



# City of North Miami Beach, Florida

## Community Development Department – Planning & Zoning Division

PHONE: (305) 354-4456 - 17050 NE 19<sup>TH</sup> AVENUE 1<sup>ST</sup> FLOOR NORTH MIAMI BEACH, FLORIDA 33162

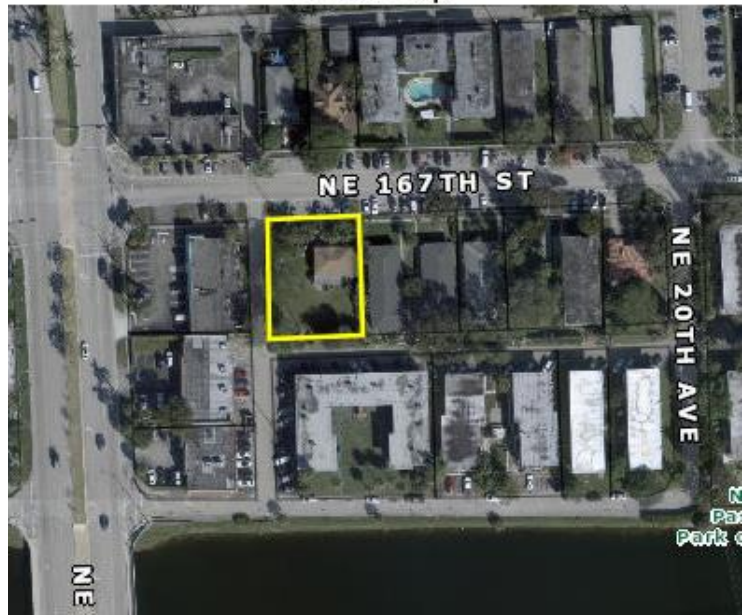
### PLANNING AND ZONING BOARD

Meeting: 12/13/2021      File No: 20-3      Application Name: Bali Residential Building

**General Data:**

**Owner(s) of Property:** Marby Development, LLC  
**Agent:** Lynn M. Dannheisser, LLC  
**Architect:** CFM Architects  
**Location:** 1904 NE 167<sup>th</sup> Street  
**PCN:** 07-2216-001-0150  
**Property Size:** 12,500 SF (0.287 acres)  
**FLUM:** Fulford Mixed-Use Town Center District  
**Zoning:** Fulford Mixed-Use Town Center District, Edge Sub-Area  
**Adjacent Zoning | Existing Land Use:**  
 ○ **North:** MU/TC I Office & Multifamily  
 ○ **East:** MU/TC I Multifamily  
 ○ **South:** MU/TC I Multifamily  
 ○ **West:** MU/TC I Store: Retail Outlet  
**Existing Land Use:** Single Family Residential  
**Proposed Land Use:** Multifamily Residential Building  
**Proposed Gross Floor Area:** 67,101 SF

Location Map



**Item before the Board:**

The action before the Board is for the approval of a Site Plan application for the 1904 NE 167th Street multifamily development pursuant to Ordinance (Ord.) Section 24-172(G), 24-172 (H)(3), including the following:

- A variance from Sec. 24-58(S)(3) of the Zoning and Land Development Code, to permit a zero (0)-foot tower setback from the podium, where the Code requires a minimum setback of fifteen feet; and
- Site Plan Approval to redevelop the property and construct a multifamily residential development, consisting of one (1), nine-story tower with a total height of 105'-0" and approximately 67,101 square feet of gross floor area. In total, the project will provide 58 residential units and 63 parking spaces.

**Optional Board Motions for Action Items:**

1. Move to continue with direction.
2. **Move approval** of the Site Plan application (File #20-3) and one (1) non-use variance request for the 1904 NE 167th Street multifamily development, by finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Zoning and Land Development Regulations.
3. **Move denial** of the Site Plan application (File #20-3) and one (1) non-use variance request for the 1904 NE 167th Street multifamily development, by finding that the request is consistent with the Comprehensive Plan and does not meets criteria set forth in the Zoning and Land Development Regulations.

