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VIA ELECTRONIC MAIL

November 17, 2025

Rogelio Madan, Development & Resiliency Officer  
Planning Department  
City of Miami Beach  
1700 Convention Center Drive, 2nd Floor  
Miami Beach, Florida 33139

RE: REVISED: DRB25-1146 Letter of Intent for Design Review  
Board Approval for Proposed Project at 1 Ocean  
Drive

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Dear Mr. Madan:

This law firm represents Boucher Brothers Pier Park, LLC (the "Applicant"), the Concessionaire that was awarded the Concession Agreement via City Commission Resolution to redevelop the "Nikki Beach" restaurant site and beach concession facility at Pier Park (the "Concession Agreement"). Please allow this letter to serve as the required Letter of Intent in support of our application seeking Design Review Board ("DRB") approval for our proposed project in connection with the Concession Agreement. An associated Planning Board application for the proposed project has been filed concurrently under File No. PB25-0792. As the Owner of the Property, the City of Miami Beach (the "City") has formally joined and authorized this Application through the Office of the City Manager.

Property Description. The Property, further identified by Miami-Dade County Folio Nos. 02-4203-012-0011, 02-4203-012-0010, and 02-4203-012-0012 is located on the northeast corner of South Pointe Drive and Ocean Drive. See Figure 1. Aerial, below. The Property is approximately 158,000 square feet (3.6 acres) in size.

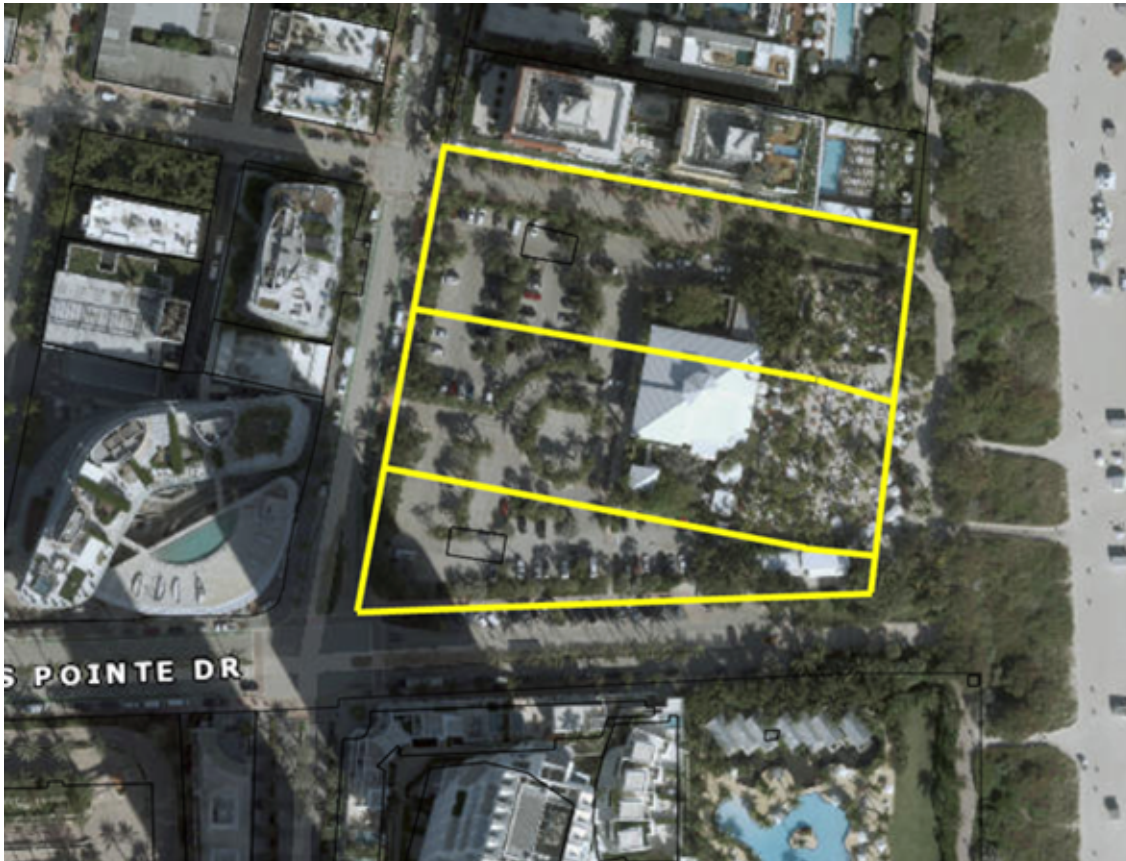


Figure 1. Aerial.

