



# City of North Miami Beach, Florida

## Community Development Department – Planning & Zoning Division

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1<sup>ST</sup> FLOOR  
NORTH MIAMI BEACH, FLORIDA 33162  
(305) 354-4456

### PLANNING & ZONING BOARD

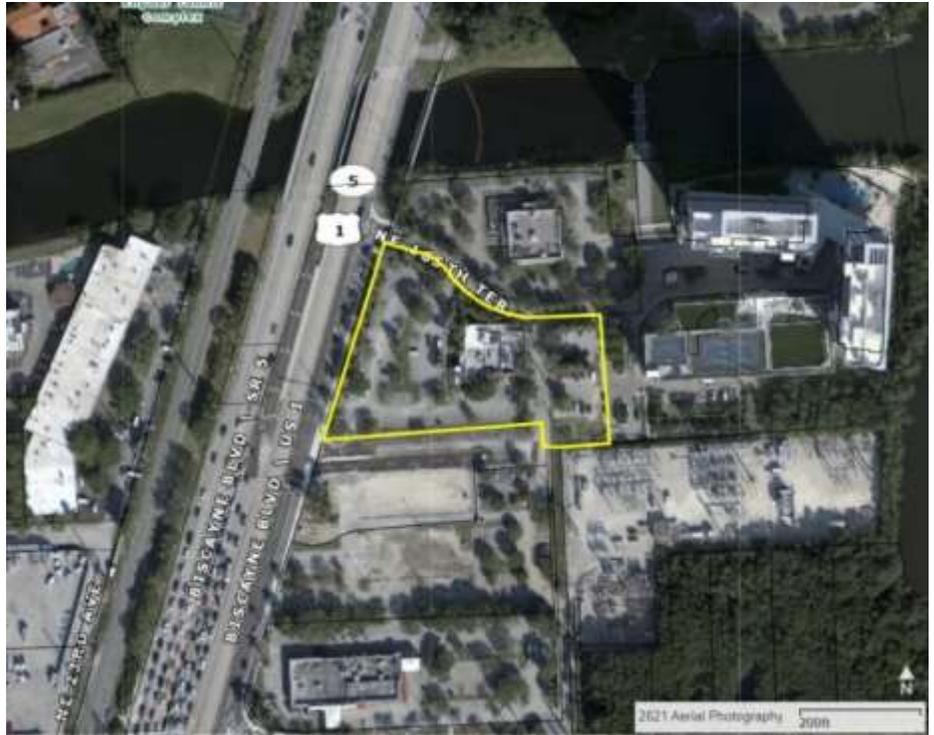
<b>Meeting:</b> 07/11/22	<b>File No:</b> 22-15	<b>Application Name:</b> Soleste on the Bay
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**General Data:**

**Applicant:** Ethan B. Wasserman, Esq.  
**Location:** 16375 Biscayne Blvd.  
**PCN:** 07-2216-042-0020  
**Property Size:** 2.15 acres  
**FLUM:** Southern Mixed-Use Waterfront (MU/SWF)  
**Zoning:** Mixed-Use South Waterfront (MU/SWF)  
**Adjacent Zoning:**

- **North:** MU/SWF
- **East:** MU/SWF
- **South:** MU/SWF
- **West:** General Business District (B-2)

**Existing Land Use:** Restaurant  
**Proposed Land Use:** Mixed-Use building  
**Proposed Gross Floor Area:** 759,439 sf



**Item before the Board:**

The item before the Planning & Zoning Board is a request for Site Plan Approval with conditions and six non-use variances for the construction of a 759,439 gross square feet, mixed-use development with 363 apartment units, and 14,582 square feet of ground floor commercial and restaurant space and 645 parking spaces on a 2.15-acre parcel located at 16375 Biscayne Blvd.

**Optional Board Motions for Action Items:**

1. Move to continue with direction.
2. **Move approval** of the Site Plan application (File# 22-15), Variance requests, and Administrative Waivers for the Soleste on the Bay mixed-use development located at 16375 Biscayne Blvd, 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#22-15), Variance requests, and Administrative Waivers for the Soleste on the Bay mixed-use development located at 16375 Biscayne Blvd, 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.