<p><b>Project Planner:</b>                  Ana Parada, CFM                  Senior Planner  <a href="mailto:Ana.Parada@citynmb.com">Ana.Parada@citynmb.com</a>                  305-947-7581 Ext. 7953</p>	<p><b>Review Dates:</b>                  Planning &amp; Zoning Board: 12/13/2021                  City Commission (TBD)</p>	<p><b>Attachments</b></p> <ol style="list-style-type: none"> <li>1. Draft Resolution</li> <li>2. Application &amp; Letter of Intent</li> <li>3. Site Plan &amp; Survey</li> <li>4. Traffic Study</li> </ol>
---	---	---

**Background:**

The applicant Lynn M. Dannheisser, LLC., representing Marby Development, LLC., request site plan approval and one non-use variance to redevelop the property and construct a multifamily development. The project consists of one (1) nine-story tower with a height of 105'-0" and approximately 67,101 square feet of gross floor area. In total, the project will provide 58 residential units and 63 parking spaces.

The development proposal also includes the following administrative waivers granted by the Director of Community Development Department:

- Administrative Waiver of lot width pursuant to Section 24-58 Figure MU-8 Lot Standards for the Tower Building Type to allow the multifamily development on a lot with a width of 100 feet, where Code requires a minimum of 200 feet.
- Administrative Waiver of lot depth pursuant to Section 24-58 Figure MU-8 Lot Standards for Tower Building Type to allow for the multifamily development on a lot with a depth of 125 feet, where Code requires a minimum lot depth of 200 feet.

**The Site:**

The subject site is situated at the intersection of NE 167th Street and the alleyway (between NE 19th Ave and NE 20th Ave.) The following is a list of events relating to the property:

- The site is currently developed with a 1,068 square foot one-story single-family residential house.
- According to the Miami-Dade County Property Appraiser records, the building was constructed in 1944 with a gross floor area of 974 sq. ft. and expanded in 1949 with a 94 sq. ft.

**Site Plan Analysis:**

**Compliance with the Zoning and Land Development Regulations:**

The items identified in the Land Development Regulations shall be specifically addressed by the body taking final action on the site and development application/request.

Pursuant to Ord. Sec. 24-58.1(A), **Purpose and Intent**, MU/TC Fulford Mixed-Use Town Center District "The intent is to enable transit-oriented development that contributes to the creation of an urban downtown and the formation of a quality pedestrian-oriented, Mixed-use district. The objective is to shape development to create a "place," an exciting, enlivened social gathering point and a destination, which encourages the establishment of a wide mix of commercial and residential uses that offer the flexibility to meet a variety of market needs."

Permitted Uses	Proposed Uses
Mixed Use, Residential and/or Nonresidential	Multifamily Development (Residential)

- The proposed use, multifamily development containing 58 residential units, is permitted by right in accordance with Section 24-58.1 Table MU/TC-1.
- The multifamily development has been designed to fit within the scale of the existing neighborhood contributing to the creation of an urban downtown. The project exemplifies the planings principles of greater integration of housing and recreation, proposing a green open space along NE 167th Street and providing pedestrian connectivity around the entire perimeter of the property.

Pursuant to Ord. Sec. 24-58(G) Regulating Plans and Diagrams. The mixed-use districts are governed by a series of regulating plans and diagrams. The Regulating Plans and Diagrams demonstrate development standards in both words and diagrams, and include maps designating the locations where the various standards apply. Unless otherwise noted, all development shall be in compliance with the Regulating Plans and Diagrams specified for each mixed-use district.

- The proposed mixed-use development has been designed in compliance with the Fulford Mixed-Use Town Center District (MU/TC) regulating plans and diagrams. The property is located within the Edge Sub-Area of the MU/TC, where the Code permits a maximum of 8-stories/110 feet building height. The applicant is proposing a 9-story tower building with a total height of 105'-0". The site is fronting an existing secondary street, NE 167th Street, and street improvements have been proposed to comply with the street standards and promote pedestrian connectivity.

