materials will be utilized.

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

The Applicant proposes (with its landscape plan) additional landscaping around the perimeter of the site to minimize potential for heat island effects on-site. Notably, the enclosed architectural plans and landscape plans feature extensive vegetative features on the roof, including trees.

Conclusion. Granting this design review application, with associated waiver, and variances (if required and submitted in an abundance of caution) will permit the development of the Project which will revitalize and update the Property in a manner that will greatly benefit the surrounding area. The massing, scale and design of the Project are compatible with the adjacent commercial structures while providing a sensitive transition to nearby civic and residential uses. Accordingly, we respectfully request your favorable review and recommendation with respect to the proposed Project. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Michael Larkin

cc: Paul C. Savage, Esq.