



City of North Miami Beach, Florida

Community Development Department

17050 NE 19TH AVENUE
1ST FLOOR
NORTH MIAMI BEACH, FLORIDA 33162
PLANNING & ZONING DIVISION: (305) 354-4456

PLANNING & ZONING BOARD

Meeting: 10/12/21

File No: 18-15

Application Name: 851 NE 167th Street (Mixed-Use)

General Data:

Applicant: Echad Holdings, LLC.

Architect: Kobi Karp

Location: 851 NE 167th Street

PCN: 07-2207-015-0010

Property Size: 2.1043 acres

FLUM: Mixed Use International Boulevard (MU/IB-E)

Zoning: B-2*

Adjacent Zoning:

- North: Residential Low-Rise Multi-Family Medium Density (RM-23)
- East: MU/IB-W
- South: MU/IB-W
- West: MU/IB-W

Existing Land Use: Business Office/Bank

Proposed Land Use: Mixed-Use (Retail/Office/Hotel)

Proposed Gross Floor Area:

Location Map



Item before the Board:

The action before the Board is for the approval of a Site

Plan application for the 851 NE 167th Street Mixed-Use development pursuant to Ordinance (Ord.) Section 24-172 (G), 24-172 (H)(3), including the following:

- Four (4) variances from Sec. 24-52(D)(3) Minimum yard setbacks for the front, rear, and side setback requirements; and
- A variance from Sec. 24-52(D)(7)(a) requiring uses permitted to be conducted entirely within an enclosed and roofed structure; and
- A variance from Sec. 24-81(A)(3) for regulations of balconies encroaching on the required setback;
- Conditional use approval for proposed hotel per Sec. 24-52(C)(8); and
- Site Plan Approval for a 223 unit hotel, approximately 12,258 SF of retail space, 3,866 SF of restaurant space, 77,856 SF of office space, and a 526 parking space garage.

Optional Board Motions for Action Items:

1. Move to continue with direction.
2. **Move approval** of the Site Plan application (File#18-15), Variance requests, and Conditional Use application for the 851 NE 167th Street Mixed Use 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#18-15), Variance requests, and Conditional Use application for the 851 NE 167th Street Mixed Use Development, by finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in the Zoning and Land Development Regulations.

Project Planner:
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Community Development Director
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Review Dates:
Planning & Zoning Board:
October 12, 2021

City Commission (TBD)

Attachments
1. Draft Resolution
2. Application & Letter of Intent
3. Site Plan & Survey
4. Traffic Study

Technical Notes:

1. Provide revised architectural elevations replacing the BM Delray Gray color specified with a similar color that has a light reflectance value (LRV) of 35 or greater in accordance with Ord. Section 24-79 (A) prior to site plan approval.
2. Show vision clearance triangles on the site and landscape plans prior to site plan approval.
3. Increase the illumination of the travel lane to a minimum 10 (fc) on sheet L1 prior to site plan approval.
4. Increase the minimum planting height for the perimeter trees for buildings over 3 stories in accordance Ord. Section 24-119 (A)(10), prior to site plan approval.

Summary:

The proposed application seeks to redevelop the property located at 851 NE 167th Street in order to construct a mixed-use development with three towers comprised of a 223 unit hotel, 12,258 SF of retail space, 3,866 SF of restaurant space, 77,856 SF of office space, and a 526 space parking garage. The development proposal includes a conditional use request for an Public lodging establishment (extended stay hotel) and variances for setbacks, balcony encroachments, and to permit open-air amenities.

Background:

The subject site is situated at the north east corner of N. Miami Beach Blvd (NE 167th Street) and NE 8th Avenue. The following is a list of events relating to the property:

- According to the Miami-Dade County Property Appraiser records the buildings on the site were built in 1969 (2,348 gsf), and 1973 (17,290 gsf).
- On February 18, 1969, the City Council approved Resolution No. R69-24 annexing the subject site into the City of North Miami Beach municipal boundaries.
- On March 4, 1969, the City Council approved Resolution No. R69-26 granting a variance for the reduction of required parking from 520 spaces to 464 spaces; and Resolution No. R69-27 approving an off-street parking layout and variance for transitional parking at 16801 NE 9th Avenue.
- On October 4, 2018, the application for the proposed mixed-use building was submitted to the Planning & Zoning Department. The zoning for the site when the application was submitted was B-2, General Business zoning district.
- On March 16, 2021, the City Commission approved Ordinance 2020-11 to establish and include regulations for the Mixed-Use International Boulevard District – West (MU/IB-W), and Mixed-Use International Boulevard District – East (MU/IB-E); amending Section 24-58.3 to expand and establish regulations for the Mixed Use Neighborhood Center District (MU/NC) zoning district. Since the application was submitted prior to the adoption of the current MU/IB-W zoning regulations, the previous B-2, General Business district regulations apply to this project.

