

Holland & Knight

701 Brickell Avenue, Suite 3300 | Miami, FL 33131 | T 305.374.8500 | F 305.789.7799
Holland & Knight LLP | www.hklaw.com

Tracy R. Slavens
(305) 789-7642
tracy.slavens@hklaw.com

December 20, 2016

Mr. Thomas Mooney, AICP
Director, Planning Department
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

Re: Miami Beach Port, LLC – Letter of Intent in Support of an Application for Text Amendment to the City of Miami Beach Comprehensive Plan Land Use Element

Dear Mr. Mooney:

This letter shall constitute our letter of intent on behalf of Miami Beach Port, LLC (the "Applicant"), for its application to amend the City of Miami Beach Comprehensive Plan (the "Comprehensive Plan") Land Use Element Policy 1.2 – Urban Light Industrial (I-1) category text. The Applicant is the owner of that certain ±3.71 acre parcel of land located on the southeastern tip of Terminal Island at 120 MacArthur Causeway (the "Property"; identified as folio no. 02-4204-000-0060). The Applicant submits this application for a proposed text amendment to the I-1 category to provide for an additional permitted use of multi-family residential on waterfront properties and to provide for a maximum density for such residential uses.

Terminal Island

This request is being made in connection with a proposed redevelopment plan for a portion of Terminal Island. Terminal Island is located on the MacArthur Causeway and is a gateway to Miami Beach. The waterfront land on Terminal Island is unique and special. It is highly visible and is surrounded by both luxury residential uses and marine operations. Its location on the north side of Government Cut and is centrally located between Dodge Island to the southwest, Star Island to the north, Fisher Island to the southeast, and the South of Fifth Neighborhood to the east. With the expansion of PortMiami, cargo operations have left Terminal Island and relocated to the Port where waters are deeper and new cranes provided superior service. Now is finally the appropriate time to consider the revitalization of the island.

Terminal Island is currently made up of six separate properties, which include the U.S. Coast Guard Base, the Fisher Island ferry terminal and parking area, an FPL Substation, and the City's Fleet Management facility. The Applicant has owned the Property since 2013. Until recently, the Property was operated as a shipping container port and storage yard. The City's Fleet Management facility is located directly west of

the Property at 140 MacArthur Causeway (the "City Parcel"). The City Parcel is a ±2.16 acre parcel containing Fleet Management and Sanitation Division offices and a maintenance yard with service bays, a fueling station, and other fleet support uses in buildings that date back as far back as the 1940s. The current conditions on the City Parcel do not accommodate the City's Fleet Management or Sanitation demands and there is a severe shortage of parking for City vehicles and employees. The redevelopment of the Property, which would also encompass the City Parcel and the FPL Substation as part of an overall site development master plan, contemplates a luxury 90 unit multi-family residential building, marina, and a new Fleet Management and Sanitation facility. The amendment will allow the redevelopment of the Property and City Parcel as proposed.

The Applicant intends to enter into a development agreement for the redevelopment of the Property and City Parcel to include (i) a new 25 story residential building (±300 feet) with 90 multi-family dwelling units and associated amenities, including a deep-water large-yacht marina, (ii) the reconstruction and expansion of the City Parcel, including approximately 40,600 square feet of administrative offices, service bays, vehicle maintenance and warehousing facilities and other related facilities for City operations, and (iii) 395± parking spaces for the City's sole, permanent and exclusive use (the "Development Program"). The conceptual site development master plan for the Development Program has been prepared by Foster + Partners Architecture. The Development Program will revitalize the waterfront on Terminal Island by creating a landmark at the City's gateway and allow for the highest and best use of both the Property and the City Parcel.

Comprehensive Plan Text Amendment

The Applicant is proposing a text amendment to the Comprehensive Plan Land Use Element Policy 1.2 – Urban Light Industrial (I-1) category text specifically as follows with the proposed text amendment provided in bold and underlined:

Policy 1.2 The land development regulations which implement this Comprehensive Plan shall, at a minimum, be based on and be consistent with s.163.3202, F.S., and shall further be based on the following standards for land use category, land use intensity and land use:

* * *

Urban Light Industrial (I-1)

Purpose: To provide development opportunities for existing and new light industrial facilities.

Uses which may be permitted: Light industrial and compatible retail and service facilities, **and multi-family residential uses as a conditional use for waterfront parcels.**

Density Limits: 25 dwelling units per acre

The purpose of this application is to allow for flexibility within the I-1 category where appropriate and compatible. The proposed text amendment to the Comprehensive Plan permits multi-family residential uses only when land is located directly on the waterfront. In addition, the proposed text amendment limits the density of such use to 25 dwelling units per acre (equivalent to ±90 dwelling units on the Property).