<p><b>Project Planner:</b> Jethro Francois Planner 1 <a href="mailto:Jethro.Francois@citynmb.com">Jethro.Francois@citynmb.com</a> 305-948-2966</p>	<p><b>Review Dates:</b> Planning &amp; Zoning Board: July 11, 2022  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, Civil and Landscape Plans</li> <li>4. Traffic Study</li> </ol>
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**Background:**

The subject site is situated at the southeast corner of Biscayne Blvd (US-1) and NE 165<sup>th</sup> Terrace. The following is a list of events relating to the property:

- According to the Miami-Dade County Property Appraiser records the existing 9,255 sf single-story restaurant building was built in 2000.
- On November 3, 2015, the City of North Miami Beach City Commission approved Resolution 2015-90 granting site plan and conditional use approval to construct to develop a 1,505,544-square foot mixed-use development (combined Riverwalk North and Riverwalk South projects), consisting of three towers, 730 dwelling residential units, 177 hotel rooms and 9,178 square feet of commercial space, on two (2) parcels;
  - Riverwalk North located at 16395 Biscayne Blvd consists of a 32-story tower, 480 residential dwelling units, and 740 parking spaces on the 1.78-acre north parcel.
  - Riverwalk South consists of with one 18 story tower with 177 hotel rooms (west tower) and one 30 story with 250 residential units (south tower) both on top of a pedestal garage with 521 parking spaces and 9,178 of combined retail and restaurant space on the ground floor.
- On September 15, 2020, the City of North Miami Beach City Commission approved Resolution 2020-89 to modify Riverwalk North from a 32-story tower building with 480 residential dwelling units, and 740 parking spaces, to a (23) story tower, 367 residential dwelling units, 2,708 square feet of commercial space, and 655 parking spaces. The Site Plan Modification reduces the total number of residential dwelling units by 113 units (the “Unused Units”), pursuant to the City Comprehensive Plan the Unused Units shall be allocated back into the “basket of rights” for the Mixed-Use South Waterfront (“MU/SWF”) zoning district. The Site Plan Modification increased the non-residential square footage by 2,708 square feet.
- On February 2, 2021, for a Major Site Plan modification (21-1) for the Riverwalk South development located at 16375 Biscayne Blvd. The modification proposes to increase the previously approved (Resolution No. 2015-90) building with one 18 story tower with 177 hotel rooms (west tower) and one 30 story with 250 residential units (south tower) both on top of a pedestal garage with 521 parking spaces and 9,178 of combined retail and restaurant space on the ground floor; to two 32 story towers with 170 hotel units (west tower), 363 residential units (113 west tower, 250 south tower), 554 parking spaces (pedestal garage), and 13,851 square feet of only restaurant space with the variances and waivers.
- On February 9, 2022, the previous applicant rescinded application.

**Site Plan Analysis:**

**Compliance with the Zoning and Land Development Regulations (ZLDC):**

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**, *“The intent of the SOUTHERN MU/WF district is to establish a Mixed-use area that provides for multi-family housing that enables residents to live on the waterfront. Providing new publically accessible open spaces as well as public access to and beautification of the waterfront are primary principals of the SOUTHERN MU/WF district. Development patterns shall generally reflect planning and design principles such as walkable neighborhoods oriented around the five-minute walk. Additionally, there shall be primary orientation towards the waterfront, integration of housing, employment, shopping and recreation at the neighborhood level.”*

- The proposed 28 story mixed use development follows the purpose and intent of the Mixed-use Southern Waterfront provided 363 residential units up to three-bedrooms. The increase of commercial spaces enhances the pedestrian activity which impacts the active ground use and promotes walkability on the site. The scale and intensity of the building is compatible with adjacent Riverwalk North building (23 stories under construction) and the existing 31 story The Harbour Condos towers located to the east.

The modifications proposed continues the previously approved criteria for the MU/SWF zoning district by maintaining architectural compatibility with surrounding aesthetics, providing sufficient landscaping, creating public access to the waterfront and adjacent parcels with urban greenways. The proposed project demonstrates

a mix of uses within the district that blend together and contribute to the identity and sense of place of the neighborhood.

Pursuant to ZLDC Table MU/SWF-1, residential and restaurant are listed as **permitted uses** by right in the MU/SWF zoning district.

- The residential and restaurant uses proposed are permitted. The site provides 14,582 square feet of commercial spaces, including retail, which is permitted by right according to ZLDC Table MU/SWF-1.

Pursuant to ZLDC Section 24-58.5 (J)(1), **Building Typologies**. All new buildings shall conform to one (1) of the permitted building typologies as demonstrated in the Building Typology and Placement Regulating Diagrams in Section 24-58 Mixed-use District.

- The building proposed is a Tower design building in accordance with ZLDC Table MU/SWF-2 (2), buildings higher than 8 stories shall only be developed by the Tower building type standards. The proposed building is in accordance with Table MU/SWF-3.