Site Plan Analysis:

Compliance with the Zoning and Land Development Regulations:

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

Pursuant to Ord. Section 24-52 (A), **Purpose and Intent**, B-2 General Business District *“The purpose and intent of this district is to provide suitable sites for development of retail and service commercial uses of a general nature which serve the diverse consumer needs of the entire community, in areas consistent with the City’s Comprehensive Plan Land Use Element.”*

- The proposed mixed-use development contains office and retail uses permitted in accordance with Section 24-52 (B)(1), and hotel use which requires conditional use approval in accordance with Section 24-52 (C)(8). Ord. Section 24-22 defines Hotel as *“any public lodging establishment containing sleeping room accommodations for twenty-five (25) or more guests and providing the services generally provided by a hotel and recognized as a hotel in the community in which it is situated or by the industry.”* Ord. Section 24-22 defines Public lodging establishment as *“A hotel, motel, resort condominium, nontransient apartment, transient apartment, rooming house, bed and breakfast inn, or resort dwelling offering to the public or to members of an organization rooms,*

suites, apartments, or single-family dwellings for rent or lease for time periods less than three (3) months, and which may require licensing from an agency of the State of Florida.”

The hotel use model proposed is an “extended stay.” The Development Agreement contains a condition that the average length of stay per guest cannot exceed 3-months in accordance with the code section.

Although the proposed development is reviewed in accordance with B-2 zoning regulations, the projects’ uses are compatible with the MU/IB zoning district. The subject site is located in the transition sub district of the MU/IB zoning district. The project incorporates elements of the MU/IB zoning district by providing ground level retail, pedestal parking, public open space, streetscape elements, and tower type design. As a reference note, per Ord. Section 24-58 Table MU/IB-4, hotel would still require a conditional use approval, whereas retail and commercial office uses would still be permitted.

Site Development Standards:

The following table compares the project design to the minimum and maximum development standards for the B-2 zoning district set forth in Ord. Sections 24-52 (D):

Zoning District	Required/ Allowed	Provided	MU-IB*
B-2 General Business			
Lot Area (Min.)	1 Acre	2.1043	-
Lot Width (Min.)	100'	286.67'	150' (min.) 300' (max.)
Lot Depth	n/a	305'	200'
Floor Area (Min.)	1000 sf	464,807 sf	-
Frontage (Min.)	75'		-
Pervious Area (Min.)	20%	37% (33,596 sf)	10%
Height (Max.)	15 Stories/150'	10 Stories/89'-2" (North Tower) 15 Stories/150'-0" (South & East Towers)	6 stories max – north half 8 stories max (+2 bonus) – south half
Setbacks (Min.):**			
Front (South)	Up to 3 Stories 25' Above 3 Stories 85'	Up to 3 Stories 30'-7" Above 3 Stories 25'-4"***	6' (min.) 20' (max.)
Rear (North)	Up to 3 Stories 25' Above 3 Stories 80'	Up to 3 Stories 23' Above 3 Stories 20'***	10' (min.) n/a (max.)
Side Interior (East)	Up to 3 Stories 0' Above 3 Stories 60'	Up to 3 Stories 10'-3" Above 3 Stories 25'-3"***	0' (min.) n/a (min.)
Rear (West)	Up to 3 Stories 20' Above 3 Stories 80'	Up to 3 Stories 23' Above 3 Stories 20'***	10' (min.) n/a (max.)

* Ord. Section 24-52 (D)(4), Maximum building height: Fifteen (15) stories or one hundred fifty (150) feet, whichever is less.

**Ord. Section 24-52 (D)(3), Minimum yard setbacks: The following setbacks shall apply to all structures of three (3) stories or less in height and shall be increased by five (5) feet each for every story thereafter. For example, the front setback is required to be 25' up to 3 stories, afterwards the setback is increased an additional 5' for each story above that. The setback creates a layering effect reducing the building mass as buildings go higher. As such, front towers that go up to 15 stories require a 80 foot front setback (25' first 3 stories + 5'x12 stories = 60').

