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May 5, 2017

Ms. Kaitlyn Forbes
The Mellgren Planning Group
3350 NW 53rd St #101
Fort Lauderdale, FL 33309

Re: Mizner 200

Dear Ms. Forbes,

We have read your Draft Memorandum dated March 17, 2017 and your Final Memorandum dated April 5, 2017 on Mizner 200. We are impressed. Your Memorandums show significant expertise in urban design and a quick study of the Architectural Guidelines of Ordinance No. 4035.

Your Draft and Final Memorandums make some positive suggestions towards Mizner 200's compliance with the Architectural Guidelines of Ordinance No. 4035. We are pleased that the Applicant is apparently embracing your suggestions.

Unfortunately, we do not agree with your Final Memorandum on two major points. First, we do not agree with your 'further façade articulation' solution to what you yourself refer to as the "perceived scale and mass" of Mizner 200. In our opinion the almost 1,000 foot long, 100 foot high and 400 foot deep Mizner 200 Building must be broken up into at least three separate buildings in order for the site to comply with the Architectural Guidelines. Second, your failure to enforce the plain meaning of Urban Design Policy 1.7 to "Encourage the development of vistas and views as part of major projects."

We would like to tell you why we disagree. We note that you did change your opinion from the Draft Memorandum to the Final Memorandum after meeting with the Applicant. We applaud your open-mindedness. We hope your open mind will extend to our discussion herein.

In the pages that follow, we are going to briefly relate the history of urban design in the Boca Raton Downtown (“Downtown”). Because you are new to the Downtown, we thought it beneficial that you actually see the application over time of the Architectural Guidelines. Therefore, please find enclosed with this letter a Portfolio of Downtown Design 1992-2017 (“Downtown Design Portfolio”) with commentary.

With the history and the Downtown Design Portfolio in mind, you will clearly see that Mizner 200 does not and cannot comply with the Architectural Guidelines of Ordinance No. 4035 regarding its scale and mass and absence of views and vistas.

Redevelopment in the Downtown began in 1980 when the Boca Raton Community Redevelopment Agency (“CRA”) was created.

In 1980, Derek Vander Ploeg was a practicing architect presenting projects to the CRA for approval and actively participating in the public debate shaping the then emerging plan of the CRA for the redevelopment of the Downtown. Derek is often called the “Father of the Downtown.” Over the years Derek has designed: Mizner Park Amphitheatre (original); Train Station and Old Town Hall Improvements (preliminary designs for the Historical Society); Mizner Park (in association with Cooper Carry); U.S. Trust Building; Swanson Office Building; Chase Bank Building; 200 East Condominium; Tower 155 Apartments; 327 Royal Palm Condominium; Comerica Bank Building; Luff’s Fish House Restaurant; Via Mizner Apartments (Phase I); Walgreens at Camino; Boca Grande Condominium; Palmetto Promenade (Townhomes); Jewelry Store – 190 West Palmetto Park Road. Derek has continuously served since 1990 on the Downtown Advisory Board f/k/a Visions 90 Committee. Derek has also served on the Community Appearance Board (“CAB”).

In 1980, Robert Eisen had just left the Boca Raton City Attorney’s Office after serving three years as Assistant City Attorney. Robert entered private practice with an emphasis on the representation of property owners before the City of Boca Raton (“City”) and the CRA. Like Derek, Robert not only helped present projects to the CRA for approval but actively participated in the formulation of the then emerging plan of the CRA for redevelopment of the Downtown.

Douglas Mumshaw is a nationally certified registered Architect, Class A Florida General Contractor and Real Estate Development Executive who was born and raised in Boca Raton. Douglas opened his multi-faceted architectural practice in

Boca Raton in 1986. Over the past 30 years he has been actively involved in Boca Raton development and redevelopment, including the Downtown. He was the Architect, General Contractor and Real Estate Entitlement/Development Executive for 101 Renaissance Center. He was the Construction Manager and Real Estate Entitlement/Development Executive for One North Federal. He was the Architectural & Real Estate Development Executive for the original Via Mizner Development. In addition, he has designed over 40 buildings throughout the City. Several projects of significance that involved extensive design and urban planning include the 5th Avenue Shops; Boca Beach Shops; and, Shops at University Park. Currently his firm is designing two new buildings for Royal Palm Place.

