

RESOLUTION NO. R2021-12

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING THE SITE PLAN AND EIGHT (8) VARIANCE REQUESTS, SUBMITTED BY JAIA 172, LLC, FOR THE DEVELOPMENT OF A 8,500 SQUARE FOOT COMMERCIAL DEVELOPMENT, CONSISTING OF TWO (2) STAND-ALONE BUILDINGS, ON PROPERTY LOCATED AT 17200 BISCAYNE BOULEVARD, NORTH MIAMI BEACH, FLORIDA, AS LEGALLY DESCRIBED IN EXHIBIT "A;" PROVIDING FOR FINDINGS OF FACT; CONFIRMING EXPIRATION AND LIMITATION OF APPROVAL; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

(P&Z Item No. 20-13, December 14th, 2020)

WHEREAS, the City of North Miami Beach ("City") Code of Ordinances, Chapter 24, "Zoning and Land Development Code" (the "ZLDC"), Article XV, "Other Development Review Procedures," Section 24-172, "Site Plan Review" provides that site plan approval is required for new developments, any significant shift in the type of land use that involves major interior alteration, and any change in required parking or other similar impact determined to be significant by the Community Development Director; and

WHEREAS, JAIA 172, LLC, ("Applicant") requests site plan approval and eight (8) related non-use variances to construct an approximately 8,500 square foot commercial development consisting of two (2) stand-alone buildings, on an approximately ±61-acre parcel of land located at 17200 Biscayne Boulevard, North Miami Beach, Florida, ("Property"), as legally described in Exhibit "A;" and

WHEREAS, the Property is zoned B-2, General Business District; and

WHEREAS, ZLDC Section 24-176 provides that the City Commission may grant a variance based on its determination that the Applicant has demonstrated that the necessary criteria identified in the ZLDC have been satisfied; and

WHEREAS, the Applicant requests a variance to permit the development of a lot with an area of ±0.61 acres, where Section 24-52(D)(1) of the ZLDC requires lots fronting Biscayne Boulevard to have a minimum lot area of three (3) acres; and

WHEREAS, the Applicant requests a variance to permit a front yard setback of three (3) feet ten (10) inches for Building I and thirteen (13) feet and four (4) inches for Building II, where Section 24-52(D)(3) of the ZLDC requires a minimum front yard setback of twenty-five (25) feet; and

WHEREAS, the Applicant requests a variance to permit a rear yard setback of zero (0) feet for Building I and II, where Section 24-52(D)(3) of the ZLDC requires a minimum rear yard setback of twenty (20) feet; and

WHEREAS, the Applicant requests a variance to permit a side (corner) setback of five (5) feet for Building II, where Section 24-52(D)(3) of the ZLDC requires a minimum side (corner) setback of twenty (20) feet; and

WHEREAS, the Applicant requests a variance to permit a pervious area of 14.3%, where Section 24-52(D)(5) of the ZLDC requires a minimum pervious area of twenty percent (20%); and

WHEREAS, the Applicant requests a variance to permit a continuous perimeter buffer strip of one (1) foot eight (8) inches along the perimeter of all vehicular use areas, where Section 24-122(A)(1) of the ZLDC requires a buffer strip with a minimum width of five (5) feet; and

WHEREAS, the Applicant requests a variance to permit terminal islands with a width of three (3) feet and five (5) inches within the vehicular use areas, where Section 24-122(B)(1)(a) of

the ZLDC requires that contiguous rows of parking spaces be terminated on both ends with landscaped islands not less than ten (10) feet in width; and

WHEREAS, the Applicant requests a variance to permit the placement of an interior island for every twelve (12) parking spaces within the vehicular use areas, where Section 24-122(B)(1)(b) of the ZLDC requires an interior island placed between every eight (8) parking spaces; and

WHEREAS, after a duly noticed public hearing held on December 14, 2020, the Planning and Zoning Board by vote of 5 to 0, recommended **Approval** of the variances and site plan, subject to the conditions set forth and included below in Section 2; and

WHEREAS, the City Commission conducted a duly noticed public hearing in accordance with the law; and

WHEREAS, the Mayor and City Commission find the proposed Site Plan and eight (8) non-use variance application consistent with the North Miami Beach Comprehensive Plan and find approval of the application is in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are confirmed, adopted, and incorporated herein and made a part hereof.