***The project includes variances to Ord. Section 24-52 (D)(3), requesting a reduction of the minimum setback requirements listed above.

- The application provided includes setback variances up to 60'. The massing analysis provided indicates that the The variance analysis is contained later in the report. The proposed 15 stories for the south and east towers and

10 stories for north tower comply with the B-2 zoning district requirements. To note, the maximum stories listed in figure MU/IB-7 is 8 stories (max) +2 bonus stories for the southern half of the site and 6 stories (max) for the northern half. Therefore, if the proposed building were to be built it would be non-conforming structure because of the height pursuant to Ord. Section 24-34 (F).

Special Regulations:

Pursuant to Ord. Section 24-52 (D)(7)(a), **Enclosed activities:** All activities relating to the uses permitted herein shall be conducted entirely within an enclosed and roofed structure except for outdoor dining areas.

- The application requests a variance from the section above in order to provide other open air outdoor deck amenities such as pools, lounge areas, and private terraces on the roof for hotel guests. The variance analysis is contained later in the report.

Pursuant to Ord. Section 24-52 (D)(7)(b), **Fencing:** A solid masonry wall of not less than six (6) feet in height shall be located along all lot lines which abut properties of a more restrictive zoning classification.

- Site Plan sheet A2.00 show a 6’ block wall to be constructed on the north side of the alleyway buffering the proposed development from the multi-family zoned properties on the north in accordance with the code section.

Pursuant to Ord. Section 24-52 (D)(7)(c), **Lighting:** All necessary lighting shall be so oriented as to prevent any direct glare or nuisance of any kind on or to adjacent properties or public right-of-way.

- Sheet LI provided demonstrates compliance with the City’s preliminary lighting standards. Further review of photometric will be performed prior to building permit issuance.

Supplemental Regulations:

Pursuant to Ord. Section 24-79 (A) **Paint Colors,** All buildings located in commercial Zoning Districts (B-1, B-2, B-3, B-4, B-5, and FCC) are required to obtain a permit to paint building exteriors. Allowable paint colors are as follows: (1) Base: Must have a light reflectance value (LRV) of 35 or greater. (2) Trim: May be any solid color.

- The architectural elevations provided shows stucco finished colors which include various shades of gray. The plans show that the BM Gray tint selected will have a 70.9 LRV, the BM Silent Night will have a 45.61 LRV and BM Delray Gray will have a 34.03 LRV. A note has been added to this report requiring that the BM Delray Gray color be replaced with a similar color with a LRV above 35 as required by code.

Pursuant to Ord. Section 24-81 (A)(3) **Setback Encroachments,** Balconies may extend up to five (5) feet into any required yard setback area, provided that such extension shall not exceed one-third (1/3) the width of the required setback.

- Since proposed setbacks are subject to approval, an additional variance was required for the encroachment of the balconies 3.5’ into the proposed setbacks.

Pursuant to Ord. Section 24-82 (A)(2) **Vision Clearance,** when a public street, alley or accessway intersects another public street, all fences, signs, walls, or landscaping elements within the triangular areas created by such intersections as defined below shall provide unobstructed vision clearance at an elevation of from three (3) to six (6) feet in height from the finished grade of the abutting roadways.

- The code section requires 15’x15’ vision clearance triangles on each side of an accessway when intersecting a alleyway or public street. The plans provide do not show the required vision clearance triangles, however, there appears to be no obstructions within the specified areas in accordance with code section. A note has been added to the report requiring the triangles to be shown on the plans prior to site plan approval.

The following table demonstrates the proposed **Swimming Pool** compliance with the regulations set forth in Ord. Sections 24-85:

Setback From	Required	Provided
Side lot line	7’-6”	113.16’ (approx.)
Rear lot line	7’-6”	38.79’ (approx.)
Structure	5’	224.82’ (approx.)
Side Street	15’	103.57’ (approx.)

- The proposed three pools shown on sheet A3.05 on the roof top deck of the 10th level of the building exceed the minimum required setbacks referenced section above.