PLANNING AND ZONING BOARD STAFF REPORT

Pursuant to Ord. Sec. 24-58(J)(3)(d) Street Furniture. Street furniture includes but is not limited to outdoor benches, waste containers, planters, phone booths, bus shelters, bicycle racks, tree grates, decorative stamped concrete or stamped asphalt crosswalks, banners, water fountains, newspaper dispensers and bollards whether within or outside the public right-of-way. Street furniture provided on site shall be compatible with the architecture of the surrounding buildings, the character of the area and other elements of the streetscape. Consistency in the selection and location of the various elements of street furniture is critical for maximum effect and functional use. All street furniture shall be subject to the approval of the City.

- Sheets SP-1.00, SP-1.01, SP-1.02, SP-1.03, SP-1.04 show the location and details of the proposed street furniture, including but not limited to bollards, trash receptacles, benches, pavers, etc. The design demonstrate compliance with the architecture of surrounding buildings, the character of the area, and other streetscape elements.

Pursuant to Ord. Sec. 24-58(K)(2)(b) Parking Garages, Multi-level parking garage structures, whether stand-alone or part of a larger development, shall comply with the following standards:

- i. Except along an alley or a pedestrian passageway all levels of the garage shall be screened along all frontages by a Liner building containing a minimum depth of twenty (20) feet of habitable space. The requirement for a Liner building along the side and rear frontage may be waived by the Director of the Community Development Department or his/her designee if the applicant demonstrates compliance with the standards below:
    1. All architectural elements that face a street or a publicly accessible open space shall appear consistent and harmonious with that of habitable space.
    2. No vehicles parked within the garage shall be visible from the street.
  - ii. Openings off any street shall not exceed two (2) lanes in width and twenty-four (24) feet maximum per entrance/exit. Entrances/exits on alleys are exempt from this requirement.
  - iii. The garage shall be accessed from an alley or tertiary street, when possible. If the garage is accessed from a primary or secondary street, there shall be only one (1) point of access to the garage area.
  - iv. All parking garages shall have direct pedestrian access to a public walkway.
  - v. New stand-alone parking garages shall only be permitted if constructed, owned and/or operated by the City and/or CRA.
  - vi. Electric car charging stations shall be encouraged to be located within parking structures.
- One-way garage access has been provided via the existing south alleyway and exit to the west alleyway. Although the parking garage will be located in the rear of the property towards the alleyways, no vehicles will be visible from the street or adjacent properties. The garage will be concealed with a 24-foot height perimeter wall and decorative architectural screening.
  - The garage walkways will connect with the new 5-foot concrete sidewalks along NE 167th Street and alleyways to enhance the pedestrian experience.
  - Electric charging stations will be provided. Ten percent of the required parking spaces (6EVCS) will be electric vehicle charging stations.

Pursuant to Ord. Sec. 24-58(L) Landscape Standards. The following standards shall apply in addition to any applicable standards in Article XI (Landscaping) not modified herein.

- (1) Modified Standards.
  - a. Tree specifications shall be as per Section 24-119 (Minimum Landscaping Requirements for All Zoning Districts) except for the following:
    - i. A maximum of twenty-five (25%) percent of all required trees shall be of a palm species.
  - b. Utilization of berms to screen parking and/or vehicular use areas from public thoroughfares and adjacent residential uses shall be prohibited.
  - c. Perimeter landscape requirements: The requirement of a continuous buffer strip of not less than five (5) feet in width, along the perimeter of a property adjacent to any street right-of-way only, shall not be required.
- (2) Additional Standards.
  - a. Building setback shall be adjusted to preserve existing native tree canopies, where feasible.
  - b. Landscape strips shall only be placed between the sidewalk and the back of curb.
  - c. Use of trees to provide shade, color, and interest, and use of vines, or trained plant materials is appropriate.

