

November 9, 2020

VIA ELECTRONIC DELIVERY

City of Miami Beach Historic Preservation Board

c/o Ms. Debbie Tackett
City of Miami Beach
Historic Preservation Department
1700 Convention Center Drive
Miami Beach, Florida 33139

**Re: Final Submittal / Letter of Intent for Historic Preservation Board Application
File No. HPB20-0431 (the “Application”) / Property located at 880 71st Street,
Miami Beach, Florida (the “Property”)**

Dear Historic Preservation Board Members:

Our firm represents Bay Dr. LLC and KG Normandy LLC (collectively, the “Applicant”), in connection with certain land use and zoning matters relating to the Property. Please accept this Application, on behalf of the Applicant, for Certificate of Appropriateness (“COA”) review and minor variances for the construction of a 4-story mixed use development, more fully detailed below. Please note, the Applicant submitted a concurrent Planning Board Application (PB 20-0482) in furtherance of the development of the Property, in compliance with Section 142-303 of the Miami Beach Code of Ordinances.

I. The Property

The irregular shaped Property is located within the Normandy Isles National Register Historic District. The Property is zoned Commercial, Medium Intensity District (CD-2) on the City of Miami Beach (“City”) Official Zoning Map and designated Medium Intensity Commercial (CD-2) on the City’s Future Land Use Map. The neighborhood contains a mix of multi-family residential and commercial uses. Specifically, a collection of condominium buildings are located to the South of the Property, including Normandy Palms, Nautico Bay Club and King Cole Condominiums, a Marathon gas station to the North, the Indian Creek waterway to the East and various commercial uses on the West. Notably, the Property directly abuts a vacant lot to the South and there are several City of Miami Beach surface parking lots within 1,000 feet of the Property. According to that certain survey, a copy of which is enclosed, the Property contains a total of 19,414 +/- square feet or .45 +/- acres of land.

II. The Project

The Applicant intends to construct a beautifully designed, mixed use development at the Property that will complement the MIMO style of architecture in the neighborhood. As detailed in the plans prepared by Built Form Architects, the Applicant will develop the Property with a 4-story, mixed use development comprised of ground floor commercial space, extensive public area improvements, 36 upper level residential units and rooftop amenities (the “Project”). While the underlying CD-2 zoning allows for a structure of up to 38,834 sq. ft. of FAR, the Project provides less FAR at height of 53’-8”¹, as measured from BFE+5’. Additionally, the Project provides approximately 3,650 sq. ft. of community engaging commercial and a ground level courtyard space that provides flexible program use. Additional amenity space is provided on the main roof, complete with a pool and environmentally-friendly shading comprised of 50% open air, stretched fabric. The intentionally designed rooftop shading and decorative screening obscures the mechanical equipment from the public right-of-way views.

Although the recently adopted Ordinance 2020-4343 (“Parking Ordinance”)² eliminates parking requirements for the Project, the ground floor parking area is designed to accommodate up to ten (10) parking spaces, with ingress/egress on Bay Drive. The enclosed Traffic Statement prepared by TrafTech Engineering, Inc. and dated September 2020, was approved by the City’s Transportation Department as part of the Application review. Therefore, the proposed parking plan meets the required parking and operational needs for the Project as well as allows for reduced massing and height at the Property.

The Project demonstrates the owner’s commitment to develop a historically compatible and contextually sensitive design while providing a pedestrian scaled experience at the public streetscape. The main building structure is raised to allow for light, air and visual access through the site to the waterway. The lower pavilion structures, containing the neighborhood-friendly commercial options, are also environmentally friendly and thoughtfully designed with green roofs and decorative screening. The overall building design follows many of the MIMO relevant design features, including strong horizontal emphasis with bold vertical breaks, angular massing moves and material compatibility. The Project was intentionally designed with a pedestrian-oriented building design in an effort to activate the streetscape along the 71st Street with interactive ground floor uses, open space and courtyard spaces, and public access to the waterfront. As further detailed in the plans, the Project will also incorporate significant enhancements to the public areas along the street rights of way.

III. Compliance with COA Criteria

The Application complies with the criteria for issuance of a COA in accordance with Section 118-564 of the City of Miami Beach Code of Ordinances (“Code”). Consistent with the City’s vision for the North Beach area, the Project will improve vacant land with an appropriately

¹ Section 142-306 allows an additional 5’ in excess of 50’ in accordance with design review criteria.