Off-Street Parking Requirements:

The following table demonstrates the project’s compliance with the parking requirements listed in Ord. Section 24-95, 24-97 and 24-99:

Use	Formula	Required	Provided
Hotel	1.25 spaces for each rental sleeping unit, with meeting rooms; .75 spaces per sleeping room without meeting rooms	223 hotel units * 1.25 = 279 spaces	
Office	3 spaces for each 1,000 sq. ft. gfa	(77,856 sf / 1000) * 3 = 234 spaces	
Retail	5 spaces for each 1,000 sq. ft. gfa	(12,258 sf/1,000) * 5 = 61 spaces	
Restaurant	20 spaces for each 1,000 sq. ft. gfa	(3,866 sf /1000) * 20 = 77 spaces	
Total		651 spaces	516

- Pursuant to Ord. Section 24-92 (B)(2), when any land or building is used for two (2) or more distinguishable purposes, the minimum total number of parking spaces required to serve the combination of all uses may be determined by Shared Parking Credit Table. The shared parking table provided in accordance with Ord. Section 24-99 shows the highest total value of parking spaces to be 516 required for the site.

LAND USE	WEEKDAY				WEEKEND			
	12:00 Midnight 6:00 P.M.	9:00 a.m. 4:00 p.m.	6:00 P.M. 12:00 Midnight	9:00 a.m. 4:00 p.m.	6:00 p.m. 12:00 Midnight			
Residential	100%	33%	90%	301.5	90%	268	90%	301.5
Office	5%	11.7	100%	234	10%	23.4	5%	11.7
Retail	5%	3.05	70%	42.7	90%	54.9	100%	42.7
Restaurant	10%	7.7	90%	38.5	77	38.5	100%	77
		357.45		516.2		450.8		442.9
Minimum Shared Parking Space Requirement				516.2				

One Bedroom Units	143	1.5 ps per unit	214.5 ps
Two Bedroom Units	80	1.5 ps per unit	120 ps
			335 ps

- Of the 516 parking spaces provided for the site __ will be standard 9’x18’ spaces and __ will be handicapped in accordance with Ord. Section 24-93 (C)(1). The handicapped parking spaces are located near public elevators and entrances in accordance with Ord. Section 24-93 (C)(2)(b).

Pursuant to Ord. Section 24-93 (G) **illumination**. Enclosed parking facilities shall provide an average illumination intensity of fifty (50) foot candles at the entrance, ten (10) foot candles in traffic lanes and five (5) foot candles in vehicle storage areas.

- Sheet L1 provided shows an average of illumination from 55.58 to 56.40-foot candles (fc) at the garage entrances, 9.99 (fc) at travel lanes, and 6.26 to 6.94 (fc) at the parking spaces. A note has been added to the report requiring the travel lane illumination to be increased to an average minimum of 10 (fc) prior to site plan approval.

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.

- Mixed use buildings shall provide the number of loading spaces as determined by the combined calculation of dwelling units and gross floor area as listed in Ord. Section 24-97. 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 A1.00 shows (7) 12’x30’ loading spaces on the data table on sheet A1.00,

but only labels 5 on the plan and does not indicate the ceiling height. A note was added to the report requiring clarification prior to permit issuance.

Landscape Regulations:

Pursuant to Ord. Section 24-122 (A)(1), **Perimeter Landscape Requirements:** Adjacent to any street right-of-way plus along the perimeter of all vehicular use areas there shall be a continuous buffer strip of not less than five (5) feet in width. These buffer strips shall include at least one (1) tree for each thirty (25) linear feet, or portion thereof, of perimeter. Where these buffer strips abut a vehicular use area, there shall be installed a hedge, berm, or other durable landscaped visual barrier, of not less than three (3) feet in height within one (1) year of planting.

- The per 1,061 linear feet. The landscape plans provided shows perimeter trees and shrubs between the street rights-of-way and the sidewalk in accordance with the section. Pursuant to referenced section approximately 42 (1,061/30) perimeter trees are required. Sheet L-1 shows that 44 trees will be provided. The landscaping proposed shows at total combination Medjool Date Palms (20'), Live Oaks (12'), Royal Palms (20') and Sabal Palm trees (16'-20')

A note has been added to the report requiring the increasing of minimum planting height of trees and palms to 18' and 24' respectively in accordance with Ord. Section 24-119 (A)(10).

The shrubs provided are shown to be installed in layers between 18" to 24" on center in accordance with Ord. Section 24-119 (B). The shrubs specified included Red Tip Cocoplum, Small Leaf Clusia, Trinette, Crotons, Green Island Ficus hedges.