**PLANNING AND ZONING BOARD STAFF REPORT**

- d. Street Trees.
  - i. Street trees are required and shall be spaced at a maximum of thirty (30) feet on center.
  - ii. Street trees shall not be required when colonnades are being provided along the street and the colonnade is placed at a maximum of five (5) feet from the back of curb.
  - iii. When a landscape strip is not provided, street trees shall be placed in tree pits covered with ADA compliant grates. Tree grates shall be sized appropriately for each tree species at maturity. The use of tree grates is appropriate when on-street parking is provided. When no on-street parking is provided, landscape strips are preferred.
  - iv. Adequate clearance to the building facade for uniform development of the street tree canopy shall be demonstrated for the type and species selected.
- Landscape plans have been provided; refer to sheets LA-1, LA-2, TD-1, and tree survey for detailed information. The street improvement design includes a 5-foot landscape strip between the back of the curb and the new sidewalk along NE 167th Street with four (4) Cordia Sebestena Trees.
- The following conditions of approval have been included in the draft resolution:
  1. One more tree shall be planted within the right of way to ensure that trees will not be spaced more than thirty feet on center.
  2. Trees shall be field grown and have a minimum caliper or diameter at breast height (D.B.H) of five (5) inches and be a minimum of eighteen (18) feet in height and eight (8) to ten (10) feet in spread at time of planting.

Pursuant to Ord. Sec. 24-121 Tree Removal, and existing tree on site having a trunk diameter of three (3) inches or greater shall not be removed or relocated without a permit from the Community Development Department of the City.

- The tree disposition plan and table (sheet TD1) were provided. Per condition of approval in the draft resolution, the applicant shall calculate the total area of the canopy to be removed (Not including the invasive trees) and apply for a tree removal permit prior to demolition permit issuance. The City currently uses the Miami-Dade County Chapter 18A code to calculate tree mitigation according to Ord. Section 24-121.

Pursuant to Ord. Sec. 24-58(R) Height Standards. The height of buildings shall be measured in stories and in feet. The maximum overall building height shall not exceed the maximum building height allowed for the district. Additionally, the following shall apply:

Required	Proposed
Building Height Max. 8-Stories / 110-feet	*9-Stories / 105-feet
Maximum Ceiling Height on Ground Floor: 20-feet Second Level Max. Ceiling Height 20-feet	Levels Height <ul style="list-style-type: none"> <li>▪ Ground Floor: 12'-0"</li> <li>▪ Mezzanine Floor: 12'-0"</li> <li>▪ Levels 2 through 7: 9'-4"</li> <li>▪ Level 8<sup>th</sup>: 9'-6"</li> <li>▪ Recreational Rooftop Deck: 8'-0"</li> </ul>
Special amenity story: 20-feet and 14-feet each additional level	

\* Per ZLDC Section 24-58.1 (Table MU/TC (3)), the number of stories may be increased if the overall building height is not exceeded. The Applicant has proposed 9-stories, not increasing the intensity of the development. The recreational deck on the 9<sup>th</sup> level includes a gym, two (2) Jacuzzis, and a significant landscape planting to create a garden space, which does not increase density or intensity.

The following table compare the project deign to the design standards for the MU/TC zoning district set forth in Ord. Section 24-58(S):

Required/Permitted	Provided
Maximum Building Length	

PLANNING AND ZONING BOARD STAFF REPORT

300-feet	94'-3"
Minimum Dwelling Unit Size: 550 square feet	744 – 1,058 sq. ft.
Minimum Dwelling Units Cumulative Average 800 square feet	828 sq. ft.

Required/Permitted	Proposed
Building Typology	Tower Building (MU-8)
Lot Width (Min.) Min. 200' – Max. 250'	**100'-0"
Lot Depth Min. 200' – Max. (N/A)	**125'-0"
Lot Area (N/A)	12,500 sq. ft. (0.287 Acres)
Impervious Area: Max. 90% = 11,250 sq. ft.	89.9% (11,248 sq. ft.)
Pervious area: Min. 10% = 1,250 sq. ft.	10.2% (1,252 sq. ft.)

\*\*The following administrative waivers from Section 24-58 Table MU-8 of the Zoning and Land Development Code have been granted by the Community Development Director to permit  
 (1) a lot width of 100-feet, where the Code requires a minimum of 200-feet; and  
 (2) to permit a lot depth of 125-feet, where the Code requires a minimum of 200-feet.

