

July 8, 2019

VIA ELECTRONIC DELIVERY

City of Miami Beach Design Review Board

c/o Mr. Thomas Mooney
City of Miami Beach
Planning Department
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Final Submittal / 72nd & Park Letter of Intent for Design Review Board Application File No. DRB19-0407 (the "Application") / Properties located at 527 71st Street, 7125/35/45 Carlyle Avenue & 7100/08/18/34/44 Byron Avenue, Miami Beach (collectively, the "Property")

Dear Design Review Board Members:

Our firm represents KGTC LLC (the "Applicant"), in connection with certain land use and zoning matters relating to the Property. This correspondence constitutes the letter of intent accompanying the Application requesting design review, waiver and variance approvals for the construction of a 22-story mixed use development as more fully detailed below.

I. The Property

The Property is located within the North Beach Town Center neighborhood and is generally bound by 72nd Street to the North, Byron Avenue to the East, 71st Street to the South and Carlyle Avenue to the West. Notably, the surface parking lot, expansive North Beach baseball fields, tennis courts and recreational center are located directly across 72 Street. The Property consists of all the platted lots (Lots 1-12) within Block 5 of the Normandy Beach South Plat/Subdivision, as recorded in Plat Book 21, Page 54 of the Public Records of Miami-Dade County, Florida. According to that certain A.L.T.A./N.S.P.S. Land Title Survey dated June 18, 2019, a copy of which is enclosed, the Property contains a total of 75,157 +/- square feet or 1.73 +/- acres of land. Note, the enclosed plans cover the northern half of the Property, containing approximately 43,440 +/- square feet or 0.997 +/- acres¹. This Application includes a request for a phase development permit pursuant to 142-746 and 118-259 of the LDRs.

¹ The southern half of the Property contains an existing United States Postal office subject to a lease between the Applicant and the federal government. The post office is a major neighborhood feature contributing to the success of the North Beach community. The Post Office has not indicated a relocation plan as of this filing and therefore is not intended to be relocated as part of this Application. In the event the Federal Government terminates its lease and relocates, the Applicant will submit an application for design review approval of the phase II structures to be located on the southern half of the Property.

The Property is currently improved with the following uses and existing structures: (i) a postal office and surface parking lot on the southern portion of the Property (527 71 Street and 7100-7108 Byron Avenue); (ii) child care facilities, office and residential space (7118-7144 Byron Avenue); and (iii) 2-story multifamily structures (7125-7145 Carlyle Avenue). Note, there are existing utility easements and facilities located on the Property; Applicant will relocate these utility facilities as part of the construction permitting of the proposed Project and will work with the City and respective utility companies to resolve before construction permitting.

II. North Beach Town Center History

Over the past several years the residents of Miami Beach voiced their desire to improve and revitalize the North Beach area with high intensity, pedestrian-oriented mixed-use redevelopment. On November 7, 2017, Miami Beach electorate demonstrated their support of this goal and voted in favor of increased FAR for the Town Center zoning districts (TC). Subsequently, on November 18, 2018, the City Commission adopted amendments to the Comprehensive Plan and Land Development Regulations permitting a maximum 3.5 FAR for the properties located within certain TC-zoning districts. Throughout a yearlong process of public engagement, the City Commission approved detailed development standards for the Town Center neighborhood, including increased height, increased density with diverse residential options (co-living) and relaxed parking requirements that continue to encourage thoughtful and engaging mixed use development for this area. Consistent with the City's vision for the North Beach Town Center neighborhood, the Applicant seeks to develop a high quality, mixed use development on the Property in full compliance with the TC-C District Regulations and intent, provided in Chapter 142, Division 21 of the City's Land Development Regulations (the "LDRs").

III. The Project - Design Review Approval

As detailed in the plans prepared by Arquitectonica, dated July 8, 2019, the Applicant will develop the Property with a twenty-two (22) story mixed use development comprised of a ground floor commercial space, upper level residential units with a landscaped amenities deck and a rooftop terrace all provided within the center of the North Beach-Town Center community (the "Project"). The Project is uniquely designed with a mixture of 283 residential units² located on all levels above the ground floor. The ground floor is reserved for the residential lobby, commercial space on all frontages and limited vehicular circulation and service areas. The proposed residential configuration includes co-living units and traditional studio, 1-bedroom, 2-bedroom and 3-bedroom floorplans to accommodate the growing demands of urban living and provide new high quality residential options in this neighborhood and our city. The tower is designed within a reduced building footprint that allows for substantial open space and landscaping on the fifth-floor pool deck directly below. All the residential units are designed with large glass windows and expansive open balconies creating an indoor/outdoor experience that perfectly complements the substantial green space located in the immediate proximity of the

² Maximum density is 150 units per acre. The LDRs are in the process of being amended to define a co-living unit as 0.5 residential units. Please refer to PB File numbers PB19-0280 and PB19-0281. Thus, the Project's 125 co-living units count as 62.5 residential units for density purposes bringing the entire residential unit count to 221 units, less than the maximum allowable density of 258 units.

