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May 1, 2024

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

Re: Letter of Intent – Height Incentive for Replacing Transient Uses in R-PS4 District

Dear Mr. Mooney:

Akerman LLP represents Komar Investments, LLC ("Owner"), owner of the Marriott Stanton South Beach hotel ("Marriott Stanton") located at 161 Ocean Drive ("Property") in the City of Miami Beach ("City"). Owner is proposing to amend section 7.2.15.2(f)(4) of the City's Resiliency Code to include a height incentive for the residential conversion of hotels, such as the Marriott Stanton, within the R-PS4, High Density Residential Performance Standard zoning district ("R-PS4").¹ The additional height would further incentivize the construction of residential uses and transition existing hotel uses to residential uses within the South of Fifth neighborhood.

A. Background Information

The Property has a lot area of approximately 68,056 square feet according to Miami-Dade Property Appraiser data and is improved with an 11-story hotel that has approximately 204,504 square feet of floor area and 224 rooms. The Property is an oceanfront lot with primary frontage on Ocean Drive and is located within the South of Fifth neighborhood. The Property is zoned R-PS4 and has a Future Land Use designation of R-PS-4 (High Density Residential Performance Standard) according to the City's official maps.

¹ The Resiliency Code currently restricts the building heights within the R-PS4 zoning district to 80 feet for nonoceanfront lots, 100 feet for oceanfront lots, and 40 feet for lots that are 50 feet wide or less. *See* Resiliency Code section 7.2.15.2(f).

B. Proposed Amendment

On July 20, 2022, the City Commission adopted Resolution 2022-32255, placing a ballot question regarding a floor area ratio ("FAR") incentive to convert existing hotels into residential use in the R-PS4 district on the November 8, 2022 general election ballot. On November 8, 2022, the ballot measure was approved by 65.66% of the voters. On May 17, 2023, the City Commission adopted Ordinance No. 2023-4555, codified as Resiliency Code section 7.2.15.2(f)(4), providing an FAR incentive for existing hotel properties in the R-PS4 district that voluntarily convert to a residential use to have a maximum FAR of 2.75, where currently the maximum FAR is 2.0.

The proposed amendment would include a height incentive in Resiliency Code section 7.2.15.2(f)(4) to permit hotels that convert to residential use to have a maximum height of 145 feet, further incentivizing the redevelopment of hotels within the R-PS4 zoning district into residential properties. The replacement of a hotel with residential uses would reduce the impact of transient hotel uses in the South of Fifth neighborhood. The proposed amendment was presented to the South of Fifth Neighborhood Association ("SOFNA"), which has endorsed the amendment via resolution, as noted in the SOFNA letter attached as **Exhibit A**. Further, as noted in the SOFNA letter, because of existing conditions at the Property (including a contributing structure), the FAR permitted by the existing incentive is unattainable without additional height to support it. In order for the FAR incentive to serve its intended purpose, a height incentive needs to be provided.

C. Planning Board Review Criteria

Section 2.4.2(c) of the Resiliency Code establishes specific criteria for amendments to the text of the City's land development regulations. These criteria are addressed below:

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

The proposed amendment increases the allowable height of hotels converting to residential use and meeting the requirements of section 7.2.14.2(f)(4) within the R-PS4 district to 145 feet. High density residential uses are permitted within the R-PS-4 future land use category and are consistent with the established uses in the South of Fifth residential community. Residential uses and character are of primary importance in this community.

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

The proposed amendment does not create an isolated district unrelated to adjacent or nearby districts.

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

The proposed amendment would allow for a modest increase in the allowable height for certain existing hotel properties that convert into residential uses. However, this development incentive would promote the redevelopment of hotels into residential uses and help reduce transient uses, which cause nuisances for residents and are out of character with the South of Fifth residential community.

