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November 23, 2019

VIA ELECTRONIC & HAND DELIVERY

Brett Bibeau
Managing Director
Miami River Commission
1407 NW 7 St. Suite D
Miami, FL 33125

RE: Letter of Intent - 301 & 311 NW South River Drive
Presentation to Miami River Commission for Consideration of:
New Construction of Marine-Related Commercial
Building and Adaptive Use of Existing Structure as
Ancillary Food Service Establishment

Dear Mr. Bibeau,

Wernick & Co, PLLC represents Puntallana, LLC ("Applicant"), the owner of the properties located at 301 & 311 NW South River Drive,¹ along the south side of the Lower Miami River in the Riverside Neighborhood of Little Havana (the "Subject Property").

Applicant is proposing to improve and re-activate the subject Property, including construction of a new 6-story marine-related commercial building to contribute to the working waterfront economy of the Miami River & renovation and adaptive use of an existing 2-story warehouse building for use as a food service establishment with indoor/outdoor dining (the "Project").

At its November 14, 2019 meeting, the Miami River Commission Urban Infill Subcommittee received a presentation from the Applicant and recommended approval of the Project with suggested conditions and modifications to the site plans, as detailed further below. The Applicant has taken these comments into consideration and submits this revised letter of intent along with updated site plans incorporating additional information and proposed site improvements consistent with the Miami River Corridor Infill Plan and compatible with the working waterfront character articulated through the Port of Miami River Element of the Miami Comprehensive Neighborhood Plan, Miami 21 Zoning Code, and other local, state, and federal regulations.

¹ The Subject Property has the following corresponding tax folio numbers: 01-0200-010-2040; 01-0200-010-5010.

EXISTING CONDITIONS. The Subject Property is an irregular shaped waterfront site, comprising in total approximately .38 acres, along NW South River Drive, north of the Flagler Street bridge and south of the NW 5th Street bridge, at a point fronting the Miami River facing eastward before the Miami River bends to the west. See the Boundary and Topographic Survey attached as *Exhibit A*.

The existing structure at the 301 Site is a 1-story warehouse of approximately 2,425 square feet of floor area. Records from the Miami-Dade Property Appraiser indicate that the existing structure was built in 1946. The existing 2-story structure at the 311 Site is currently vacant and underutilized. Records from the Miami-Dade Property Appraiser indicate that the existing warehouse structure was built in 1951. The Subject Property was previously used in conjunction with a fishery business that has since left the area. See information from the Miami-Dade County Property Appraiser attached as *Exhibit B*.

The Subject Property is located between two existing commercial and waterfront industrial sites. Directly to the south of the Subject Property is La Coloma Marina; immediately to the north of the Subject Property is Miami River Lobster & Stone Crab.

The Subject Property has a relatively shallow depth between the frontage along NW South River Drive and the existing seawall (93' at its shortest). The existing structures were built very close to the River and the structure located at 311 NW South River Drive has structural columns situated as close as 4 feet from the seawall edge. There is currently no formal Riverwalk constructed nor public access to the Miami River on the Subject Property (nor on the adjacent properties described above). However, this section of NW South River Drive is improved with the on-street Miami River Greenway, which includes well-placed signage and sidewalks in good physical condition.

The Subject Property is classified as *Industrial* on the City's Future Land Use Map (FLUM); and is located within the *D3* (Waterfront Industrial) Transect Zone on the City's Zoning Atlas. See excerpt of the FLUM attached as *Exhibit C*. See excerpt of the Zoning Atlas attached as *Exhibit D*.

PROJECT DESCRIPTION. As detailed on the plans prepared by DLW Architects (dated November 19, 2019), the Project includes demolition of the existing 1-story warehouse and construction of a new primary use marine-related 6-story custom-made commercial building at 301 NW South River Drive, accompanied by the restoration of the existing 2-story structure at 311 NW South River Drive to be renovated and adapted for use as an ancillary food service establishment. The buildings will complement one another with a spacious hardscaped open space courtyard accessible to the public from NW South River Drive.

The Applicant has signed a lease with NuMarine to be the tenant of the new 6-story marine-related custom-made commercial building developed *specifically* for its marine-related business, relocating its Miami footprint and corporate sales office from Doral to the Lower Miami River.