Derek, Robert and Doug represent over 100 years of active participation in all aspects of the Downtown.

On October 13, 1992, the City Council adopted Ordinance No. 4035. Ordinance No. 4035 was the culmination of 12 years of effort by the City and CRA to adopt a plan for redevelopment of the Downtown. Ordinance No. 4035 was the result of significant input by many interested citizens, property owners and practitioners; the product of thousands of hours of City Staff and City Consultant work; and, was adopted after hundreds of hours of public hearings by the City and the CRA.

Ordinance No. 4035 was the subject of a special referendum election held on May 4, 1993. Ordinance No. 4035 was approved by a vote of 4487 for approval and 2349 for rejection.

Ordinance No. 4035 contains over 43 pages of text, sketches and photographs setting forth the "Architectural Guidelines" for the Downtown.¹ You correctly observe in your Draft Memorandum: "These appendices [Architectural Guidelines] are equally enforceable as the primary Ordinance and should be thoroughly analyzed for every proposed development within the Downtown."

¹ Since the adoption of Ordinance No. 4035, the Interim Design Guidelines (Ordinance No. 5052) (20 pages) were adopted in 2008 and the Draft Pattern Book (May 2010) (93 pages) was promulgated but not adopted. Both the Interim Design Guidelines and Draft Pattern Book (May 2010) further elaborate on the Architectural Guidelines of Ordinance No. 4035. This letter is based on the Architecture Guidelines set forth in Ordinance No. 4035. The discussion in this letter is also fully consistent with the greater detail in the Interim Design Guidelines and the Draft Pattern Book (May 2010).

The intent of the Architectural Guidelines is “to ensure that the development of the Downtown is carried out in accordance with a harmonious architectural environment” – where:

- “each building recognizes the scale and character of adjacent buildings”
- “the community as a whole shares in the benefits of redevelopment”
- “each building must relate to the whole”
- “each building should suggest the next”
- “buildings are pedestrian-scaled through the use of building massing, varied roof-scapes, ornamentation and color.”

The Architectural Guidelines were intended to and have, in fact, established and perpetuated the distinct look and brand of the Downtown. All we want is Mizner 200 to be consistent with the look and brand of the Downtown.

There are scant bulk regulations in Ordinance No. 4035 – just height, set backs against roads and minimum open space. The Architectural Guidelines mandate the design standards for how a building is to fill the bulk regulation envelope. Generally speaking, in order to achieve compliance with the Architectural Guidelines, the designer must sacrifice otherwise useable buildable area within the bulk regulation envelope.

The Architectural Guidelines were inspired by the architecture of Addison Mizner. Sometimes the application of the Architectural Guidelines is called “Mizner-esque.” The Architectural Guidelines are however stand-alone complete. The design qualities are thoroughly explained in the text of Ordinance No. 4035 and its attached appendices and schedules. Many examples are provided via sketches and photographs. They need only be read and applied by the designer. Strict compliance has always been expected.

The Architectural Guidelines call for many specific qualities in a Downtown building:

- varied heights across the building;
- setback profile;
- varied window patterns;
- use of balconies and loggias;
- varied façade designs;

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- varied roof scapes;
- a distinctive base, middle and top;
- use of colors; and
- use of towers.

We have no objection to the architectural style or theme of Mizner 200. The Architectural Guidelines properly applied to any architectural style or theme results in a fully compliant Downtown building.

Mizner 200 as originally presented and now, is one building with one entrance. The two-24 foot separations at the entrance added at some point in the review process are design-wise meaningless along a 1,000 foot building. Together they constitute 4.8% of the frontage. Further, the separations are on a base common to the entire building.

Mizner 200 uses, by far, more of the bulk regulation envelope than any other Downtown Building. Mizner 200 is one building, designed with but one purpose and goal in mind – to wring out of the bulk regulation envelope the greatest number of residential apartments as possible. No regard is given to the size and mass harmony of Mizner 200 with present and future Downtown buildings.