Project as well as the expansive City and ocean views; essentially, an urban lifestyle within a unique beach setting.

All of the required parking is internalized within the first four (4) floors of the Project. Note, there is a limited service and ground floor access area tucked in the center of the Project's first floor, with restricted parking as an amenity to guests and visitors with ingress/egress on Byron Avenue, and dedicated egress on Carlyle Avenue. There is a separate dedicated residential drive aisle providing upper level access directly from Carlyle Avenue. The four-story parking podium is artfully concealed behind decorative screening along the secondary Class C street frontages (Byron and Carlyle Avenue) in addition to residential units that line the 72nd Street/Class A facade on the second, third and fourth levels. Once again to embrace the stated goals of our city in engaging the street and adding life to our neighborhood; the parking structure is specifically designed to be hidden from important Class A frontages to encourage and activate the street and improve the pedestrian experience.

The Project also includes approximately 12,511 +/- square feet of commercial space provided along three (3) of the Property's frontages: 72nd Street, Byron Avenue and Carlyle Avenue. Additionally, the main residential lobby entrance is centered with the ground floor residential space along 72nd Street and is strategically located facing the North Shore Park and recreational facilities. Note, the Property also encompasses the existing post office on the southern portion of the Property (along 71st Street) so that this neighborhood amenity can continue to provide essential postal/government services to the North Beach community and surrounding City. The existing post office located along the 71st Street frontage coupled with the intentional design of the proposed commercial uses on the three remaining facades will activate the pedestrian realm and complement the neighborhood-friendly services along the 72nd Street thoroughfare. Note, the post office is a government controlled facility. In accordance with Section 142-746 of the LDRs, the Applicant has reserved appropriate floor area to replace the post office when appropriate relocation plans can be negotiated for this facility, which is outside the Applicant's control. At that time, the Applicant will request detailed design review approval and related entitlements from the Design Review Board for the phased development of the postal office portion of the Property.

IV. Waivers

- *Sec. 142-745(a)(12)(c): "Driveways for parking and loading shall be combined, unless waived by the design review board"*

The Applicant is requesting Waiver(s) pursuant to Section 142-745(a)(12)(c) to allow separate driveways for the loading and parking needs of the Project. Specifically, Section 142-745(a)(12)(c) states that "Driveways for parking and loading shall be combined, unless waived by the design review board". All the vehicular entry points into the parking structure are multifaceted, serving vehicular and loading programmatic needs, except for the speed ramp to the upper levels located on Carlyle Avenue; the speed ramp provides streamlined residential vehicular circulation to ensure that commercial and loading vehicles do not interfere with dedicated residential access to the Property. Although the retail use is intended to serve the community and provide walkable activation for the benefit of residents in this neighborhood, the Applicant has

designed limited ground floor parking to provide the retail stores easy and convenient patron parking. As stated above, the parking component of the Project is intentionally hidden from the Class A street sides of the Property in accordance with the LDRs. However, Planning staff advised that the multiple garage access points requires a waiver and Applicant respectfully requests your approval.

- *Sec. 142-743(b)(2)(c): "For lots that are greater than 50,000 SF and located north of 71st Street, the design review board, in accordance with the design review criteria in chapter 118, article VI of these land development regulations, may waive the maximum height of 200 feet, in order to authorize up to an additional 20 feet of height, not to exceed 220 feet, based upon the merit of the design"*

The Applicant is requesting a Waiver pursuant to Section 142-743(b)(2)(c) for the permitted building height of 220 feet³. Based on this section of the LDRs, properties greater than 50,000 square feet and located North of 71st Street may exceed the maximum height of 200 feet, up to an additional 20 feet in height, "based upon the merit of the design" of the Project. The aggregate Property contains 75,157 +/- square feet of land and is located North of 71st Street. Consistent with this section of the LDRs, the scale and size of the Property is well suited for and supports the City's strategic vision for increased building height to better accommodate and distribute the increased FAR for the Town Center district. Specifically, the additional 20' feet of building height consist of the 21 and 22 floors, which includes approximately 12 units per floor. These additional units contribute to the diverse residential program at the Property and provides a competitive, market advantage for diverse housing within the City. Additionally, the glass facades and integrated verticality of the building furthers the City's goal of allowing increased building height for the development of aesthetically interesting buildings within the Town Center district. Lastly, the additional height will not impact additional structures on this block as this is the only tower located on this entire City block, creating open views for the neighborhood and reducing the overall massing footprint.