Pursuant to Ord. Section 24-121 **Tree Removal**, an existing tree on the 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.

- Tree Disposition plan sheet TD-1 provided indicates that 11,231 square feet of tree canopy will be removed. The City currently uses the Miami-Dade County Chapter 18A code for calculating tree mitigation in accordance with Ord. Section 24-121. Sheet TD-1 shows 11,231 square feet of tree canopy to be removed on site with no preservation of existing trees. The proposed trees listed in sheet L-1 provide a canopy replacement credit of 15,200 sf, which exceeds the square footage of the tree canopy removed. To note, a tree removal permit would be required prior to demolition permit issuance.

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 tree disposition plan sheet TD-1 shows all the tree on site to be removed and no preservation of existing trees. The landscape plans provided show that the new canopy provided would exceed the square footage of the canopy removed.

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.

- Sheet A1.00 shows that 37% open space will be provided. The plans show passive open space landscape buffering on the ground floor between adjacent properties and street rights-of-way. The plans also show

active open space on the 10th floor which include pools, seating and lounge areas, and amenities space available for guests.

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 plans provided was reviewed for compliance by City's traffic consultant subject. The condition include requires the providing of a feasibility study for a traffic circle at the intersection 170th street and NE 7th Ct, showing "no left turn" signage at median openings on NE 8th Avenue, requiring a traffic engineering study during permitting, and the requiring a "do not block" intersection sign on NE 8th Avenue. Other than the conditions indicated, which will also be included in the development agreement, there was no further comments regarding internal circulation on site which demonstrates compliance with subsection (a).

Since the project is proposes retail and a parking garage on the ground levels and hotel units starting from the 3rd floor, it does not comply with subsection (b) by discouraging nonlocal through traffic.

The proposed parking garage is covered by retail and office on the ground floor facing NE 167th Street and NE 8th Avenue and metal screening from the 2nd through 6th floors. The design demonstrates compatible visual relationship in accordance with subsection (c).

The fire staging plan on sheet A2.01 was reviewed during the TRAD process and provides adequate space to accommodate emergency and service vehicles as noted by the turning radii on the site plan, thus demonstrating compliance with subsection (d).

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.

- 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 levels of service 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 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 redevelopment has been designed so the massing is orientated away from the residential single-family properties to the north and pushed towards the NE 167th Street and to NE 8th Avenue, where max building heights proposed are 15 stories. If built the structure would be the tallest building in the area higher than the 8 story condominiums (east), 1-story strip mall (west), 2-story Jefferson Plaza (south) and 12-story office building (aka Regions bank) located at 699 NE 167th Street.
- b) Maximum privacy should be incorporated into the design of any individual residential units and related outdoor patio and living areas.
 - While not a residential development, maximum privacy has been incorporated into the design of outdoor patio areas proposed.
- c) Building location and other site features shall be reviewed in the context of any proposed road widenings, particularly the Biscayne Boulevard frontage.
 - No additional roadway widening is anticipated by FDOT for SR826.
- 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 Zone X. The proposed finish floor is 13'-3" NGVD in compliance with flood requirements.
- e) Proposed buildings and site shall be compliant with the Americans with Disabilities Act (ADA) and Miami-Dade County Code of Ordinances.
 - Proposed buildings and site shall be compliant with the Americans with Disabilities Act (ADA) and Miami-Dade County Code of Ordinances.
- f) Proposed buildings shall be compliant with the **Fair Housing Act** as required.
 - The proposed project is commercial; thus, the regulation is not applicable.

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 has determined that project demonstrates acceptable design standards to reduce crime.

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:

- 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 through #4 - Minimum Yard Setbacks

Pursuant to Ord. Section 24-52 (D)(3), Minimum yard setbacks shall apply to all structures of three (3) stories or less in height and shall be increased by five (5) feet each for every story thereafter.

- The four proposed variances are from the incremental 5 foot setback requirement for each floor above three stories referenced above. The following table demonstrates the required and provided setbacks for stories 1 through 3, and 4 through 15.