Section 2. Site Plan Decision. Pursuant to Chapter 24, “Zoning and Land Development Code,” Article XV, “Other Development Review Procedures,” Section 24-172, “Site Plan Review” the following attached site plan to construct an approximately 8,500 square foot commercial development consisting of two (2) stand-alone buildings , attached as Exhibit “B” and incorporated by reference, on the Property, is approved, subject to the following conditions:

1. Unless otherwise provided, all the below conditions shall be completed and complied with prior to the issuance of the building permit.

2. The conditions of approval for this site plan are binding on the Applicant, the property owners, operators, and all successors in interest and assigns. Prior to issuance of any Master Building Permit, Applicant shall execute a covenant running with the land, binding upon its heirs, successors and assigns, subject to the approval of the City Attorney, which shall be recorded in the public records of Miami-Dade County, Florida, at Applicant's sole expense, containing all of the conditions and provisions required by this Resolution. This recorded covenant may be amended from time to time and shall be re-recorded after each amendment at the Applicant's sole expense, subject to the approval of the City Attorney
3. Construction of the proposed project shall be in conformance with the following:
 - a. Boundary Survey prepared by Royal Point Land Surveyors, Inc.
 - b. Plans prepared by Kaller Architecture, Ocean Engineering, including the following:
 - T-1.0 Cover Page
 - L-1 Site Landscape Plan
 - L-2 Landscape Details, Specifications, etc.
 - IRR-1 Site Irrigation Plan
 - TD-1 Tree Disposition Plan
 - C100 General Notes and Specifications
 - C200 Paving Grading and Drainage Plan
 - C300 Water Service Plan
 - C301 Sanitary Sewer Service Plan
 - C302 Water Notes
 - C303 Sewer Notes
 - C400 Drainage Details
 - C500 Sedimentation and Erosion Control Plan
 - C600 Sedimentation and Erosion Control Notes
 - SP-1 Site Plan
 - SP-2 Signs and Parking Stripping Details
 - SP-3 Site Plan Details
 - SP-4 Temporary Fencing Plan
 - PH-1 Photometric Plan
 - A-1.0 Ground Flood Plan/ Building #1 (South)
 - A-2 Roof Plan Building #1 (South)
 - A-3.0 East and North Elevation Building #1 (South)
 - A-4.0 West and South Elevation Building #1 (South)
 - A-5.0 Ground Floor Plan Building #2 (North)
 - A-6 Roof Plan Building #2 (North)
 - A-7.0 East and North Elevation Building #2 (North)
 - A-8.0 West and South Elevation Building #2 (North)
4. All representations and exhibits as prepared and provided to the Community Development Department as part of the Application Submittal Package, as amended.
5. All representations proffered by the Applicant's representatives as a part of the variance application review at the Planning and Zoning Board and City Commission public hearings.

6. Substantial modifications to the plans submitted and approved as part of the application may require the Applicant to return to the Planning and Zoning Board and Mayor and City Commission for approval. Insubstantial changes shall include proportionate reductions in residential units and parking spaces by less than 5% of the total proposed project, changes that do not alter the project more than 5% of lot coverage, setbacks, height, density and intensity calculations so long as the proposed amendment does not cause an increase in the number of average daily trips; does not alter the location of any points of ingress, egress, access and vehicular and pedestrian patterns to the site; and does not violate any condition placed upon the site plan as originally approved. Insubstantial changes may be administratively approved by the City Manager or designee. Any de minimis amendments to the plans or site plans which cannot be resolved administratively shall be returned to the Mayor and City Commission for a formal review. However, under no circumstances, may any plans, site plans, building, structure, or project be administratively altered by more than 5% lot coverage, setbacks, height limitations, as well as density or intensity calculations set forth in a previously approved site plan.
7. Applicant shall remove all public hearing signage no later than 48 hours after the final public hearing by the City Commission for the development project.
8. No later than 90 days following the final City Commission approval, the Applicant shall enter into an agreement with the City to defend, indemnify and hold harmless (using legal counsel acceptable to the City) the City, its agents, servants and employees, from and against any loss, cost, expense, claim, demand or cause of action of whatever kind or nature arising out of or related to any act or omission related to the variances and for which the City, its agents, servants, or employees, are alleged to be liable or charged with such expense. The Applicant shall pay all costs and expenses related to any legal defense required by the City pursuant to the foregoing.
9. The Applicant shall comply with all applicable conditions and permit requirements of the Miami-Dade County Fire Department, the Water and Sewer Department, and Department of Regulatory and Economic Resources; and the Florida Department of Environmental Protection (FDEP), the Florida Department of Transportation (FDOT) and any other applicable regulatory agency.
10. The words "Aventura," "Miami Beach," and "Sunny Isles Beach" shall not be used by the applicant immediately preceding or following the Project name. The words "Aventura," "Miami Beach" and "Sunny Isles Beach" shall not be part of the website address for the Project. References in the marketing materials to nearby communities shall be limited to descriptions of entertainment, shopping or dining locations, or other landmarks; the Applicant shall identify the Project as being located in the City of North Miami Beach, Florida.
11. The Applicant shall post a sign on-site providing contact information in case of any complaint or concern during construction. The sign shall be removed upon the earlier of the City's issuance of a temporary or full Certificate of Occupancy.
12. Applicant must join the NMBPD Trespass After Warning Program, provide the NMBPD with access to the property at all times, and a safety plan.
13. The Applicant, its successors and assigns shall comply with all City ordinances applicable to development and permit approvals at the time of adoption of the Resolution and in the event the Master Building Permit expires, all approvals and prior fees paid, shall be subject to forfeiture. This shall not be applied to City of North Miami Beach impact fees paid,