NuMarine is a premier yacht builder headquartered in Europe and doing business around the world, with a reputation for designing and developing state of the art motor yachts. From its corporate website:

“Continuing to impress the motor- yachting world with ground breaking and innovative designs. Numarine is the number one choice for owners who value individualism with the need to stand out in the crowd. ... The highly creative in-house design team will work with you to create the perfect concept and decor suited to your needs. Numarine uses the very latest in vacuum infusion technology and composite materials to produce an extremely rigid, lightweight and incredibly strong hulls keeping ahead of the game.”

The ground floor will include a yacht sales center - with direct rear access by employees and customers to the waterfront to view and tour yachts that might be moored on site, and anticipates including a mechanic’s shop for customer boat repairs and service. The upper floors will blend the sales center with supportive office space and back of house functions.² The building façades are presented with ample glazing adorned with a green wall system. The plans include a significant increase in the number of trees and landscaping on site from what currently exists today.

At 311 NW South River Drive, the Applicant is proposing to retain and renovate the existing structure, integrating a food service establishment on the ground floor.³ The portion of the building closest to the rear property line—previously walled off from the Miami River—is being converted into a modest covered terrace dining area and enhanced access to the waterfront.

The Project includes a family-friendly rooftop observation deck that has views of the Miami River and yachts moored here in connection with the sales center, intended to enhance public interaction with the waterfront and invite locals and visitors alike to experience the Miami River and all it has to offer. However, the Applicant has committed to restricting outdoor dining to the ground level. There will be no outdoor seating area or alcohol sales on the roof deck, as reiterated by the Applicant at the November 14th MRC Infill Subcommittee meeting.

The Project incorporates modern design elements into the footprint of the existing building. Formerly blank walls are being opened with increased glazing on all facades and bifold glass doors leading outside. The Project also introduces color with freshly painted stucco, green wall elements, and metal awnings. Introduction of significant on-site landscaping—where none currently exists on the industrial use site—will further transform this building into an inviting, appealing place to enjoy the riverfront.

² The building proposed to be constructed at 301 NW S River Drive and the marine-related commercial establishment is by Right within the D3 transect zone, and will proceed under separate permit from 311 NW S River Drive.

³ Use is permitted by Warrant in the D3 Transect Zone per Miami 21 Article 4, Table 3.

Finally, the Applicant is further promoting a sustainable working waterfront. In addition to construction of the new 6-story marine related building at the 301 Site, the plans include repair of the existing seawall, a new bulkhead, and new mooring cleats, under separate permit.

COMPLIANCE WITH CITY OF MIAMI COMPREHENSIVE PLAN, MIAMI 21 ZONING CODE AND THE MIAMI RIVER CORRIDOR URBAN INFILL PLAN. The Applicant has been cognizant and respective of the relevant standards and guidelines as applied to the Project given its context within the D3 transect zone along the Lower Miami River.

- ***Consistency with the Port of Miami River Element of the Miami Comprehensive Neighborhood Plan.*** The Miami Comprehensive Neighborhood Plan (MCNP) establishes goals objectives and policies to guide future use and development. The Port of Miami River Element places an emphasis on maintaining a working waterfront character along the River while encouraging the use and improvement of private property to facilitate growth and evolution of neighborhoods over time. The Port of Miami River Element encourages restaurants as ancillary to working waterfront sites. See excerpt from the Port of Miami River Element attached as ***Exhibit E***. The Project provides that essential balance – adding new marine related use building to the working waterfront economy while also activating an existing structure for ancillary food service establishment, consistent with the goals, objectives and policies of the Port of Miami River Element for this portion of the Miami River.

Policy PA 3.1.8 requires a no net loss of recreational wet slips along the Miami River. Based on tenant’s proposed use of the Subject Property, yachts will be moored along the seawall behind both properties and the Project will maintain the four (4) wet slips per the submerged land lease for the benefit of the Subject Property with the State of Florida (BOT File No. 130030976) (“Submerged Land Lease”),⁴ and in accordance with the existing Marine Operating Permit (MOP No. 000405-2019/2020), which provides for 4 wet slips, which are proposed to remain primarily for operation by NuMarine. See the Submerged Land Lease, attached as ***Exhibit G***. See MOP, attached as ***Exhibit H***.