B-2 Zoning Setbacks (Ord. Section 24-52 (D)(3))

Yard	Setback required for structures 3 stories or less	Proposed setback up to 3 story height	Setback required for structures above 3 story height (15 Stories)	Proposed setback above 3 story height
Front	25'	30'-7"	<85'	25'-4"

Side: RM-23 (more restrictive)	25'	10'-3"	<85'	25'-3"
Side (corner)	20'	23'	<80'	20'
Rear: RS-2 (more restrictive)	25'	23'	<85'	20'

- The setback variances requested allow for the towers to be built closer to the property lines. Although the proposed setbacks are not compatible with the B-2 zoning district, they are closer in compliance with the current MU/IB zoning district standards. If granted, the variance would allow for the non-forming height of the structure to be constructed closer to property lines.

Variance #5 – Balcony Encroachments

Pursuant to Ord. Section 24-81 (A)(3), **Setback Encroachments:** Balconies may extend up to five (5) feet into any required yard setback area, provided that such extension shall not exceed one-third (1/3) the width of the required setback.

- If the setback variances are approved,, a subsequent non-conformity is created for the proposed balconies; as the balconies do not comply with the setback encroachments permitted under section 24-81(A)(3): Balconies may extend up to five (5) feet into any required yard setback area, provided that such extension shall not exceed one-third (1/3) the width of the required setback.

Variance #6 – Special Regulations

Pursuant to Ord. Section 24-52 (D)(7)(a), **Enclosed activities:** All activities relating to the uses permitted herein shall be conducted entirely within an enclosed and roofed structure except for outdoor dining areas.

- The development regulations for B-2 properties, found in Sec. 24-52 requires that all activities relating to the uses permitted in the district, to be conducted entirely within an enclosed and roofed structure except for outdoor dining areas. The applicant has requested a variance from the code requirements in order to provide open-air, rooftop amenities on the roof of the north tower’s 10th level. The open-air amenities include three pools and an outdoor lounge and seating area.

Conditional Use:

Article XV. Other Development Review Procedures, Sec. 24-175 Conditional uses.

Pursuant to Ord. Section 24-52 (C)(8), Hotels and motels; provided that any such use shall have a site area of not less than two (2) acres. Ordinance Section 24-175 (B)(1)-(9) list the conditional use review standards. The following is the staff analysis of the project in accordance with these standards:

1. The proposed use is compatible with the exiting natural environmental and other properties within the neighborhood;
 - The hotel use is compatible with the neighborhood. The Property has been developed as a commercial site since 1969. The hotel use is also compatible with the other commercial uses along NE 167th Street and North Miami Beach Boulevard.
2. The proposed use will create no substantial detrimental effects on neighborhood property values;
 - The hotel will not create detrimental effects on the neighborhood as the development is designed with high-end luxury amenities and architectural finishing's. It does not include uses that traditionally are associated with high rates of crime, noise or other potential nuisances.
3. The proposed use can be accommodated by adequate community facilities
 - The proposed hotel will not have an impact on schools or park services and will not result in a deficiency in the level of service of community facilities.
4. The proposed use will have adequate provisions for vehicular and pedestrian traffic movement;
 - The Property is situated at the northeast corner of NE 167th Street and NE 8 Avenue, along a major thoroughfare. In addition, the Development Program has been designed to provide onsite traffic circulation, including designated drop off areas and structured parking, internal to the site.

5. The proposed use will have adequate drainage systems;
 - Drainage will be fully accommodated onsite, as depicted on the civil engineering plans
6. The proposed use will have adequate setbacks and amenities, to control adverse effects; and
 - While the applicant is seeking relief from setback variances, the hotel use is been designed to mitigate adverse effects, including providing a 10-story maximum height where the development is adjacent to residential single-family homes. Moreover, traffic circulation patterns and the structured parking garage for the hotel use, will be nearly invisible to adjacent properties.
7. The proposed use will be located on property which is sufficient, appropriate and adequate for any reasonable expansion.
 - The hotel use contained in the proposed site plan is consistent with the City's Comprehensive Plan and is located on property that is adequate for any reasonable expansion.

Staff also reviewed the conditional use request against the purpose and intent of the B-2 district, which is to provide suitable sites for development of retail and service commercial uses of a general nature to serve the diverse consumer needs of the entire community. The proposed hotel use will provide a need to the city, which is currently void of hotel uses within the limits.

Traffic & Concurrency

The applicant's traffic engineer, Richard Garcia & Associate, Inc., prepared a Traffic Impact Study dated May 14th, 2019 evaluating the traffic impacts associated with the proposed redevelopment. A Technical Memorandum was prepared July 19th, 2021, to compare the previously analyzed traffic analysis of a 248 Hotel Room with the updated 223 hotel room design plans. The Memo determined that the development remains unchanged. The findings from the Study and follow-up Memo, are summarized below.