The following table demonstrates the project's compliance with the minimum and maximum setbacks per building typology and street frontage:

Required/Permitted Minimum – Maximum Setbacks	Proposed
<ul style="list-style-type: none"> <li>Interior side setback: 0' (30' min. when abutting townhouse, zero lot lines and existing single family and an alley is not existing or proposed)</li> </ul>	Interior <u>east</u> side setback: 4-feet
<ul style="list-style-type: none"> <li>Rear setback: 0' (30' min. when abutting townhouse, zero lot lines and existing single family and an alley is not existing or proposed)</li> </ul>	Rear setback: 79-feet
<ul style="list-style-type: none"> <li>Tower Setback: 15' (from podium)</li> </ul>	**Zero (0)-feet
<ul style="list-style-type: none"> <li>Front Secondary Street (NE 167th Street) Min. 10ft – Max. 20 ft</li> </ul>	10'-0"

- A non-use variance from Sec. 24-58(S)(3) Figure MU-8 of the Zoning and Land Development Code has been requested, to permit a zero (0)-foot tower setback from the podium, where the Code requires a minimum setback of fifteen feet.

The following table demonstrates the project's compliance with the minimum building frontage per street type:

Minimum Building Frontage Required for Secondary Streets	Proposed
NE 167th Street: Min. 80%	82.5%

**PLANNING AND ZONING BOARD STAFF REPORT**

The following table demonstrate compliance with the minimum and maximum parking requirements by use listed in Ord. Section 24-58.1 Table MU/TC-5:

<b>Use</b>	<b>Formula</b>	<b>Required</b>	<b>Provided</b>
Residential	<ul style="list-style-type: none"> <li>▪ Min: 1 per unit, plus 1 per 20 units for guest parking: 58 + 3 = 61 Spaces</li> <li>▪ Max: 2 per unit, plus 1 per 20 units for guest parking: 116 + 3 = 119 Spaces</li> </ul>	Min. 61– Max. 119 Spaces	<b>63 Spaces</b>
ADA Spaces	<ul style="list-style-type: none"> <li>▪ Min: 1 for each 25, plus 1 per 100 parking spaces</li> </ul>	2 ADA Spaces	<b>2 ADA Spaces</b>

- Sheet SP-1.00 shows the location of the proposed 2 ADA parking spaces (Size 12'-20'), demonstrating compliance with the requirements.
- Of the 63 parking spaces provided for the site, 61 will be standard 9'-18' spaces, and two spaces will be handicapped in compliance with Section 24-93(C)(1). The accessible parking spaces are located near the public right of way, and proper pedestrian connectivity has been provided.
- In order to maximize parking spaces, the Applicant is proposing a mechanical lift system that allows for the stacking of vehicles. At the time of permitting, the Applicant will submit for review and approval an Operation Plan containing safety measures taken to ensure the safe use and operation of the mechanical lifts. The garage will be screened with architectural elements to ensure that no vehicles parked within the garage are visible from the street.

Pursuant to Ord. Sec. 24-58.2(M)(2) Bicycle Racks and Bicycle Storage Standards. Bicycle racks and storage shall be required as follows:

- 1) Bicycle Racks and Bicycle Storage for Commercial Uses. Commercial developments, excluding hotel uses, shall provide:
  - a. Secure bike racks and/or storage at a ratio of one (1) bicycle parking space per every fifteen (15) required parking spaces; and
  - b. A minimum of one (1) shower and changing facility shall be provided to be available for all tenants and shall be located within the building, or within two hundred (200) feet of the building entrance, for developments greater than fifty thousand (50,000) square feet in gross building area.
- 2) Bicycle Racks and Bicycle Storage for Residential Uses. One (1) bicycle parking space shall be provided per every fifteen (15) required parking spaces. Required residential bicycle parking spaces shall be provided in a secured area, covered from the elements.
- 3) Mixed-Use Developments. Mixed-use developments shall provide secure bicycle parking spaces for both the commercial and residential components of the development as calculated separately pursuant to the requirements of this section.

<b>Use</b>	<b>Formula</b>	<b>Required</b>	<b>Provided</b>
Residential	1 bike rack space per every 15 parking spaces: 63/15 = 5 Bicycle Racks	5 Bicycle Racks	9 Bicycle Racks

- Sheet SP-1.00 shows the location of the proposed Bicycle Racks, demonstrating compliance with the requirements.