Further, in the immediate area surrounding within the R-PS4 zoning district are the following buildings and approximate building heights²:

- Continuum, South Tower (100 South Pointe Drive): 474 feet
- Glass Condominium (120 Ocean Drive): 201 feet
- Portofino Tower (300 South Pointe Drive): 452 feet

An allowable height of 145 feet would be well below these nearby structures and fit in the context of the neighborhood.

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

The proposed amendment will not affect the load on public facilities and infrastructure as the maximum FAR is not being modified. The proposed amendment should result in a reduction in traffic and load on city services as hotel density is unregulated and the applicable residential density limit is capped. Further, residential uses are less impactful than hotel uses.

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

The proposed amendment does not modify district boundaries.

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

The desire to transition existing hotels into residential properties in order to lessen the impacts of transient uses in the surrounding neighborhood makes passage of

² Building heights were taken from each building's Declaration of Condominium recorded in the Miami-Dade County Public Records.

the proposed change necessary. The proposed change incentivizes the removal of an out of context use and incentivizes the development of residential housing that better matches the context and character of the neighborhood.

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

The proposed amendment will not adversely affect living conditions in the neighborhood, but rather will improve living conditions by incentivizing residential uses that better suit the existing residential community.

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.

The proposed change will not create or increase traffic congestion. Rather, it will potentially improve traffic conditions by replacing transient occupancy with permanent residents, and lessen the number of people commuting to and from Miami Beach. There will also be far fewer residential units than hotel rooms.

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

The proposed change only allows for a modest increase in height in the affected areas. Therefore, the proposed change should not seriously reduce light and air to adjacent areas.

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

The proposed change will not adversely affect property values in the adjacent areas. In fact, a residential project should positively impact property values in the 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 adjacent property, but in fact can facilitate the development of more desirable residential uses.

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

Not applicable.

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.

D. Sea Level Rise and Resiliency Review Criteria

The sea level rise and resiliency review criteria from section 7.1.2.4(a)(ii) of the Resiliency Code are addressed below:

1. Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.

The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

2. Whether the proposal will increase the resiliency of the city with respect to sea level rise.

The proposal will increase the resiliency of the City with respect to sea level rise by encouraging the redevelopment of existing properties in a manner that will comply with the City's resiliency requirements.

3. Whether the proposal is compatible with the city's sea level rise mitigation and resiliency efforts

The proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

E. Conclusion

Overall, amending section 7.2.14.2(f)(4) of the Resiliency Code to include a height incentive would help reduce transient uses and replace such uses with residential uses that draw permanent residents to the City. Further, as the proposed amendment does not increase the maximum allowable residential density, it would not lead to a greater number of units, but rather improve the quality of units and further incentivize the conversion of transient uses. For these reasons, the proposed amendment to the Resiliency Code should be approved. Thank you for your consideration.

Sincerely,



Enclosures

cc: Michael Belush, Planning & Zoning Manager

EXHIBIT A

March 5, 2024

Dear Mayor and Commissioners,

Following a presentation by representatives of the Marriott Stanton Hotel at a March 5th public meeting of neighborhood residents, the board of the South of Fifth Neighborhood Association (SOFNA), passed a resolution supporting the proposed amendments to zoning regulations applicable to the RPS4 Zoning district to incentivize the conversion of qualifying hotel properties to residential by granting them additional height subject to certain conditions. As you know, SOFNA has been supportive of the proposal in the past in an effort to eliminate hotel uses in the predominantly residential neighborhood. We feel that conversion of hotels to residential use will be beneficial to the neighborhood, given the reduction in density and noise it offers. As discussed with the representatives of the Marriott, the additional FAR approved by the voters at referendum in November of 2022 is practically unfeasible without additional height provided to support it. In order for the incentive to serve its intended purpose the proposed modifications would need to be adopted. Our support is predicated on there being no increase in the existing .75 FAR incentive, protection of an existing historic structure, and a restrictive covenant added by developers that, in perpetuity, rentals be for a minimum of 6 months.

Regards,

Keith Marks, President

For The SOFNA
Board Of Directors