Land Use and Zoning. The Property is designated Recreation and Open Space Including Waterways (ROS) on the City's Future Land Use Map. The Applicant has met with the Director of Planning and Zoning to confirm consistency of the proposed use with the Comprehensive Plan. The Property is located in the Government Use or GU Zoning District. The Property is further located within the City's Oceanfront Overlay. The Property is not within an historic district.

Project. The Applicant proposes to redevelop the existing restaurant and beach club at the Property to facilitate an updated high-end patron experience at this iconic Property (the "Project"). The Project proposed by the Applicant will include facilities and operations to rent beach and related equipment; operate two restaurants and a café; operate a high-end quality children's center; operate a health and wellness center; sell beach related sundries and skin care products; and operate a retail pavilion. The proposed improvements include

reconstruction of the of the facility, including complete reconstruction of the main building, outdoor areas, parking lot, new understory to provide additional parking, and adjacent public restrooms, and the addition of a pool and retail areas. As set forth in Exhibit 1.4.3 of the enclosed Concession Agreement, the proposed budget for this Project is \$26,226,920.

Requests. The Applicant requests the following variance(s) in furtherance of facilitating the Project:

1. Variance from Section 7.2.16.3 of the Code to allow a pedestal side yard facing a street setback of 9'-11" through 16'-10" from South Pointe Drive where 2'-6" is required (the average of the abutting CPS-1 and R-PS4 setback requirements); and
2. Variance from Section 7.2.16.3 of the Code to allow a front setback of 117'-5" from Ocean Drive where 2'-6" is required (the average of the abutting CPS-1 and R-PS4 front setback requirements) (this variance seeks partial relief from the front setback for the area not extended by the open court).
3. Variance from Section 7.2.16.3 of the Code to allow a pedestal side yard facing a street setback of 15' from First Street where 2'-6" is required (the average of the abutting CPS-1 and R-PS4 setback requirements); and

Variance Request for Side Setback (South Elevation). The Project proposes a pedestal side yard facing a street setback of 9'-11" through 16'-10" (varying) from South Pointe Drive on the south side of the Property. The unique circumstances supporting this request include the fact that the Property maintains a highly unusual existing condition: the southern Property line is located south of the public sidewalk traversing east/west to and from the public beach. Effectively, the public sidewalk is unusually located within the Property boundaries. This is likely related to the fact that the Property is owned by the City. However, as a result, compliance with the required 2'-6" side setback requirement would result in the structure blocking this public sidewalk, in conflict with the Recreation and Open Space Element (ROS) of the Comprehensive Plan, which identifies as Objective ROS 1.1 to "preserve beach and waterfront parks and continue to improve park access to water-related recreation activities and facilities." Obstructing the public sidewalk further conflicts with the Land Development Regulations and specifically the GU district regulations and purpose. Providing the proposed setback of 9'-11" through 16'-10" (varying) allows for the preservation of the public sidewalk, and thereby supports important public policies of promoting pedestrian circulation and waterfront access as contemplated for this area by the City's Comprehensive Plan.

Variance Request for Front Setback (Partial). The Project proposes a front setback of 117'-5" for a portion of the frontage. The Applicant requests this variance to allow for the provision of the 72 public parking spaces for City/public use as required by the Concession Agreement and open court area as required by the Sections 7.2.15.2.g and 7.2.15.3.f of the Code, requiring "For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of 3 square feet for every linear foot of lot frontage." Please note the open court with bench seating on the front of the Project in satisfaction of the Code's open court requirement. The Project's increased front setback is "extended" as contemplated by the above quoted Code section requiring the open court, and is necessary to accommodate the Code's open court requirement. Moreover, approval of the variance will allow for the primary structure to be located within the "Concession Area" contemplated by the Concession Agreement and will allow the Project to satisfy the purpose of the Concession Agreement, which is to provide a "high-end beach establishment" and "*beachfront* concession area".

Variance Request for Side Setback (North Elevation). The Project proposes a pedestal side yard facing a street setback of 15' where 2'6" is required for a small portion of the north elevation adjacent to First Street. A majority of the proposed project complies with the 2'6" setback requirement. Moreover, approval of this variance will allow for an increased setback for the proposed wellness and spa center located in the northeast corner of the Property. Similar to the southern Property line discussion above, the Property maintains the highly unusual existing condition creating a unique circumstance: the northern Property line is located north of a portion of the public sidewalk traversing east/west to and to/from the public beach, resulting in the sidewalk being partially located within the Property boundaries. Therefore, compliance with the 2'-6" side setback requirement would result in the structure reducing the area available for public pedestrian use and circulation, in conflict with the Recreation and Open Space Element (ROS) of the Comprehensive Plan, which identifies as Objective ROS 1.1 to "preserve beach and waterfront parks and continue to improve park access to water-related recreation activities and facilities." This wider pedestrian area further comports with the Land Development Regulations and specifically the GU district regulations and purpose. The proposed variance will avoid reducing the area available for public, pedestrian use and circulation, and thereby supports important public policies of promoting pedestrian circulation and waterfront access as contemplated for this area by the City's Comprehensive Plan.