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which would not be refunded but would be credited to the property for any subsequent development.

14. All City impact fees shall be paid prior to the issuance of a Master Building Permit. In the event the Master Building Permit expires, all approvals and prior fees paid, shall be subject to forfeiture. This shall not be applied to impact fees paid to the City of North Miami Beach, which would not be refunded, but credited to the property for any subsequent development.

Section 3. Site Plan Findings of Fact. The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested site plan meets the applicable Site Plan Review Standards provided for in Section 24-172 of the Code of Ordinances of the City of North Miami Beach. The requested site plan approval is not contrary to the public interest or detrimental to the community and is compatible with the surrounding land uses while maintaining the basic intent and purpose of the zoning and land use regulations.

Section 4. Variances Decision. Pursuant to Section 24-176 of the Zoning and Land Development Code the following eight (8) non-use variances on the Property is approved, subject to Plans as provided in the attached Exhibit "B."

Section 5. Non-Use Variance from Section 24-52(D)(1) Findings of Fact. The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested non-use variance from section 24-52(D)(1) of the Zoning and Land Development Code, to permit the development of a lot with an area of ±0.61 acre, maintains the basic intent and purpose of the applicable zoning, subdivision and other land-use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and keep with the surrounding properties.

Section 6. Non-Use Variance from Section 24-52(D)(3) Findings of Fact. The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested non-use variance from section 24-52(D)(3) of the Zoning and Land Development Code, to permit a front yard setback of three (3) feet ten (10) inches for Building I and thirteen (13) feet and four (4) inches for Building II, maintains the basic intent and purpose of the applicable zoning, subdivision and other land-use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and keep with the surrounding properties.

Section 7. Non-Use Variance from Section 24-52(D)(3) Findings of Fact. The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested non-use variance from section 24-55(D)(3) of the Zoning and Land Development Code, to permit a rear yard setback of zero (0) feet for Building I and II, maintains the basic intent and purpose of the applicable zoning, subdivision and other land-use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and keep with the surrounding properties.

Section 8. Non-Use Variance from Section 24-52(D)(3) Findings of Fact. The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested non-use variance from section 24-52(D)(3) of the Zoning and Land Development Code, to permit a side (corner) setback of five (5) feet for Building II, maintains the basic intent and purpose of the applicable zoning, subdivision and other land-use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and keep with the surrounding properties.

Section 9. Non-Use Variance from Section 24-52(D)(5) Findings of Fact. The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested non-use variance from section 24-55(D)(5) of the Zoning and Land Development Code, to permit a pervious area of 14.3%, maintains the basic intent and purpose of the applicable zoning, subdivision and other land-use regulations.

Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and keep with the surrounding properties.

Section 10. Non-Use Variance from Section 24-122(A)(1) Findings of Fact. The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested non-use variance from section 24-122(A)(1) of the Zoning and Land Development Code, to permit a continuous perimeter buffer strip of one (1) foot eight (8) inches along the perimeter of all vehicular use areas, maintains the basic intent and purpose of the applicable zoning, subdivision and other land-use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and keep with the surrounding properties.