Policy PA-3.1.9 of the MCNP requires “new residential development and redevelopment located along the Miami River [to submit] a recorded covenant acknowledging and accepting the presence of the existing Working Waterfront 24-hour operations as permitted.”

- ***Acknowledgement of Working Waterfront and Maintaining the Federal Navigable Channel.*** Here the Project does not propose nor is residential development permitted within the D3 transect zone; Applicant is proposing to maintain and reactivate the Working Waterfront use. Although a declaration of restrictive covenants is not required for this Project, Applicant recognizes and acknowledges the importance of maintaining the Working Waterfront

⁴ Applicant’s current sovereign submerged lands lease from the State of Florida permits the mooring of four (4) vessels alongside the shared seawall behind the Subject Property, consistent with the Marine Operating Permit. Both the Submerged Land Lease and the Marine Operating Permit contain specific operating conditions and restrictions to protect the navigable channel.

and the federal navigable channel, and to further accommodate the Miami River Marine Group and recommendations from the Miami River Commission Urban Infill Subcommittee, Owner hereby acknowledges and agrees to the following:

- (a) not to object or otherwise attempt to impede any legally permitted Working Waterfront 24-hour operations; and
 - (b) to provide all future tenants and prospective owners of the Property notice of the existing Working Waterfront 24-hour operations and will include a provision to agree not to object to legally permitted Working Waterfront 24-hour operations in each lease; and
 - (c) that it is solely the Owner's responsibility to design its structures to accommodate legally permitted Working Waterfront 24-hour operations; and
 - (d) that it will not pursue any claims for liability, loss or damage, whether through litigation or otherwise, against permittees engaging in Working Waterfront 24-hour operations, related to, noise, smoke, fumes, federally regulated bridge openings, and/or other quality of life issues that might result from legally permitted Working Waterfront 24-hour operations; and
 - (e) Owner agrees to maintain the existing number of recreational wet-slips along the Miami River, under the Submerged Land Lease (BOT File No. 130030976) and the Marine Facilities Operating Permit (MOP No. 000405-2019/2020), except as required by the United States Coast Guard, the Miami-Dade County Department of Regulatory and Economic Resources, or as required by other regulating agencies with appropriate jurisdiction.
- ***Consistency with Miami River Corridor Urban Infill Plan.*** The Miami River Corridor Urban Infill Plan (the "Plan") was produced in 2002 for the Miami River Commission and continues to serve as a framework for redevelopment along the Miami River. The Plan provides a vision for the Miami River in sections – the Lower River, Middle River, and Upper River. Notably, unlike several of the projects that have been considered by the MRC and neighborhood associations in recent years, the Subject Property is located within the "Lower River" Section. The Plan calls for mid-rise development, medium to high density and mixed-use is encouraged. "The first floor of new developments should incorporate businesses which interact with the Greenway, such as restaurants, cafes, fresh fish markets, etc." Furthermore, in the *Vision for the River*, with respect to East Little Havana, the Plan notes the waterfront industrial zoning (today D3). But also calls for ancillary commercial uses, inclusive of restaurants, as ancillary to water-dependent uses, as a means to "increase the economic vitality" and "enliven the Greenway." See excerpts from the Miami River Corridor Urban Infill Plan, attached as *Exhibit F*.

Here, the Project proposes to introduce a new marine-related commercial use and tenant with worldwide presence and respected in the industry, creating jobs and expanding on the working waterfront. The Project maintains a strong working connection to the River. Yachts will be

moored along the seawall behind both properties per Applicant's Submerged Land Lease and MOP Permit.

In addition, as a secondary use, the Project will convert an existing vacant building into a restaurant without expanding the footprint or incorporating surrounding parcels into the use, and the Project's site layout is designed to seamlessly integrate with Applicant's yacht sales center through a cohesive landscape/hardscape component, resulting in a publicly accessible courtyard experience fronting directly on the Miami River, looking east towards Lummus Park. With a functioning Miami River Greenway component along NW South River Drive, the Project is proposing to enhance connectivity for pedestrians and cyclists and access to the waterfront – that does not exist today – consistent with the Lower River Section guidelines and the Vision for the River as it pertains to the waterfront industrial areas in East Little Havana.