Pursuant to Ord. Section 24-96 (A)(1), **Loading Spaces**, At the time of the erection of any multifamily use of fifty (50) dwelling units or more, mixed uses, nonresidential use or, at the time any nonresidential use is altered, enlarged or increased in capacity by adding floor area, there shall be space provided and maintained for the loading and unloading

of materials, goods, or supplies, and for delivery and shipping so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets, parking facilities and alleys by pedestrians and other vehicles.

- One on-street loading space has been provided. Ord. Section 24-96 (B) requires that loading spaces shall be at least twelve (12) feet wide by thirty (30) feet long and have at least fourteen and one-half (14½) feet vertical clearance. Sheet SP-1.00 shows the proposed location and size.

Pursuant to Ord. Section 24-130 **On-Site Stormwater Runoff**, the first one (1) inch of rainfall shall be retained on-site through the use of swales, trench drains, retention ponds and other techniques acceptable to the City Engineer.

- The City Engineer provided TRAD signoff for the project indicating that the plans must comply with all required drainage requirements at time of building permit.

**Site Plan Review Standards:**

Review Standards. The following standards shall be utilized by all applicable individuals and departments involved in the review and evaluation of required plans and exhibits:

Pursuant to Ord. Section 24-172 (G)(1), **Natural environment:** All proposed development shall be designed in such a manner as to preserve, perpetuate and improve the existing natural character of the site. Existing trees and other landscape features shall, to the maximum extent possible, be preserved in their natural state and additional landscape features shall be provided to enhance architectural features, to relate structural design to the site, and to conceal unattractive areas and uses. Special attention shall be devoted to natural vegetation along waterfronts.

- The Applicant provided a Tree Disposition Plan with a certified arborist report showing the condition of existing trees. The proposed project's scope, design, and high-quality call for the existing trees on-site to be removed and replaced with higher quality trees and palms with more canopy overall than the previous landscaping provided.

Pursuant to Ord. Section 24-172 (G)(2), **Open space:** Adequate open space shall be provided which meets the particular needs and demands of the proposed development and all specific zoning requirements. The type and distribution of all open space shall be determined by the character, intensity and anticipated residential or user composition of the proposed development.

- The development plan shows an Open Space on the North side of the project, along NE 167<sup>th</sup> Street. Additionally, a private open space is found on the 9th level of the podium (Recreational Rooftop Deck).

Pursuant to Ord. Section 24-172 (G)(3), **Circulation and parking:** All circulation systems and parking facilities shall be designed and located in such a manner as to comply with subsection (a)-(d).

- The Applicant shall provide detailed paving, grading, and circulation plans as part of the application for a building permit. No changes to the existing street network have been proposed.
- The site has one access point via south alleyway and an exit to the west alleyway designed to reduce local traffic and fit emergency and service vehicles.
- The development includes two living units on the ground floor designed to discourage nonlocal through traffic.
- All parking is screened within the parking garage and will be naturally ventilated.

Pursuant to Ord. Section 24-172 (G)(4), **Community services and utilities:** All proposed developments shall be designed and located in such a manner as to ensure the adequate provision, use and compatibility of necessary community services and utilities.

- The Applicant provided a Concurrency Review Application estimating the service demand. Staff reviewed the site plan and concurrency requirements for potable water, sanitary sewer, solid waste, parks and recreation, and public schools and determined that the service levels will be adequately maintained and serve the project.

Pursuant to Ord. Section 24-172 (G)(5), **Building and structures:** All buildings and structures proposed to be located within a development shall be oriented and designed in such a manner as to enhance, rather than detract, from the

PLANNING AND ZONING BOARD STAFF REPORT

overall quality of the environment. The following guidelines shall be followed in the review and evaluation of all buildings and structures:

- a) Proposed buildings and structures should be related harmoniously to the terrain, other buildings, and the surrounding neighborhood, and should not create through their location, scale, style, color or texture incompatible physical or visual relationships.
  - The proposed development's tower and podium comply with the building orientation and design requirements in the MU/TC and MU Ordinances. These ordinances regulate orientation, height, location, scale, density/intensity of buildings and their physical or visual relationships.
  - The architectural design of the building provided ground floor active uses, façade articulation, architectural treatments and fenestration standards, and a recreational rooftop terrace.
  - The ground level is distinct with live-work spaces facing the street, substantial glass frontage, and defined with second-story balconies. The upper stories of the building are well modulated and have an attractive expression of the units using balconies and their projections to highlight the façade. The parking at the rear and the use of mechanical lifts systems are well integrated with ground-floor live-work units. The parking area facing the alley is screened, and the recreational rooftop terrace will create an attractive amenity. It is a well deigned mid-rise building harmoniously integrated with the surrounding neighborhood.
  