We have lost count of the re-design renditions of Mizner 200. We acknowledge that with each re-design rendition, there have been some small design improvements. Incrementally and grudgingly given by the Applicant in the hopes that the reviewer will tire, give up and approve. The simple fact is that design of Mizner 200 has not changed substantially over time. It was then and is now one building, too big to be a harmonious addition to the Downtown.

It should be noted that the Applicant has not made serious effort to meet with and consider the concerns of their neighbors. Architect Jorge Garcia commented at a CAB Meeting: “You do not design a building by committee.”

The initial and latest rendition of Mizner 200 is set forth in the Downtown Design Portfolio at pages 19-21.

We respectfully submit that the Architectural Guidelines as uniformly and consistently applied over a 25 year history require that the mass and scale desired by

the Applicant be broken into at least three separate buildings. The three separate buildings should each have the design qualities noted above. We submit that the Architectural Guidelines as uniformly and consistently applied over a 25 history require that Mizner 200 contain view and vista corridors benefitting present and future Downtown buildings.

The design solution for large parcels in the Downtown has always been multiple buildings with meaningful separations. For example:

- (1) Mizner Park – Downtown Design Portfolio pages 4-5.
- (2) Via Mizner 4035 Version – Downtown Design Portfolio pages 6-7.
- (3) Via Mizner IDG Version – Downtown Design Portfolio page 8.
- (4) Palmetto Promenade – Downtown Design Portfolio pages 9-10.
- (5) Townsend Place – Downtown Design Portfolio pages 14-15.

The fundamental concept is that most Downtown parcels are small (2 acres and under) and nicely accommodate a fully compliant Downtown building. The few larger parcels in the Downtown must be designed with multiple buildings separated and sized to be harmonious with the scale and character of the many Downtown buildings on smaller parcels.

Further examples are:

- (1) The parent tract (3.6 acres) along the south side of the 200 Block of East Palmetto Park Road was separated into the 200 East Condominium, the Chase Bank Building and the U.S. Trust Building. Downtown Design Portfolio, pages 11-12.
- (2) In 2004, ZOM, the prior owner/developer of the 6.6 acre site along North Federal Highway which is now Via Mizner, submitted a single building 650 feet along Federal Highway to the CRA for approval. CRA Staff rejected the submission outright. See memo – Downtown Design Portfolio pages 16-17.
- (3) The 9.3 acre parcel at Palmetto Park Road, Federal Highway, Mizner Boulevard and 1st Street assembled by George Barbar was ultimately developed with the Bank of America Building, Palmetto Place, The Mark, the Hyatt Place Hotel and 120 East Palmetto Park Road. All such

buildings significantly smaller than Mizner 200 and separated. Downtown Design Portfolio page 13.

This long established urban design precedent in the Downtown is not lost on either the Applicant or you. For example, the Applicant states in its Project Narrative: "Mizner 200 is being proposed as one building that is divided into three distinct zones." For example, in your Draft Memorandum, you state: "Hierarchy amongst the three building can be achieved through differentiation and variation in materials, color, scale and design. Varying the design between the three buildings will also mitigate the perceived scale of the site, and will help the site to read as three more distinct buildings rather one solid mass."

You and the Applicant acknowledge the separated building precedent for large Downtown parcels. But you are both wrong in accepting the two-24 foot separations above a common base as creating three separate buildings. The two-24 foot separations within the 1,000 foot building façade along Mizner Boulevard above a common base do not, in any design universe, create the three separate buildings demanded by the long-term consistent application of the Architectural Guidelines to large parcels in the Downtown.

In your Draft Memorandum, you also state: "the second concern is the development's visually substantial scale and mass. . . the overall horizontality of the project is a major contributing factor." You acknowledge the non-compliant scale, mass and horizontality of Mizner 200.

Our design solution to the 7 acre Mizner 200 site is at least three buildings separated by meaningful distances, say 75-100 feet. Three separate fully functioning Downtown buildings comparable in mass and scale with rest of the Downtown. Three separate buildings with separate bases, middles and tops. Three separate buildings that each have the design qualities noted above. This is how it has always been done in the Downtown. This is a direct and effective design solution. Only with three separate buildings on the Mizner 200 site, does Mizner 200 come into harmony and comparable scale and mass with the rest of the Downtown.