² Pursuant to Ordinance 2020-4343 (passed and adopted on June 24, 2020), there is no off-street parking requirements associated with new construction located in CD-2 zoning districts within the Normandy Isles National Register Historic District if the property is located within 1,500 feet of a public transit stop or within 1,500 feet of any public or private parking garage.

scaled, mixed use project. The Project is located along 71st Street, a major thoroughfare, as well within close proximity to other similarly scaled developments within the Normandy Isles neighborhood. For example, the King Cole condominium, located South of the Property, contains approximately eleven (11) stories and two hundred eighty (280) units and the Stanton House Condominiums located at the end of Bay Drive is developed with eleven (11) stories and contains approximately 106 units. The Project, designed with four (4) stories and thirty-six (36) units, provides a high quality development suitable and consistent with the residential character of the neighborhood to the south, while blending into the commercial corridor towards 71 Street.

The Project's architectural design and aesthetic complements the neighborhood's MiMo style and seamlessly integrates with the surrounding multi-family, residential and pedestrian friendly character of the neighborhood. Development of the Property with a state of the art, MiMo inspired development will provide high quality residential units within walking distance to nearby public transportation and neighborhood friendly retail options and public amenities.

IV. Variances

Sec. 142-308(a)(1) – Additional regulations for new construction in CD-2

In the CD-2 district, all floors of a building containing parking spaces shall incorporate the following: Residential or commercial uses, as applicable, at the first level along every façade facing a street, sidewalk or waterway; for properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

Pursuant to Section 142-308(a)(1), the ground floor parking must be lined with residential or commercial uses. However, the Applicant requests the following minor variance to allow landscaped, decorative screening along a limited portion of the Bay Drive façade, near the vehicular entrance of the ground floor parking area. Specifically, the portion of the parking located at the southwest corner of the Property is approximately 18 feet wide (the length of the parking stall behind the wall) and approximately 190 square feet in area. Due to the unusual shape of the lot coupled with the strategic location of the curb cut, the provision of any substantive commercial or residential use designed for this extremely limited area would prove impractical. Note, this limited portion of the Bay Drive facade is designed with a landscaped, decorative treatment that will obscure the view of parking stalls within the parking area and allow for a better integrated lobby, commercial and pedestrian experience; because of the irregular shape of the property, the parking area is located in the portion of the property that has the least impact to the public realm, allowing for the best pedestrian experience for the remainder of the property without vehicular interruption.

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.

Due to the unusual shape and unique configuration of the Property, the abovementioned variance is necessary to construct an appropriately designed structure on the Property, with an adequate residential floorplate and amenities. As noted in the Site Plan, the Property is 78.95 feet in width at the western edge and gradually scales down to 50 feet along the eastern edge. Because the Project consists of extensive public realm improvements, including landscaped open space and retail uses to further activate the 71st Street frontage, the residential programming is recessed and pushed to the interior, which is constrained to the limited width of the Property. In this case, the narrow width of the Property along the eastern edge conforms the southern line of residential units to 26’ in width (for the southern corridor). Given the recent pandemic, outdoor space is very important to the functionality and health of these units and the balconies are designed with 5’ in width. Note, the variances are located along the waterfront and side facing a vacant lot. Note, on the rear facade the building is setback 7’, where only 5’ is required. This is to allow additional breathing room for the outdoor balconies to the rear property line. On both areas, the Applicant is providing public access to the waterfront. As such, the Applicant requests the following variance to allow a minimal encroachment of the balcony features into the required side interior and rear yard setback: The residential balconies (Levels 2-4) encroaches (i) 4’3” into the side interior yard setback (where 2’-6” is allowed) and (ii) 3’ into the rear yard setback (where 1’-3” is allowed).

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

Hot tubs, showers, saunas, whirlpools, toilet facilities, decks. Hot tubs, showers, whirlpools, toilet facilities, decks and cabanas are structures which are not required to be connected to the main building but may be constructed in a required rear yard, provided such structure does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line. Freestanding, unenclosed facilities including surrounding paved or deck areas shall adhere to the same setback requirements as enclosed facilities.

Sec. 142-307(a) – CD-2 Setback Requirements

The setback requirements for the CD-2 commercial, medium intensity district are as follows: Rear/Subterranean, pedestal and tower: 5 feet.