**Site Development Standards:**

The following table compares the project design to the minimum and maximum development standards for the MU/SWF zoning district set forth in ZLDC Tables MU-1, MU-2, MU/SWF-2, and MU/SWF-4

Zoning MU/SWF district	Required/ Allowed	Proposed
Lot Area (Min.)	N/A	2.15 acres
Lot Width	200' (min.), 250' (max)	212'-8" (varies)
Lot Depth	200' (min.), N/A (max)	309'-0" (varies)
Pervious Area (Min.)	10%	11,958 sf (12.7%)
Frontage (Min.)	75'	
Height (Max.)	30 stories/375 feet	28 stories/297'-6"
Building Setbacks (Min.): **		
<b>Front</b> (West) Secondary B	15' (min.), 30' (max)	20'-0"
<b>Rear</b> (East)	0' (min), N/A (max.)	20'-0"
<b>Side Interior</b> (South)	0' (min)*, N/A (max.)	63'8" & 100'-1"
<b>Side Street</b> (North)	0' (min.), 20' (max.)	21'-3"
Open Space	10% (9,370 sf)	43,643 sf (46%)
Tower Separation	60' (min.)	60'
Podium Setback (Min.)	Required	Provided
<b>Front</b> (West)	15'	18'-1"
<b>Rear</b> (East)	15'	16'-0"
<b>Side Interior</b> (South)	15'	0'-0" **
<b>Side Street</b> (North)	15'	15'-0"

\*\* A variance is being requested to reduce the podium setback on the front, rear, side interior, and side street of the West tower portions of the building from 15' feet to 0' feet. The variance request would be further analyzed later in the report.

Pursuant to ZLDC Section 24-113 (C)(5)(c), **Flood Resistant Development**, for construction of new mixed-use buildings in mixed-used districts defined in the Future Land Use Element of the City's Comprehensive Plan, the minimum lowest floor elevation (or height of dry floodproofing of nonresidential portions of mixed-use buildings) shall be the higher of the following: i. The elevation required by the Florida Building Code if located in a special flood hazard area; ii. The elevation of back of adjacent sidewalk; iii. If there is no sidewalk, the elevation of highest crown of road or street abutting building site; iv. If road has no crown, the highest edge of road cross section.

- The subject site is located partially in the FEMA AE-7 (Special Flood Hazard Area). Sheet A-002 mentions that that the finish floor will be at +9.50 (NGVD), and lowest equipment room floor +9.50 (NGVD). The plans provide

do not specify compliance with ZLDC Section 24-113 (C)(5)(c). **A note has been add to the staff report requiring compliance prior to City Commission review.**

Pursuant to ZLDC Section 24-58 (R)(1), **Building height** is the vertical distance above the centerline of the adjacent fronting road to the highest point of the building, or in the case of pitched roofs, to the average height between the bottom of the eave and the peak of the roof. In a Special Flood Hazard Area (SFHA) the building height shall be measured from the minimum finished flood elevation required in the SFHA. Only accessory structures permitted elsewhere in these regulations to extend beyond the height of the building are exempt from the maximum allowable building height requirements.

- The subject site is partially located in the FEMA AE-7 flood zone and is subject to the Special Flood Hazard Area regulations. The plans provide show the height measured from ground floor elevation to the top of the flat roof. The plans show the height of 297'-6" and 28 stories. However, the minimum finish floor elevation shall be reviewed for compliance with ZLDC Section 24-113 (C)(5)(c).

Pursuant to ZLDC Section 24-58 (S)(1) b., **Building Separation.** For tower building types only, when a building is constructed at the maximum building length, a minimum thirty-foot separation at the podium level shall be required between the subject building and any subsequent building.

- Per ZLDC Section 24-58 (S)(1) a., Building Length. The maximum horizontal dimension of a building shall be three hundred (300) feet. The length of the building measures approximately 384' feet which exceeds maximum dimension allowed. Plans provided show the podium of the Soleste building be approximately 50' plus from the adjacent Riverwalk North Building.

Pursuant to ZLDC Section 24-58 (S)(1) g. i., **Ground Floor Active Use.** Storefronts are active uses located along the ground floor of a building. Storefronts shall be provided in compliance with the following standards in subsection 1 through 6.