The Applicant's solution has been, as discussed above, to incrementally add small but generally good design improvements. Your solution follows the Applicant: "further façade articulation." You and the Applicant want to mask the uncompromising and overwhelming scale, mass and horizontality of Mizner 200

with “façade articulations.” Essentially putting “lipstick on the pig.” All in a quest to maintain the fiction that there are three separate buildings on the site.

The “lipstick” is very good and well thought out “lipstick.” But no matter how good, such “lipstick” is, at best, an indirect solution. Why resort to indirect design solutions? Do as has been done for the past 25 years – require Mizner 200 to be broken into three separate buildings.

All the “lipstick” solutions to date should, by all means, be kept and incorporated in the three building solution. The result will be not only project compliant in mass and scale but a project worthy of the Downtown brand.

Urban Design Policy 1.7 – “Encourage the development of vistas and views as part of major projects” – is not addressed in your Final Memorandum. You dispense with Urban Design Policy 1.7 in your Draft Memorandum as follows:

It is important to note the previous development essentially acted as a wall, blocking any pedestrian-level view of the golf course or waterways. While the new development also does not allow for street-level views of the golf course or waterways, the concern of “protecting and preserving” views cannot be applied to this site, since golf course views and vistas were never provided in the previous development. Privatized views, from elevated units and balconies are not guaranteed to remain as is, and private views cannot be protected under Ordinance 4035 which was established to protect the public benefit.

Street level views are required by the Architectural Design Guidelines. It was certainly a design error for the existing project, Mizner on the Green, not to have street level views of the golf course. Why perpetuate that original design error? Street level views have always been important in the Downtown. Street level views are common in the Downtown. Via Mizner and Townsend have street level views of the golf course.

We remember in the 1980’s the City requiring the Boca Raton Hotel and Club to leave a 250 foot golf course view window south of the CVS and north of Via Mizner. That view window still exists today. See Downtown Design Portfolio page 18.

The applicant submits in its Project Narrative that Urban Design Policy 1.7 is satisfied when the residential units within the building are provided views and vistas. Providing views and vistas to your own residential units is axiomatic and does not require an Architectural Guideline. What does require an Architectural Guideline and what Urban Design Policy 1.7 clearly meant is that view and vista corridors should be provided for the benefit of other buildings in the Downtown.

Mizner 200 as presently designed is an unforgiving 100 foot façade, 1000 feet along Mizner Boulevard and 400 feet deep. Mizner 200 as presently designed blocks all views and vistas from the properties west of Mizner Boulevard to east and from the golf course west to the Downtown.

We are not suggesting, nor does Urban Design Policy 1.7 require an existing view or vista to be left unchanged. We understand that an existing view just by its mere existence is not protected by the law. We understand that a property owner has the lawful use of his property, including building into an existing view.

Lawful use, however, in the case of Downtown property requires compliance with the Architectural Guidelines, in general, and Urban Design Policy 1.7 in particular with reference to view and vista lines and corridors along Mizner Boulevard.

The Architectural Guidelines have generalities – “a harmonious architectural environment” – “a sharing of Downtown benefits” – “each project must contribute significant essential elements” and specifics – “encourage vista and views.” Both must be read and applied together.

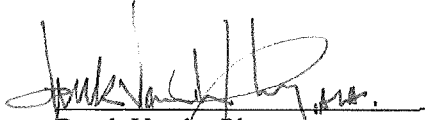
The correct application in the case of views and vistas is that views and vista can be diminished but not eliminated as Mizner 200 has done. Views and Vistas must be accommodated and shared.

Sharing views and vistas will follow from the breaking up the one building into three buildings with varying roof lines and setback profiles. Compliance with one results in compliance with the other.

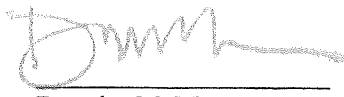
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We hope you can appreciate our points and modify your recommendations accordingly on this most significant project.

Respectfully submitted,



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