*Practical Difficulty.* The Property contains public sidewalks within its boundaries resulting in a practical difficulty in satisfying the minimum/maximum north and south side setbacks, while ensuring the preservation of the public sidewalk accessways, critical to beachfront access in this unique area of the City. The Property's unique configuration and share compiled with the unique requirements of the Concession Agreement result in additional practical difficulties in satisfying the front setback requirement while simultaneously providing the required public parking and positioning the building in compliance with the Concession Agreement and creating a "beachfront" venue readily accessed by pedestrians. In light of these practical difficulties, approval of the requested variance(s) is justified. Further, the Applicant asserts that the practical difficulty standard for the variances requested herein are sufficient to support the relief requests, as contemplated by the City's Comprehensive Plan. In an abundance of caution, however, this Letter of Intent also enumerates the below Code-based factors for the hardship criteria.

*Satisfaction of Hardship Criteria.* The Variance(s) requested herein also satisfy the hardship criteria pursuant to Section 2.8.3.a. of the Code, as follows:

1. 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;

Special conditions arise from the climate-resilient objectives, architectural design, and spatial organization of the Property. The Property is uniquely located abutting the beach, and encompasses public sidewalks to the south and north within its boundaries. Approval of the proposed variance(s) allows for the preservation of the public sidewalks in furtherance of the goals and policies of the Comprehensive Plan and the regulations and intent of the Land Development Regulations and will allow for the Project to be situated in a manner that is consistent with the Concession Agreement and its intent and purpose. Other similarly situated private properties are not required to conform to the requirements of the Concessionaire Agreement, such as the requirement to maintain 72 parking spaces for City/public use, for example.

2. The special conditions and circumstances do not result from the action of the applicant;

The special conditions and circumstances do not result from the action of the Applicant. The Property is owned by the City and has encompassed the public sidewalks for many years.

The referenced terms and intent of the Concession Agreement were created by the City, including the requirement to maintain 72 parking spaces for City/public use.

3. 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;

Granting the requested variance(s) will not confer any special privilege. The Code provides a process for similarly situated property owners to request variances where, as here, such requests are justified by site conditions, resiliency objectives, or architectural design. The requested relief is limited to the specific features of the front and south and north side yards that help to ensure consistency with the Concession Agreement, Comprehensive Plan, and Code.

4. 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;

A literal interpretation of the provisions of the land development regulations would deprive the Applicant rights enjoyed by other properties in the same zoning district that have resiliency-focused designs. The design complies with the spirit of the Code, yet strict adherence to every technical requirement would prevent a feasible project, conflict with the Concession Agreement, the particular limitations presented by the built environment, and would impose unnecessary and undue hardship.

5. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure

The variance(s) requested are limited in scope and directly tied to specific functional needs. The requested variance(s) represents the minimum deviation necessary to support the reasonable use of the Property in a manner consistent with its context, the Concession Agreement, and the goals of the Resiliency Code, as well as the Comprehensive Plan.

6. 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; and

Granting the requested variance(s) will be in harmony with the intent and purpose of the City's land development regulations. The requested variance(s) will ensure a safe front and side setback areas and maintain an appearance consistent with the surrounding neighborhood. The variance(s) will not be injurious to adjacent properties or detrimental to the public welfare, and in fact will further critical public policies of promoting pedestrian access to waterfront properties.

7. 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. The planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board of adjustment voting on the applicant's request.

The variance(s) are consistent with the comprehensive plan and do not reduce the levels of service as set forth in the plan. The variance(s) will allow for preservation of the sidewalks which provide access to and from the beach, which is directly consistent with the goals and objectives of the Comprehensive Plan, as are particularly applicable to City owned waterfront property.

Design Review Criteria. The application is consistent with the City's design review criteria codified in Section 2.5.3.1 of the City Resiliency Code (the "Resiliency Code"). Below is each relevant criterion and the application's consistency with all of the standards.

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.

The Project is designed with resilience and careful consideration of the existing conditions and geographic location, and provides lush landscaping with a variety of species.

- b. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.

The Project effectively provides for multiple modes of ingress and egress, utility services, drainage facilities, and screening devices, as well as encourages alternative modes of transportation with extensive bicycle racks and shower facilities for bicycle users.

