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VIA HAND DELIVERY

July 19, 2019

Thomas Mooney, Director
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: Administrative Appeal of Formal Zoning Verification – Floor Area.

Dear Mr. Mooney:

As you know, this firm represents South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, 1220 Sixth, LLC and KGM Equities, LLC (collectively, the “Applicant”), the owners of the properties located at 500, 630 and 650 Alton Road, 1220 6th Street, and 659, 701, 703, 711, 721, 723, 727 and 737 West Avenue (collectively, the “Property”). Please consider this letter the Applicant’s letter of intent related to an appeal of the July 10, 2019 formal determination issued by the Department pursuant to Section 118-9(b) of the Land Development Regulations. I am attaching our application materials and our formal position memorandum prepared by Lowy and Cook, P.A.

Proposed Development. The Applicant proposes to link the Property together as a unified development site, while still providing for public access on 6th Street, which will be vacated. The proposed development of the southern portion of the Property, located south of 6th Street, will consist of a private residential tower (including a small lounge use open to the public) with accessory facilities. The proposed development of the Property north of 6th Street will consist of (i) an approximately three-acre public park; (ii) approximately 12,900 square feet of commercial space; and (iii) a surface parking lot serving the Floridian condominium.

The architectural design of the development is one of the most innovative seen in the City. Both the residential tower (and accessory structures) and commercial building will largely be made up of non-traditional elliptical shapes. We believe that the project, when developed, will be a world-class addition to the City.

Floor Area. This appeal centers on the Department's determination related to the scope of "floor area" under Section 114-1 of the City's Land Development regulations. Section 114-1 defines floor as the "sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. . . ."

"Floor" is not defined in the Land Development Regulations. The term "floor" is used in the definition of floor area only once, providing that attic space, "whether or not a floor actually has been laid," is not floor area under the City's Regulations.

Requested Determination. In the request that resulted in the July 10, 2019 letter, we sought the formal determination of whether the following portions of a building where no physical floor exists were properly deemed to be floor area under Section 114-1.

- (1) The portion of mezzanine levels where no floor exists.
- (2) Voids in floors to accommodate elevator shafts.
- (3) Voids in floors to accommodate mechanical / ventilation / trash shafts.
- (4) Voids in floors to accommodate stairwells, including voids to accommodate stairwells within accessory garages.

The Department's letter concluded that all of the above, save the portion of mezzanine levels where no floor exists, should be deemed to be floor area.

What is a "floor"? The City's Land Development Regulations do not define floor. As the Department's letter indicates, the interpretation was based, at least in part, in previous determinations made by former Director Dean Grandin in the 1990s. We believe that Mr. Grandin's determinations are not

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binding on the Applicant. Moreover, we believe that those determinations are not consistent with the plain language of the City's Land Development Regulations.

We believe that voids on a level of building, including voids to accommodate shafts, cannot be part of a "floor" simply because there is nothing in that area of the level that can accommodate persons or property. That conclusion is consistent with the Department's determination related to voids on mezzanine levels - the empty area is not deemed to be floor area. We see no reasonable distinction between a void used to create a mezzanine level and the voids created to allow for elevators or mechanical shafts. All are gaps in the level in which no floor exists and, as such, should be excluded from the calculated floor area in a building.

Conclusion. We look forward to discussing these issues in front of the Board of Adjustment. If you have any questions or comments, please call me at 305-377-6229.

Sincerely,

Graham Penn