The paved walkway/deck located in the rear and side of the Property, continues the free flowing, pedestrian connectivity from Bay Street, along the interior side yard to the rear providing direct access to the waterfront. Allowing the paved rear walkway/deck to encroach into the 5-foot required setback will optimize the pedestrian public access to the reconstructed seawall and waterway. Additionally, the required landscaping in the already restricted rear yard would obstruct the walkability, and most importantly handicap accessibility, and overall pedestrian experience intended for this Project.

Sec. 142-306 - Development regulations.

The development regulations in the CD-2 commercial, medium intensity district are as follows: Average Apartment Unit Size (Square Feet) for New Construction – 800 SF.

The Project is designed with an average apartment unit size of 788 SF, which is a 1.5% proposed area reduction. This request is de minimis given the unusual size and configuration of the Property. Applicant's architect was driven to provide a certain design aesthetic and this minimal variance is needed to allow the intended residential floor plate design, which ultimately creates the unique shape and design presence of the Project.

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 Property's irregular lot size and configuration coupled with the expansive public realm improvements provides unique construction restraints and development limitations. As mentioned above, requiring an active residential or commercial use within such a limited façade area concealing a single parking stall length is not feasible and would not lend to an optimal public experience so critical with new development. The Applicant proposes landscaping treatment and screening for that area of the parking façade to enhance and protect the pedestrian streetscape. With respect to the balcony encroachments into the yard, providing adequately sized residential units and balcony features are integral to the high-quality design of the residential component of the Project. The Project's balcony amenities along the side interior and rear setbacks are designed to be compliant with ADA balcony depth requirements. Given the narrow width and unique design configuration, the variance is minimal.

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

Satisfied; The irregular lot size and configuration of the Property exists today, as originally platted. As a result, the hardship and proposed variances associated with the Property do not result from the action or inaction of the Applicant. The proposed location of the curb cut currently exists at the Property, and therefore, the proposed location of the parking garage entrance simply mirrors the existing conditions 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 in the CD-2 zoning district and Normandy Isles Historic District. The unique lot configuration and existing conditions located and surrounding the Property (i.e. existing curb cut, bus stop and elevated pump station along 71st Street, irregular lot shape, uneven and narrow property width, waterfront access, etc.) creates unique design constraints not shared by other properties in this area.

- (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, would serve to undermine the City’s vision for the Normandy Isles neighborhood. The requested Variances are necessitated due to the irregular lot shape coupled with the bifurcation of the Property along the 71st street frontage (the ground floor commercial along 71st Street and gradual transition to multifamily moving south). The unique configuration of the lot creates dimensional and design challenges restricting the intended architectural vision contemplated for this development. Since early in the Project’s design phase, the Applicant’s goal has always been to design a successful project based on the vision for this area of the City and requesting these minimal variances helps achieve that goal. Applicant is proposing 3 floors of residential, elevated above a significant open area floorplan at the ground level, appropriately recessed from 71st Street, while providing public waterfront access. Placing an active liner in front of a small unusable space concealing a single parking stall length, or preventing handicap access to the waterfront would impose a hardship on 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 Variances are the minimum required to develop a high-quality Project with residential programming and extensive public realm improvements and amenities. As mentioned above, to alleviate the hardship created by the Property’s unusual configuration and narrow portions, the requested Variances are necessary to develop a thoughtfully designed Project that provides functional residential and commercial programming with significant ground floor open space and pedestrian passageways. The current pandemic underscores the need to provide high quality outdoor space (both private and shared) which the Project successfully achieves with minimal variances.

- (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; Notwithstanding the unique nature of the Property and requested Variances, the Project is largely in compliance with the CD-2 zoning regulations and is in harmony with the general intent and purpose of the City LDRs. The Project, designed as a functionally sensitive and contextually appropriate mixed-use development, reflects the pedestrian friendly and residential character of the Normandy Isles neighborhood. Specifically, the proposed Project is designed in scale akin to the existing apartment buildings in the area, few of which pose the same lot restrictions as the Property. The proposed Variances result in a thoughtfully designed project that is harmonious with the high-quality architecture intended for new construction in the North Beach area.

- (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.

V. Conclusion

The Applicant is requesting a Certificate of Appropriateness and minor variances to bring a one-of-a-kind, mixed use residential building to North Beach. This Project will be a welcome addition to the Normandy Isles area replacing a vacant lot along 71st Street. Additionally, its classic MiMo architectural design will not compete with the surrounding historic architecture, but instead, complement the existing architecture of the historic district. Based on the foregoing, we respectfully request your favorable consideration of this Application.

Sincerely,



Ethan B. Wasserman, Esq.

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