- Existing: 42,400 SF of Office Space.
- Proposed: Hotel 223; Office 77,856 SF; Retail 12,258 SF; Restaurant 3,866 SF.

The study included a review of the following:

- Trip Generation Analysis
- Intersection Level of Service Analysis
- Turning Movement Counts

The Traffic Impact Study and Memo concluded:

- The trip generation analysis yielded 164 net external trips (109 trips-in & 55 trips-out) during the AM peak hour and 233 net external trips (107 trips-in & 126 trips-out) in the PM peak hour.
- The studied intersections are currently operating within the acceptable threshold of LOS E or better and will continue to do so with the new traffic generated by the subject project. No off-site improvements are required or recommended at this time.
- Manual Turning Movement Counts (TMC's) were collected at the six (6) intersections. The AM and PM peak hour traffic volumes were determined, adjusted for peak seasonal variations by utilizing the Florida Department of Transportation Seasonal Factor (SF) and utilized in the operational analysis for the existing condition. The studied intersections yielded LOS D or better during the AM peak hour and LOS E or better during PM peak hour.

The City's concurrency and traffic engineering consultant the Corradino Group reviewed the Applicant's Traffic Impact Statement. They determined that all traffic-related comments were satisfactorily addressed. Staff reviewed the concurrency requirements for potable water, sanitary sewer, solid waste, parks and recreation, and public schools and determined that they will be adequately maintained and serve the project.

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.

Policy 1.4.8: The City will support and participate with Miami-Dade County in the implementation of transit enhancements in the S.R. 826 Corridor, including: providing maps and schedules at bus stops; providing passenger amenities for bus stops and shelters and adding bus stops and bus pull-out bays.

Community Development Department Analysis:

The intent of the B-2, General Business District is to provide suitable sites for development of retail and service commercial uses of general nature to serve the diverse consumer needs of the entire community. The applicant seeks to redevelop the site, currently developed with existing office building, to a mixed-use development consisting of an extended-stay hotel with amenities accommodating observers of the Jewish faith, as well as spaces for office uses, a restaurant, and retail.

The Applicant has worked with the City’s Urban Design Consultants, Bermelio & Ajamil, and Staff to ensure the architecture provided is modern and consistent with new development along the NE 163/167th Street corridor. Through the review iterations, the Applicant has revised the design to provide additional fenestration treatments and design consideration for both the vehicular and pedestrian experience. The quality landscape will also enhance the building’s modern design.

While reviewing the requested site plan, variances and conditional use, the City underwent and adopted the phase II rezoning initiatives, which resulted in the property being rezoned to Mixed-Use International Boulevard. Staff reviewed the request, against the adopted MU regulations. To begin, the development is consistent with the purpose and intent of the MU/IB district, particularly with the following:

- Ensuring that new development or redevelopment projects enhance the visual character of the NE 167th / 163rd Street Corridor in terms of massing and scale;
- Stimulating neighborhood commercial and retail activities with an emphasis on the development of mixed-use nodes at highly trafficked/accessible locations, which are connected by improved development along the corridor;
- Ensuring the appropriate screening and transition to reduce the impact on any surrounding single-family neighborhoods and low density residential districts.
- Building facades along NE 167th/163rd Street shall contain active use along the first level. On all other levels, both non-residential and residential uses shall be permitted. To support transit, residential uses are encouraged and shall be permitted to be vertically or horizontally integrated.

- Staff also reviewed the project against existing B-2 standards, and the newly adopted development regulations under the MU/IB designation. Staff determined that the provided setbacks, heights, density, and parking requirements, are consistent with the Property's future land use designation and current Mixed-Use International Boulevard zoning designation.

Public Notices:

- ✓ Public Notice posted at the property was updated on **October 1, 2021**, at least 10 days prior to the meeting.
- ✓ Courtesy notices were mailed to property owners within a 500-foot radius on **October 1, 2021**, at least ten days before the meeting date.
- ✓ The agenda was posted to the City's website on **October 1, 2021**, at least 6 days prior to the meeting date
- ✓ Public Notice was posted in the main lobby at City Hall on **October 1, 2021**, at least 6 days prior to the meeting date.