- ***Uses are Permitted within D3 Transect Zone.*** The D3 Transect Zone in Miami 21 is intended specifically as a waterfront industrial zone. The D3 transect zone prohibits any residential or lodging uses; only a handful of uses are permitted by right, which includes marine related commercial establishments; other uses, including food service establishments, are permitted by Warrant. See Article 4, Table 3 attached as *Exhibit I*.

The Project complies with the D3 transect zone and *Industrial* future land use classification maintained by the City of Miami for this Property. No zoning changes or public hearing applications are contemplated under Miami 21. The marine-related commercial use is 'By Right'. The proposed food service establishment for 311 NW S. River Drive, is permitted by Warrant and ancillary use to the marine-related commercial use proposed for 301 NW S River Drive.

- ***Compliance with Miami 21 Parking Requirements.*** Pursuant to Miami 21, the Project as presented does not require on-site parking.

Pursuant to Article 4, Table 4 of Miami 21, buildings less than 10,000 square feet in floor area, if "located within a designated Transit Corridor and not within 500 feet of an ungated T3 zone", are exempt from parking space requirements. See Article 4, Table 4 attached as *Exhibit I*.

- For 301 NW S River Drive, the Project is below 10,000 square feet in floor area and within ¼ mile of a Transit Corridor and well beyond 500 feet of a T3 zone (nearest T3 zone approximately 1350 feet away), and thus qualifies for a by Right exemption from parking requirements under Art 4, Table 4. See Transit Corridor Diagram attached as *Exhibit J*. See aerial map diagram showing distance from Subject Property to nearest T3 Zone, attached as *Exhibit K*.

Pursuant to Article 7.2.8 of Miami 21, "where existing off-street parking is nonconforming to the requirements of this Code or any other City Standards to any Use permitted in the transect zone Adaptive Use shall not require the provision of additional parking or on-site stormwater retention or detention."

- For 311 NW S River Drive, the applicant proposes an adaptive reuse of an existing non-conforming structure, with no new floor area being constructed on site. Therefore, under Article 7.2.8, there is no zoning requirement for additional parking on the Subject Property associated with the proposed use of the structure as a restaurant. Additionally as indicated above, the outdoor dining area does not trigger any additional parking requirement under Miami 21.

Note, although the Project does not technically require additional parking spaces be provided for zoning compliance under Miami 21, the Applicant is making arrangements for valet parking service and will commit to providing an off-site surface parking lot location within 1,000 feet of the site. Visitors will also have access to on-street parking in the area. See map identifying potential parking locations attached as *Exhibit L*.

- ***Applicability of Sec. 3.11 Waterfront design guidelines.*** Within the D3 transect zone, marine-related commercial facilities are expressly not required to introduce a Riverwalk component pursuant to Section 3.11 because of active commercial /industrial access to and from the water to the upland building improvements;
 - Section 3.11 of Miami 21 sets forth waterfront design guidelines applicable to properties with a property line abutting the Miami River, including policies related to Waterfront Setbacks and Walkway Design Standards (ie “Riverwalk” Standards). See Section 3.11 of Miami 21 attached as *Exhibit M*.
 - *Waterfront Setbacks.* With respect to Section 3.11.a., in D3 transect zones, a minimum setback of 20 feet is required typically, except where depth of the Lot is less than eighty (80) feet, where the setback shall be a minimum of 25%.
 - Here, with respect to the 301 Site being developed for new construction, the Project is providing a minimum rear setback exceeding 20 feet in depth. For the 311 Site, the existing building is a legally nonconforming structure, with a rear setback dimension from structural columns remaining within 4+ feet of the seawall. The Project includes maintaining the existing structure with partial demolition of the rear façade that will expand the rear setback on the ground floor in certain portions of the site, to bring the building further into compliance with waterfront setback standards. However, there are several structural columns which will remain in place.
 - *Waterfront Walkways.* Section 3.11.b.1 requires Waterfront Walkways to be designed and constructed within waterfront setbacks in accordance with specific design criteria and to be open to the public at a minimum between 6am and 10pm. However, Section 3.11.b.1 explicitly states that Waterfront Walkways are not required within the D3 Transect Zone, except for sites introducing specific new uses, including “restaurant [u]se”. Furthermore, in Section 3.11.b.2., where required, “[w]aterfront walkways shall feel public, meet all Americans with Disabilities Act (ADA) requirements throughout the entire length of the waterfront walkway...” Pursuant to Section 3.11.b.5, total width “shall be a minimum of

twenty-five feet and built to the standards and guidelines outlined in Waterfront Design Guidelines, on Appendix B.