According to the City of Miami Beach Future Land Use Map, the only two areas designated as I-1 within the City are Sunset Harbor and Terminal Island. However, only Terminal Island contains waterfront land with the I-1 designation. In Sunset Harbor, I-1 lands are not waterfront and are separated from water, at a minimum, by a street or park. Waterfront property is inherently buffered on at least one side from industrial use and implementing this criteria on the permissibility of the use helps to ensure compatibility.

The Applicant believes that allowing for multi-family residential development along the Terminal Island waterfront while at the same time preserving all permitted industrial, governmental and similar uses comports with Objectives 3 and 7 of the Comprehensive Plan. Objective 3 encourages “innovative land development techniques, such as mixed-use development,” and Objective 7 encourages land development regulations to discontinue “non-conforming land and building uses which are incompatible or inconsistent with the Future Land Use Plan.” The expansion of land uses in the I-1 category to include multi-family residential uses creates a mixed-use environment, is compatible with the Future Land Use Plan, does not deprive any adjacent property owners of their rights, does not create any negative impacts, and, since the only waterfront properties in the City of Miami Beach within the I-1 zoning district are on Terminal Island, would not impact any other properties with the I-1 designation.

Justification for the Amendment

This application is being filed in connection with companion applications for an amendment to the Land Development Regulations. The companion application seeks to amend the I-1 regulations to implement regulations for multi-family residential use as a conditional use in that district. Further information on and analysis for that request is provided in the corresponding application letter of intent. However, both applications should be reviewed together. The Applicant has met the standards for approval of these requests in accordance with the criteria set for by Section 118-163 of the Land Development Regulations. The proposed amendments satisfy these criteria as follows:

1. Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.

The Applicant is proposing text amendments that are consistent with the Goals, Objectives, and Policies of the Comprehensive Plan. Specifically, the amendments are consistent with the following objectives and policies of the Comprehensive Plan:

OBJECTIVE 2: LAND USE COMPATIBILITY. *Land development regulations will be used to address the location, type, size and intensity of land uses and to ensure adequate land use compatibility between residential and non-residential land uses.*

Policy 2.2: *Development in land use categories which permit both residential and non-residential uses shall be regulated by formalized land development regulations which are designed to ensure adequate land use compatibility.*

Objective 3: INNOVATIVE DEVELOPMENT. *The land development regulations shall continue to be consistent with s. 163.3202, F.S. and with the Future Land Use map, consistent with sound planning principles, minimal natural limitations, the goals, objectives and policies contained within this plan, and the desired community character, and which shall emphasize innovative land development techniques, such as mixed use development.*

Objective 7: INCONSISTENT USES. *The City land development regulations shall continue to provide for the discontinuation of non-conforming land and building uses which are incompatible or inconsistent with the Future Land Use Plan.*

The proposed amendments are consistent with the Future Land Use Plan. The addition of multi-family residential use on the waterfront in I-1 will encourage a successful mix of uses that will be regulated by administrative procedures and special land use criteria to ensure compatibility with the uses in the surrounding area. Multi-family residential use will be allowed only as a conditional use when land is located directly on the waterfront, and restaurant use as an accessory use when associated with multi-

family residential uses. Light Industrial would continue to be the predominant use at the waterfront but residential and accessory recreational uses will be layered in to increase vitality, livability and spur economic development. Compatibility is established through conditional use approval, which ensures that the necessary safeguards are provided for the protection of surrounding land uses and neighborhood values.

2. Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.

The Applicant is not proposing any changes to the Future Land Use Map or Zoning Map boundaries. No new districts are proposed by these applications.

3. Whether the change suggested is out of scale with the needs of the neighborhood or the city.

The proposed amendment establishes multifamily residential on waterfront properties and limited accessory amenities, including a private restaurant, as conditional and accessory uses, respectively. The scale being proposed is not out of character with the surrounding area and will not negatively impact any view corridors.

4. Whether the proposed change would tax the existing load on public facilities and infrastructure.

The proposed change will decrease traffic on the MacArthur Causeway, decreasing pollution and stormwater runoff on Terminal Island and overall will lessen the impact on public facilities and infrastructure. A trip generation analysis, prepared by David Plummer and Associates, compared the vehicular impacts of the proposed use with the approved cargo terminal operations. The analysis concluded that the proposed 90 residential dwelling units will have significantly less impacts on the traffic operation of MacArthur Causeway than the cargo terminal operations as follows:

- Will eliminate in excess of 125,000 heavy truck trips annually;
- Will reduce maintenance cost for roadways and bridges;
- Will reduce ambient emissions and improve air quality,
- Will reduce PM peak hour trips by 52%; and
- Will significantly improve traffic operations on the City's busiest roadway.