- b) Maximum privacy should be incorporated into the design of any individual residential units and related outdoor patio and living areas.
  - The residential units have private balconies and living areas as well as open private space.
  
- c) Building location and other site features shall be reviewed in the context of any proposed road widenings, particularly the Biscayne Boulevard frontage.
  - No roadway widening is proposed as part of the application. However, the portion of the alley's adjacent to the property will be paved by the applicant.
  
- d) Proposed buildings located in Special Flood Hazard Areas as identified on flood insurance rate maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA) shall have the lowest floor elevated no lower than the level of the base flood elevation.
  - Property is located within the Flood Zone X. Before issuing the Master Building Permit, the Applicant shall demonstrate compliance with the City's Floodplain Regulatory Standards.
  
- e) Proposed buildings and site shall be compliant with the Americans with Disabilities Act (ADA) and Miami-Dade County Code of Ordinances.
  - The proposed building and site shall comply with the Americans with Disabilities Act (ADA) and Miami-Dade County Code of Ordinances. ADA accessibility to the building and parking is laid out on the site plan and will be further detailed in the building permit phase of the development.
  
- f) Proposed buildings shall be compliant with the **Fair Housing Act** as required.
  - The development will comply with the Fair Housing Act as required, at time of building permit.

Pursuant to Ord. Section 24-172 (G)(7), **Crime Prevention Through Environmental Design (CPTED)**: All proposed development shall be designed to discourage and reduce the possibility of nuisance and criminal activity.

- The police department has reviewed the plans throughout the TRAD process for location, traffic, visibility, windows and doors, security lighting, parking lot lighting, use of digital security cameras, especially in parking areas and other common areas, including ingress and egress areas, and a condition of approval requires the developer enter into the NMBPD Trespass After Warning Program, provide the NMBPD with access to the property at all times, and provide a safety plan.

**Sec. 24-176 Variance Review Standards & City Staff Analysis**

Pursuant to Ord. Section 24-176 (B), variance request is reviewed in accordance with the following standards:



## PLANNING AND ZONING BOARD STAFF REPORT

- 1) A non-use variance to the terms of this Code that will not be contrary to the public interest may be recommended by the Planning and Zoning Board, and except as provided in Section 24-176.1, granted by the City Commission in compliance with the requirements of the City Charter in this Code, upon a showing by the applicant that the nonuse variance maintains
  - the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community.
  - No showing of unnecessary hardship to the land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.
- 2) Appropriate conditions and safeguards, in conformity with the Code, may be prescribed as a condition of the granting of the variance, and violation of such conditions shall be deemed a violation of this Code.
- 3) The nonconforming use of adjacent lands, structures, or buildings shall not be considered grounds for the authorization of a variance.

**Variance # 1:** Non-use variance from section 24-58(S)(3)(a) of the Zoning and Land Development Code, to permit a zero (0)-foot tower setback from the podium, where the code requires a minimum setback of fifteen (15) feet

The tower setback variance requested allows for the gym structure located at the recreational rooftop deck (9th Level) to be aligned with the podium. Although the proposed setback is not compatible with the tower building requirements, the design complies with the rooftop terraces and rooftop amenities permitted by Code, such as the proposed garden, observation deck, Jacuzzis. The Code encourages developers to create unique gathering spaces to aid in the reduction of the urban heat in the mixed-use area and add aesthetic value to the buildings.

If granted, the variance will not affect the stability and appearance of the community.