Section 11. Non-Use Variance from Section 24-122(B)(1)(a) Findings of Fact. The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested non-use variance from section 24-122(B)(1)(a) of the Zoning and Land Development Code, to permit terminal islands with a width of three (3) feet and five (5) inches within the vehicular use areas, maintains the basic intent and purpose of the applicable zoning, subdivision and other land-use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and keep with the surrounding properties.

Section 12. Non-Use Variance from Section 24-122(B)(1)(b) Findings of Fact. The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested non-use variance from section 24-122(B)(1)(b) of the Zoning and Land Development Code, to permit the placement of an interior island for every twelve (12) parking spaces within the vehicular use area, maintains the basic intent and purpose of the applicable zoning, subdivision and other land-use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest

because the proposed use and design are compatible with the surrounding land uses and keep with the surrounding properties.

Section 13. **Time for Building Permit.** Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the Applicant must apply for a master building permit from the City within one (1) year of the date of this Resolution or the granted site plan approval shall be deemed null and void, and the Applicant shall be required to reinstate the site plan review process unless the term is extended administratively or by the City Commission prior to its expiration.

Section 14. **Limitation of Approval.** The issuance of this development permit does not in any way create a vested right(s) on the part of the Applicant to obtain a permit from a county, state or federal agency, and does not create any liability on the part of the municipality for issuance of the permit if the Applicant fails to obtain requisite approvals or does not fulfill the obligations imposed by a county, state or federal agency or undertakes actions that result in a violation of county, state, or federal law.

Section 15. **Conflicts.** All resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

Section 17. **Effective Date.** This Resolution shall be in force and take effect immediately upon its passage and adoption.

APPROVED AND ADOPTED by the City Commission of the City of North Miami Beach, Florida at regular meeting assembled this **19th day of January, 2021**.

ATTEST:


 ANDRISE BERNARD
 CITY CLERK


 ANTHONY F. DEFILLIPO
 MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
 LANGUAGE & FOR EXECUTION


 WEISS SEROTA HELFMAN COLE & BEIRMAN,
 P.L.
 CITY ATTORNEY

SPONSORED BY: Mayor and City Commission

	YES	NO	ABSTAIN	ABSENT
Commissioners				
Mayor Anthony DeFillipo	X			
Vice Mayor Michael Joseph	X			
Commissioner McKenzie Fleurimond	X			
Commissioner Paule Villard	X			
Commissioner Daniela Jean	X			
Commissioner Fortuna Smukler	X			
Commissioner Barbara Kramer	X			

Exhibit "A"
LEGAL DESCRIPTION

A PORTION OF TRACT "C" LYING EASTERLY OF THE EASTERLY RIGHT-OF-WAY OF THE FLORIDA EAST COAST RAILROAD RIGHT-OF-WAY AND WESTERLY OF THE WESTERLY RIGHT-OF-WAY OF FEDERAL HIGHWAY (BISCAYNE BOULEVARD - STATE ROAD NO. 5 - U.S. HIGHWAY NO. 1) AS SHOWN ON RECORDED PLAT OF "MAULE FEDERAL HIGHWAY INDUSTRIAL SITES", RECORDED IN PLAT BOOK 46, AT PAGE 55 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SAID FLORIDA EAST COAST RAILROAD RIGHT-OF-WAY AND THE SOUTHERLY LINE OF SAID TRACT "c" THENCE RUN NORTH 86°19' 48" EAST ALONG THE SOUTH LINE OF SAID TRACT "c", FOR A DISTANCE OF 102.16 FEET TO THE POINT OF BEGINNING OF PARCEL OF LAND HEREINAFTER TO BE DESCRIBED; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT "c" FOR A DISTANCE OF 3.16 FEET TO A POINT; THENCE RUN NORTH 14°42'13" EAST FOR A DISTANCE OF 238.78 FEET TO A POINT; THENCE RUN NORTH 75°17'47" WEST FOR A DISTANCE OF 3.00 FEET TO A POINT; THENCE RUN SOUTH 14°42'13" WEST FOR A DISTANCE OF 239. 77 FEET TO THE POINT OF BEGINNING. CONTAINING 717.8 SQUARE FEET (0.016 ACRES MORE OR LESS).

Tax Folio: 07-2209-009-0042

A/K/A

17200 Biscayne Blvd.

North Miami Beach, Florida

Exhibit "B"
SITE PLAN