- Here, the 301 Site is a marine-related commercial establishment use in a D3 transect zone and therefore a Waterfront Walkway is clearly Not required.
 - At 311 NW South River Drive, the existing building is being proposed to remain. No new floor area or development will be occurring. Although the Code suggests proposed Use as the restaurant would contemplate a Riverwalk to be incorporated, the existing building to remain has an existing structural column located in a manner that leaves only 4 feet in width between the column and seawall. Because there is less than 5 feet in clear path, the conditions would not generally comply with American with Disability Act of 1990 (ADA Compliance). This could make it difficult to obtain a permit and/or acquire adequate insurance on the subject Property. The physical site constraints with existing nonconforming structure would make compliance with minimum width and other criteria in Section 3.11.b and the guidelines outlined in Appendix B practically impossible.
 - Furthermore, a Riverwalk would present no active connection points for public access immediately south or north of the Subject Property – including the property owner to the south maintains exclusive riparian rights to the submerged land.
- Enhancement of Public Access to Waterfront. Currently the entire Subject Property provides no public access to the Miami River. And there are no potential connection points to the north or south, as described above. There is however an existing Miami River Greenway segment along NW South River Drive with signage and sidewalk improvements that are in good condition.
- Although a formal Riverwalk is not required and cannot be introduced physically to the standards set forth in Section 3.11 and Appendix B of Miami 21, Applicant is proposing to enhance public access to the Miami River, including a functionally significant alternative to the Riverwalk, which provides increased public access and experience of the Miami River on the subject Properties. The plans show significant open space accessible from NW South River Drive that will be landscaped and hardscaped in an attractive manner that creates a “Riverfront Courtyard” experience, along with the observation deck on the 311 Site.
 - Furthermore, based on the comments received from the Miami River Commission Urban Infill Subcommittee, the Applicant has made a voluntary commitment to explore a functional alternative walkway adjacent to the River, with public access between 6am and 10pm, consistent with the hours called for

in Section 3.11.b.1.⁵ significantly enhances the public access and creates a potential for connectivity to the north in the future, as the Lower Section of the Miami River continues to develop.

NEIGHBORHOOD COMPATIBILITY. Puntallana, LLC, owner of record of 301 & 311 NW S River Drive, is an entity owned and controlled by the Ortega Family and managed principally by Arturo Ortega. Arturo and his sisters were raised in Miami by their parents and have a strong connection to this City and the vibrancy of its neighborhoods. Arturo owns several other properties within Little Havana and is highly engaged and routed in the community and revitalization efforts. He can be regularly found riding his bicycle from his home to his office and to meetings with tenants, architects and others on any given day.

Being in tune with the pulse of Little Havana and the evolution of the Miami River, the Applicant is cognizant of sensitivities around development and commercial activation along the Miami River. In addition to maintaining marine-related uses and activating a vacant structure, the Applicant is taking measures to ensure the Project is compatible with the surrounding Riverside neighborhood and minimizes any impacts on adjacent properties – through both good design and operational controls.

Applicant has also spent considerable time proactively presenting information on the Project and addressing questions and concerns from the Miami River Marine Group as well as the Spring Garden Civic Association, and this revised letter of intent and revised plans for the Project incorporate several changes and operational restrictions intended to further enhance the Project's compatibility with the working waterfront and minimize impacts on surrounding properties.

These efforts include thoughtful consideration towards:

- *Parking and Mobility.*

Although no on-site parking is mandated by zoning under Miami 21 for the Project, The Applicant will employ a mix of off-site parking (provided by a suitable lot within 1,000 feet of the property), use of the existing on-street parking and valet service parking on a dedicated offsite surface lot. The Project is also served by the City of Miami Little Havana Trolley Route and the 77 County bus. And the Miami River Greenway improvements along NW S River Drive that help connect people already by foot and bike.