### **Comprehensive Plan Consistency:**

The City's Comprehensive Plan and the Florida Statutes establish that a development order and development approved by the City is consistent with the adopted comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of development permitted by such order or approval are compatible with and further the objectives, policies, land uses, and densities or intensities established in the comprehensive plan and land development regulations. This project is most consistent with and furthers the following policies of the North Miami Beach Comprehensive Plan:

### **Future Land Use Element**

**Policy 1.1.9:** Development, development orders, and permits issued by the City must be specifically conditioned on the availability of facilities and services necessary to serve the proposed development.

**Policy 1.2.3:** The City shall continue to seek federal, state, and local funds for redeveloping the S.R. 826 (NW 163 and 167 Street) Corridor and ensure the redevelopment of said corridor encourages a strong regional commercial atmosphere.

**Policy 1.2.8:** The City shall encourage development and redevelopment of appropriate scale and type in areas adjacent to established residential neighborhoods. Appropriate scale and type shall be determined by reviewing the compatibility of proposed development and redevelopment with the adjacent residential uses

**Policy 1.2.11:** All redevelopment shall be sensitive to the community character, and should seek to promote transit and pedestrian friendliness through features such as: interconnected sidewalks; transit shelters; an interesting pedestrian environment, and; shade from shade trees, awnings, or canopies.

### **Transportation Element**

**Policy 1.2.8:** The City will ensure that the design of new and redevelopment mixed use projects are conducive to pedestrian, bicycle and transit use. At a minimum other new development and redevelopment projects will address development intensity and

mix of land uses, building and parking lot orientation, bicycle storage, connectivity of pedestrian and bicycle infrastructure, and pedestrian amenities to enhance multimodal transportation alternatives.

- The proposed development provides bike racks, sidewalk connections on 3 sides, and is located near a bus stop. The development provides multimodal transportation options. The project is compatible in scale with the mixed-use zoning district with the edge sub-area and is oriented toward NE 167th Street. The application is consistent with the comprehensive plan policies indicated.

**Traffic & Concurrency:**

The applicant’s traffic engineer, KBP Consulting, Inc., prepared a Traffic Impact Analysis dated July 2020 (Updated Nov. 2021). The City’s traffic engineering consultant, The Corradino Group, reviewed the Traffic Impact Study during the TRAD process and provided recommendations.

The conclusion of the Traffic Impact Analysis indicates that the proposed residential development is anticipated to generate approximately 314 daily vehicle trips, 20 AM peak hour vehicle trips (5 inbound and 15 outbound) and approximately 26 vehicle trips (16 inbound and 10 outbound) during the typical afternoon peak hour. When considering the existing single-family residence on the site this represents an increase of 305 daily vehicle trips, and increase of 19 AM peak hour vehicle trips, and an increase of 25 PM peak hour vehicle trips.

Based upon the trip generation and trip distribution characteristics for this proposed residential development, the impacts on the surrounding transportation network are anticipated to be minimal. And the queuing analysis of the proposed mechanical lift parking facilities indicates that an adequate queuing area will be provided within the site to accommodate the anticipated vehicular demand without impacting the adjacent street network.

The City’s traffic engineering consultant, The Corradino Group, reviewed the final Traffic Impact Study and concurred with the analysis provided by KBP Consulting, Inc. The project complies with all objective measures for transportation concurrency and with the City’s levels of service standards pursuant to Policies 1.1.2 and 1.1.3 of the City’s Comprehensive Plan.

**Community Development Department:**

The Planning and Zoning staff has reviewed the application for consideration by the Planning and Zoning Board; in this report, staff confirmed compliance with the applicable Zoning and Land Development Code regulations with conditions of approval for the consideration of the Planning and Zoning Board and City Commission.

**Public Notices:**

- ✓ Public Notice was posted at the property on **December 3, 2021**, at least 10 days prior to the meeting.
- ✓ Courtesy notices were mailed to property owners within a 500-foot radius on **December 3, 2021**, at least ten days before the meeting date.
- ✓ The agenda was posted to the City’s website on **December 3, 2021**, at least 7 days prior to the meeting date
- ✓ Public Notice was posted in the main lobby at City Hall on **December 3, 2021**, at least 10 days prior to the meeting date.