- Active use means a use within an enclosed building designed for human occupation with a direct view to adjacent streets or publicly accessible open space. Ground floor active uses generally include, but are not limited to, retail, other commercial, restaurants, coffee shops, libraries, institution, educational and cultural facilities, residential, and entrance lobbies. The plans provided show active ground floor restaurant spaces, lobbies, and offices. The active spaces are directly accessible from a street frontage or urban greenway, have multiple street frontage access, are elevated at least 24" above the adjacent grade, and are at least 70% transparent (see sheet A-200).

Pursuant to ZLDC Section 24-58 (S)(1.)n., **Dwelling Units.** Dwelling units shall not be less than five hundred fifty (550) square feet. In multiple dwelling unit buildings, the cumulative average of all dwelling units shall not be less than eight hundred (800) square feet.

- Sheet A-002 provide shows a breakdown of the dwelling units and indicates that the average cumulative unit area provided is 819 sf which exceeds the minimum 800 sf required.

Pursuant to ZLDC Section 24-58 (S)(1.)p., **Rooftop Terraces.** are intended to guide the non-habitable use of rooftops for buildings built to the maximum story height limit to allow rooftop terraces. Rooftop terraces and rooftop amenities, such as roof gardens, observation decks, swimming pools, and running tracks, are encouraged to create unique gathering spaces to aid in the reduction of the urban heat index in the mixed-use district area, and to add aesthetic value to the buildings. Rooftop terraces are not intended to add additional story height for uses that could otherwise occupy space within the building, such as, but not limited to, fitness centers, restaurants, locker rooms, and other similar amenities.

- The plans provide show roof top terrace on the 29 story, and the 9<sup>th</sup> story below the maximum permitted 30 stories and 375' in accordance with the code section. The roof terraces provided adequate landscaping, amenity rooms, and passive seating areas.

Pursuant to ZLDC Section 24-58 (S)(1.) q. i., **Covered structures** above the maximum allowable building height are permitted to cover a maximum area of thirty (30%) percent of the gross rooftop area. For the purposes of calculating the maximum area, the term "covered structures" shall not include enclosures for screening mechanical systems.

- The plans provided show the roof terraces below the maximum allowable roof height, therefore the maximum 30% covered structure requirement is not applicable.

**Urban Greenway Regulations:**

Pursuant to ZLDC Section 24.58.5 (H), **Designated Publicly Accessible Open Spaces and Urban Greenway Systems Regulating Plan**. The designated publicly accessible waterfront promenade shall be the following type as shown in the Designated publicly Accessible Open Spaces and Urban Greenways Systems Regulating Plan (Figure MU/SWF-2).

- Figure MU/SWF-2 shows a designated urban greenway trail is required for the roadway east of the subject site. Since subject site is not direct adjacent to the electrical substation (FPL) urban greenway type MU/SWF-4 would not be applicable to the property, thus figure MU-3 would greenway design applicable to the project. Figure MU-3 requires a minimum 5' sidewalk, 5' wide tree grates, 2' curb and gutter, and 20' wide travel lanes (10' each direction). Sheet A-101 shows a 5' sidewalk, 5' wide tree grates, 2' curb and gutter, and a 20' wide travel lane. In addition, the project proposes trails and sidewalk paths on the north, south and west sides of the building to further the intent of the code by increasing pedestrian connectivity through the area. The plans provided show green trails and pedestrian promenades along the south, west, east and north sides of the property which include lush landscaping and street furniture such as benches, bike racks, litter cans, and pathway lighting.

**Parking Regulations:**

The following table demonstrates the project's compliance with the parking requirements listed in ZLDC Table MU/SWF-5 Minimum and Maximum Parking Requirements by use:

Use	Formula	Required	Provided
Retail, Restaurant, or Commercial	2 spaces per 1,000 sf (min) 4 spaces per 1,000 sf (max)	30 spaces (min) 59 spaces (max)	59 spaces
Residential	1 per unit plus 1 per 20 units for guest parking (min) 2 per unit plus 1 per 20 units for guest parking (max)	363 spaces (min) 726 spaces (max)	
Total Single Spaces			<u>599 spaces</u>
Tandem Parking Spaces (assigned to 2BD units and 3BD units)			<u>+46 spaces</u>
Visitors (Residential)	363 units / 1 per 20 units	19 spaces	19 spaces
Offices	2,211 sf (NET)	2.5 per 1,000 sf (6 spaces) 4 per 1,000 sf (9 spaces)	9 spaces
ADA Parking Spaces		2% of Total Provided (14 spaces)	10 spaces
<b>Total</b>		428 (min), 823 (max)	<u>645 spaces</u>

- Sheet A-103 shows that of the 645 spaces provided, 585 will be standard, 46 will be tandem, and 10 will be ADA, plus 4 electrical vehicle charging stations. The sheets show standard parking spaces at the minimum 9' width required in accordance with ZLDC Section 24-93 (D), thus, the proposed parking spaces are consistent with the code. The minimum parking allowed is 428 and the maximum is 823. The project is proposing 645 which is above the middle of the range for parking allowed.