- *Lighting and Sound Attenuation.* The Applicant plans on including general lighting in the indoor areas of the restaurant, task lighting in the workspaces of the restaurant (I.E. kitchen, prep area, and office), and accent lighting in the outdoor areas. To maintain the comfortable environment provided by the Miami River district, without producing high impact light pollution found effective on the river.

⁵ Note: The site plan has been updated to delineate the general location of this area with approximate dimensions, working within the existing site constraints and the general intent expressed in Section 3.11; final design to be subject to compliance with Florida Building Code, ADA and other life safety requirements.

The outdoor lighting will be sufficient for patrons to enjoy a meal and a view of the river, while not disrupting the surrounding area and will comply with the relevant provisions of section 5.10.7 of Miami 21.

Applicant will be coordinating with a professional sound engineer to study appropriate sound attenuation strategies and will comply with all noise regulations and requirements in the City Code (Chapter 36) and ambient standards in Miami 21 Section 5.10.7.

- *Orientation Towards Lummus Park and Downtown.* Furthermore, the Subject Property is quite removed from the neighborhood associations that have been sensitive to commercial activity along the Miami River; at NW 3rd Street and NW South River Drive, the subject Property is further south than other restaurants that have recently been introduced along the Miami River. The food service establishment will face primarily eastward towards Lummus Park and Downtown Miami, away from the general direction of the low- scale established residential neighborhoods of Spring Garden and Durham Park.
- *Landscaping.* The Applicant's landscaping plan tastefully integrates vegetation into a now concrete only structure. The landscape plan makes the building more attractive, pedestrian friendly, and adds to the natural character of the Miami River district. The plan includes the addition of green areas and vegetation on the street facing side of the building and within the outdoor dining area.
- *Protections for Navigability.* Based on additional comments and concerns expressed at the November 14th Urban Infill Subcommittee, we have incorporated additional language in this letter of intent to strengthen the Project and account for operational considerations consistent with the Submerged Land Lease and MOP.

CONCLUSION. This Project will activate a vacant site along NW South River Drive, in a manner that demonstrates compatibility with the character of this riverfront neighborhood and promoting a balanced working waterfront economy, consistent with the Miami River Corridor Urban Infill Plan and in compliance with Miami 21. The renovation of this building will provide modern amenities and enhance the pedestrian experience along NW S. River Drive, by including increased access to the riverfront and meaningful publicly accessible open space.

Notably, the Applicant appreciates the recommendations made by the Urban Infill Subcommittee on November 14h and has addressed the various recommendations throughout this revised Letter of Intent, as well as modifications and enhancements to the site plan, notably to reduce the outdoor seating area and provide a functional alternative to the Riverwalk that will provide a future connection point to the north along the Miami River, prohibitions on rooftop outdoor dining and alcohol sales at all times of the day, and Applicant acknowledges and commits to compliance with operational restrictions to ensure the working waterfront and maintain the federal navigable channel within the Miami River, which are consistent with the Submerged Land Lease and the MOP for the Subject Properties.

In conclusion, please find enclosed herein Exhibits A - M referenced above, along with the updated plans for the Project, and other supporting materials for your consideration.

Sincerely,



Steven J. Wernick

SJW/
Enclosure

EXHIBITS

- A. Boundary and Topographic Survey
- B. Miami Dade County Property Appraiser Information
- C. Future Land Use Map (FLUM)
- D. Zoning Atlas
- E. Port of Miami River Element [Excerpts]
- F. Miami River Corridor Urban Infill Plan [Excerpts]
- G. Submerged Land Lease (BOT File No. 130030976)
- H. Marine Facilities Annual Operating Permit (MOP No. 000405-2019/2020)
- I. Miami 21 Article 4, Table 3 and Table 4
- J. City of Miami Transit Corridor Diagram
- K. Aerial Map Diagram Showing Distance from Subject Property to Nearest T-3 Zone
- L. Map Identifying Potential Parking Locations
- M. Miami 21 Section 3.11