5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

Not applicable. The proposed change does not modify existing district boundaries but does provide for a mixed-use development opportunity by expanding permitted uses under certain qualifying circumstances.

6. Whether changed or changing conditions make the passage of the proposed change necessary.

Cities around the country are increasingly using mixed-use industrial districts to preserve industrial land and increase density, which will result in higher property values that will benefit all residents. The proposed amendment in conjunction with the development of the City Parcel is intended to create a functional site while beautifying and encouraging the revitalization of the waterfront. Due to its strategic location and incredible visibility, there are market influences that suggest this higher and better use for Terminal Island. However, the Applicant acknowledges the importance of protecting the City's

remaining industrial lands. The proposed amendments allow multi-family residential uses within the scope of the existing land use category and ensures compatibility between permitted uses.

7. Whether the proposed change will adversely influence living conditions in the neighborhood.

The proposed change will not adversely affect living conditions in the neighborhood. In fact, the proposed change will significantly decrease traffic (particularly heavy truck trips) on the MacArthur Causeway for the immediate benefit of residents of Star Island, Palm Island, and Hibiscus Island, the three communities which are in closest proximity to Terminal Island, and improving access to and from the Fifth Street and Alton Road corridors and the South of Fifth Neighborhood. As noted above, the elimination of 125,000 heavy truck trips will also improve air quality along this corridor.

8. Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.

As mentioned above and as evidenced in the Applicant's trip generation analysis, the proposed change will have an immensely positive effect on traffic by reducing heavy truck trips by 125,000 trips and reducing PM Peak Hour volumes by 52%. The proposed use will undoubtedly have a meaningful decrease on traffic on the MacArthur Causeway and improve the quality of life for all residents, workers, and visitors traveling to and from the City on this major arterial.

9. Whether the proposed change will seriously reduce light and air to adjacent areas.

The proposed change will not impact light and air to adjacent areas. Residential building height shall be limited to 300 feet, which is significantly lower than the average tower height visible in the nearby South of Fifth neighborhood.

10. Whether the proposed change will adversely affect property values in the adjacent area.

Mixed-use encourages economic development. In general, the proximity and clustering of uses adds value to neighborhoods. The addition of a well-designed residential building with private amenities for the residents to enjoy and an intelligent expansion of the City's facilities will significantly improve Terminal Island. The proposed development will enhance the entrance to Miami Beach, create a landmark addition to the already stunning views of the surrounding buildings, and increase property values in the adjacent area.

11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

The proposed change will not be a deterrent to the improvement or development of properties in the City nor in any of the I-1 designated areas. The City's Land Development Regulations require that any new development plans must be presented to and approved by the Design Review Board at a public hearing to verify that any new development and uses are compatible with the surrounding neighborhood. Establishing residential use as a conditional use within I-1 will provide a safeguard to ensure the compatibility of any such new residential or mixed-use development.

12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

The Transportation Element of the Comprehensive Plan clearly identifies that the current industrial uses on Terminal Island are taxing on the traffic capacity of MacArthur Causeway and generate

environmental concerns. In time, Terminal Island will benefit from a mix of uses that actually decrease traffic, reduce the environmental impact on Biscayne Bay, and beautify the island.

13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.

Not Applicable.

The application satisfies the criteria for approval of the proposed amendments. The addition of residential use in the I-1 category would be both compatible and consistent with the character of the surrounding area and would be an improvement consistent with the goal of the Comprehensive Plan to promote innovative mixed-use development.

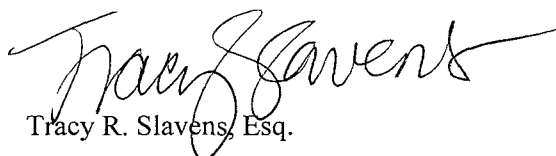
Conclusion

The approval of this Application will ensure that the Property will be developed with the highest and best use. The proposed text amendment and expansion of uses will promote a mixed-use environment in the suitable circumstances that would be both compatible and consistent with the character of the surrounding area. This would allow development that is consistent with the goal of the Comprehensive Plan to promote innovative mixed-use development. In addition, it will encourage the economic growth of the City and improve the quality of life for its residents.

In light of the foregoing, we respectfully request the City's favorable consideration of this application for an amendment to the Comprehensive Plan Land Use Element text. Please do not hesitate to contact me if you have any questions or concerns regarding the application.

Respectfully submitted,

HOLLAND & KNIGHT LLP


Tracy R. Slavens, Esq.

Enclosures