- c. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

The architectural plans submitted with the application materials include a comprehensive zoning data legend and detailed architectural drawings detailing the Project's compliance with the Resiliency Code.

- d. The color, design, selection of landscape materials and architectural elements of exterior building surfaces and primary public interior areas for developments requiring a building permit in areas of the city identified in section 2.5.3.2.

The Applicant has selected high quality materials and finishes for the Project.

- e. The proposed site plan, and the location, appearance and design of new and existing buildings and structures are in conformity with the standards of this article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and historic preservation board and all pertinent master plans.

The Project conforms with the intent of the Resiliency Code and all other applicable ordinances and guidelines, as is illustrated by the extensive architectural plan set which includes multiple detailed renders.

- f. The proposed structure, or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties.

The Project is sensitive and compatible with the surrounding neighborhood, while elevating the appearance and character of its surroundings. The resilient design will enhance the surrounding area, as intended and contemplated by the Concession Agreement.

- g. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

The proposed layout of the structures, lush landscaping, and other features of the Project were carefully designed and arranged to minimize potential impacts on adjacent neighbors.

- h. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safety and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site.

The Project provides for efficient ingress and egress to-and-from the Property, and features a new understory to provide additional parking. Additionally, vehicle parking is heavily landscaped and screened from view. Finally, the Project's components encourage alternative modes of transportation with extensive bicycle racks and shower facilities for bicycle users.

- i. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

The plan is in compliance. The Applicant agrees to minimize glare and reflection, if any, on adjacent properties consistent with the City Code.

- j. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

Included in the application materials are architectural and landscape plans with sufficient details relating to the proposed landscape and paving materials. The proposed landscape will be lush, with a variety of species.

- k. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

The Project includes multiple landscape buffers to shield lights and noise from the Property and vehicles.

- l. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

The Project is sensitive and compatible with the surrounding neighborhood. The Project is designed to maintain important view corridors.

- m. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

The Project has a significant landscape and parking buffer and does not front any streets directly.

- n. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

The Project complies with this criterion.

- o. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

This criterion is inapplicable to this application.

- p. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

The Project complies with this criterion.

- q. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties

The back of house elements of the Project have been located in a manner to limit the impact on adjacent properties.

- r. In addition to the foregoing criteria, section 104-6 (t) the General Ordinances shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.

This criterion is inapplicable to this application.

- s. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

Confirmed. The structure and site comply with the sea level rise and resiliency review criteria, as described in more detail below.

Sea Level Rise and Resiliency. Section 7.1.2.4 of the Resiliency Code establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

1. A recycling or salvage plan for partial or total demolition shall be provided.

This will be provided along with the application at permitting.

2. Windows that are proposed to be replaced shall be hurricane proof impact windows.

All windows will be hurricane proof impact windows.

3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

The Applicant will provide, where feasible, passive cooling systems.

4. Resilient landscaping (salt tolerant, highly water-absorbent, native, or Florida-friendly plants) shall be provided.

All landscaping will be Florida friendly and resilient.

5. The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

The Project has been designed with consideration to sea level rise projections, and in fact the project's reconstructions plan is informed by moder floodplain regulations and sea level rise policies.

6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-way and adjacent land, and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three additional feet in height.

The Project has been designed to accommodate the raising of adjacent rights of way in the future.

7. As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the

relocation of all critical mechanical and electrical systems to a location above base flood elevation.

All mechanical and electrical systems will be located above base flood elevation.

8. Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard.

This criterion is inapplicable to this application as the project will be reconstructed to comply with modern floodplain regulations.

9. 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.

No habitable space will be below base flood elevation.

10. As applicable to all new construction, stormwater retention systems shall be provided.

The Project has been designed with stormwater retention as required.

11. Cool pavement materials or porous pavement materials shall be utilized.

Cool pavement or porous pavement materials will be utilized where any new pavement is proposed.

12. The design of each project shall minimize the potential for heat island effects on-site.

The Project limits the potential heat island effect on-site by incorporating passive design strategies such as shading devices and natural ventilation, and providing significant vegetation on the Property.

Design Review Approval. The Applicant is excited to bring a new vibrancy and significant investment to this iconic destination, and respectfully seeks design review approval

of the Project. The Project is consistent with the City's design review criteria codified in Section 2.5.3.1 of the City's Resiliency Code.

Conclusion. We look forward to your favorable review and comments in connection with this Application. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Paul Savage

cc: Ozzie Dominguez, CSM, Director of Asset Management, Office of the City Manager  
Ricardo J. Dopico, Esq., City Attorney, Office of the City Attorney  
Michael Larkin  
Benjamin Sherry