V. Variances

- Variances requested from:

Sec. 142-743. - General development regulations.

The building height requirements in the TC-C district are as follows:

(b)(2) For lots that are greater than 50,000 SF and located north of 71st Street, the design review board, in accordance with the design review criteria in chapter 118, article VI of these land development regulations, may waive the maximum height of 200 feet, in order to authorize up to an additional 20 feet of height, not to exceed 220 feet, based upon the merit of the design.

³ Pursuant to Section 142-743(b)(2), the maximum height may only be increased by participation in the City's Public Benefits program. Applicant intends on satisfying the Public Benefits requirement by virtue of the Expedited Development Construction option detailed in Section 142-747(g) of the LDRs. In the event Applicant is unable to satisfy the expedited development timeline, Applicant will be required to contribute to the public benefits fund or satisfy one of the other public benefit options detailed in Section 142-747 of the LDRs.

The Applicant is requesting a Variance, pursuant to Section 118-353(a) of the LDRs, to increase the maximum building height, up to three feet, to allow for a proper and commercially reasonable amenity platform at the 5th floor. One of the stated goals of the co-living concept is to create shared communal spaces integrated within the building. The Applicant designed this building with ample amenity space, specifically 56,008 +/- square feet. The three-foot variance is not intended to benefit any other portion of the Project, but is limited to increasing the floor to ceiling clearance for this communal space on the 5th floor. Creating a successful amenity program is integral and vital to the success of the co-living use. Without this variance, the amenity space will contain 10'-4" foot clear floor to ceiling height. Note, the residential floors are designed with a limited 9'-8" clear floor to ceiling height. The Applicant limited the height of the residential uses to allow for a larger and more successful amenity program within the building.

Sec. 142-1132(o) -Allowable Encroachments within required yards

Projections may encroach into a required yard for a distance not to exceed 25 percent of the required yard, up to a maximum projection of six feet

The Project is designed with strong vertical articulation. The TC-C design regulations are very specific and all but form the physical elements of the Project. To that end, the Project is designed to activate the 72 Street frontage at the ground level, and to provide residential uses facing the open space park across the street. Note, the LDRs allow habitable spaces as of right to encroach into the setback 5' on 72 Street and 7' on Carlyle Avenue. However, once you reach the upper limits of the structure, the rooftop deck cannot be located within the setback and must be recessed from the 223 foot north face elevation, creating an awkward and disjointed design element at the rooftop. Applicant is requesting this variance to complete the design integrity of the building creating a strong form of articulation along the northern edge. Note, the requested yard encroachment variance is located at 223 feet in height and limited to the building's rooftop edge, mirroring the balcony encroachments on the floors below.

Section 118-353(d) of the City's LDRs 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; The size of the collective Property, coupled with the required retention of the post office create unique design and construction restraints. Applicant is centrally focused on building in accordance with the design development program contemplated by the newly created LDRs. The co-living concept is integral to the success of the district, and the enhanced amenity space is integral to the co-living concept. Thus, the height increase limited to the amenity space is vital to the success of the shared amenity concept. Applicant is not asking to increase the residential floor to ceiling heights. With respect to the encroachment into the yard at over 220' in height, the vertical continuity is integral to the design success of the Project. As stated in Section 142-743(b)(2)(c), design integrity is paramount in this

district and codified in the regulations. Denial of this variance would jeopardize the design integrity and risk violating the intended goals of the LDRs.

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

Satisfied; Applicant inherited the lease on the Post Office and thus did not create the restriction preventing development of that portion of the Property. Furthermore, the LDRs appear to contain a missing link for the rooftop component, requiring a break in the verticality of the building design. It's unlikely the code is intended to break the design of the building at the rooftop element and thus Applicant is requesting a minor variance for the encroachment to continue the building façade on the northern boundary of the Property.

- (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 Variances will not confer any special privilege on the Applicant, that would be otherwise denied or detrimental to similarly situated properties within the Town Center zoning district. The variance request for increased building height and yard encroachment is unique in this case in that the Applicant controls an entire City block containing approximately 1.73 acres.

- (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 requested variances will create a hardship on the Applicant, and more importantly the TC-C district, and would serve to undermine the City's vision for diverse housing options at a competitive, market rate. Due to the requisite amenity space for co-living units, the denial of the increased height would require the Applicant to shrink the floor to ceiling clearance height of this space and jeopardize the operation and success of this vital component of the project. The requested variances at the rooftop yard encroachment of 3.75' is necessitated by the Code requirement for strong architectural design. In other words, there is a certain practical difficulty to design a successful project based on the vision for this district without the de minimis variances requested by the Applicant.

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

Satisfied; The Variance is the minimum requested in order to develop the Project with amenity space for the co-living units, as required by the LDRs, with reasonable

floor to ceiling heights. Similarly, the yard encroachment is the minimum required to create design consistency for the northern facade.

- (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 express purpose of the requested variances is to further the Project's compliance with the TC-C zoning regulations and furthers the general intent and purpose of the recently amended Town Center zoning regulations. Specifically, the 3-foot height increase is a de minimis request coupled with the Applicant's satisfaction of the public benefits requirement contained in Section 142-747 of the LDRs, contributing to the Town Center neighborhood and general public welfare. Additionally, the proposed building height and yard encroachment does not negatively impact the surrounding neighborhood, as increased height was envisioned for this Property and similarly situated properties North of 71st Street facing the park (located North of 72nd Street) rather than any existing residential structures. Additionally, the Property contains an entire City block and therefore there are no abutting or adjoining structures impacted by the requested variances.

- (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 variances will allow for the redevelopment of the Property consistent with the City Comprehensive Plan and will not reduce levels of service.

VI. Sea Level Rise and Resiliency Review Waiver

Section 133-50(a) provides review criteria for compliance with the City's recently adopted sea level rise and resiliency criteria.

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

A recycling plan will be provided as part of the submittal for a partial/total demolition permit to the building department.

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

The windows and glass balcony system will be hurricane impact windows.

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

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

- (iv) *Whether resilient landscaping (salt tolerate, highly water absorbent, native or Florida friendly plants) will be provided.*

All new landscaping will consist of Florida friendly plants.

- (v) *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.*

In compliance with the Land Development Regulations, the Project is intentionally designed to activate the outdoor public areas, including the 10' clear pedestrian path. Because of the sidewalk edge of pavement grade of 5.05' NGVD, the project is designed to slope up by 1' to 6.05' NGVD for the ground floor areas. While this is below base flood, the Applicant will comply with all flood proofing requirements to maintain the ground floor areas in accordance with the Florida Building Code. To build to BFE, would require significant ramping which would sever the connectivity to the ground floor "active" areas and cause a deterrence to the usefulness and enjoyment of this area. For future adaptation, the Property has been designed with ample ground floor ceiling height for addressing future SLR predictions and resiliency improvements.

- (vi) *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 City has not proposed to raise the roadways in the near future, nor any committed sources of funding to facilitate any road raising and infrastructure improvements. However, the project is designed with future street raising in mind so the slope into ground floor spaces will not require significant revision.

- (vii) *Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation with room to raise.*

Where feasible, mechanical and electrical systems will be located above BFE. Any such facilities located below BFE will be floodproofed in accordance with Florida Building Code requirements.

- (viii) *Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.*

The post office and surface parking lot located on the southern portion of the Property are existing. Upon termination of the lease for this tenant and the government's relocation of the post office, the Applicant will redevelop this portion of the Property to comply with all code criteria, including minimum flood

elevations. Note, the Project complies with Section 142-746 addressing nonconforming structures within unified development sites.

- (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 of the City Code.*

To the extent applicable, Applicant will wet or dry flood proof as appropriate.

- (x) *Where feasible and appropriate, water retention systems shall be provided.*

The Applicant will explore various water retention systems for the Project.

V. Conclusion

The Applicant is requesting design review, waiver and variance approval for the Project, including the phased development of the Property. We are pleased to submit the enclosed application detailing the mixed-use design with substantial ground floor commercial and upper level housing options for the North Beach Town Center neighborhood. The approval of this premier Project located in close proximity to neighborhood recreational, park and entertainment facilities will help revitalize and enhance the North Beach area as an attractive place to live, shop, dine and entertain. This Project is exactly what the voters and Miami Beach City Commission envisioned when contemplating the revitalization and future development of North Beach. Based on the foregoing, we respectfully request your favorable consideration of this Application.

Sincerely,



Ethan B. Wasserman, Esq.

BEW:dv

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