Pursuant to ZLDC Section 24-58 (S)(4), **Projections and encroachments** including, but not limited to, architectural features; awnings; balconies; canopies; colonnades; porches; decorative roofs; covered structures; parapets; mechanical rooms and swimming pools shall comply with Table MU-3. The following table demonstrates the buildings architectural features for compliance with the code.

- The plans provide show architectural elements such as balconies, canopies, and cornices in compliance with the minimum and maximum projections listed in Table MU-3. Furthermore, the parapets, roof canopies, and

architectural features are all below the maximum 375' height allowed in the district, so there is no vertical projection encroaching the maximum height allowed.

Pursuant to ZLDC Section 24-58 (K), **Vehicular Access and Circulation**. Vehicular access and circulation developed in compliance with the standards in Article IX (Off-Street Parking and Loading) is required, with the following modifications listed in subsections a. and b.

- The plans provided show vehicular access around the site with access from secondary roads. Furthermore, plans provided show vehicular circulation throughout the building on the civil sheets. The plans were reviewed by the City's independent traffic consultant and is pending final approval.

Pursuant to ZLDC Section 24-58 (K)(2)a., **Surface Parking Lots**. Surface level parking lots, whether stand-alone or part of a larger development, shall comply with the following standards listed in subsection i. through vi.

- The plans provide show twenty-three 9" wide by 18' long surface parking space on the south side of the property with pedestrian accessibility. Subsection i., states "If the parking lot is accessed from a primary or secondary street, there shall be only one (1) point of access to the parking lot area." The plans provided show two points of access to the surface parking area, one from the existing secondary road (158<sup>th</sup> street/Royal Glades Drive) to the north and one proposed secondary street to the east per ZLDC Figure MUSWF-1. The plans provide show access from a new secondary street and internal access to an adjacent property to the south. A cross access easement is required between the subject property and the adjacent property to the south for the two entrances provided.



Pursuant to ZLDC Section 24-58 (K)(2) b., **Multi-level parking garage structures**, whether stand-alone or part of a larger development, shall comply with the following standards listed in subsections i. through vi.

- Subsection i states "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" is it complies with subsection 1. and 2.
- The LOI and plans provided request a waiver from the liner use around the parking garage and provides architectural screening.

The following table demonstrates the project's compliance with the **loading space regulations** listed in ZLDC Sections 24-58 (K)(3) and 24-96.

Category	Formula	Required	Provided
Multifamily	3 spaces over 200 du	3	
Retail	2 spaces for 10,000 - 40,000 sf	2	
Total		5 spaces	5 spaces

- Pursuant to ZLDC Section 24-96 (B), An off-street loading space shall include an area of at least twelve (12) feet wide by thirty (30) feet long with fourteen and one-half (14½) feet vertical clearance. Combined or joint off-street loading spaces for two (2) or more uses may be collectively provided if off-street loading facilities are equal in size and capacity to the combined requirements of the several uses and are so located and arranged as to be useable by all.

The following table demonstrates the project's compliance with the **Bicycle Parking regulations** listed in ZLDC Sections 24-58.5 (L):

Category	Formula	Required	Provided
Multifamily	1 bicycle space per 15 parking spaces	32	-
Commercial	1 bicycle space per 15 parking spaces	2	-
	Total	34 spaces	<b>38 spaces*</b>

\*The data table shows 42 parking spaces but only 38 spaces were counted throughout the plans.

**Supplemental Regulations:**

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 plans provided show vision clearance triangles at each access point of the property, this demonstrating compliance with the code.

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

Setback From	Min. Required	Provided
Rear lot line	7'-6"	107'10" south (approx.)
Structure	5'	-
Side Street	15'	over 55' north, 20' east, over 40' west (approx.)

- The pool shown demonstrates compliance with most of the regulations. Additional pool compliance will be reviewed for compliance with the Florida Building Code during permit review.

Pursuant to ZLDC Section 24-93 (B), **Traffic Control**. Traffic-control signs and pavement markings shall be used as necessary to insure safe and efficient circulation within off-street parking areas. All traffic control measures shall be approved by the Director and be based upon the Manual on Traffic Control Devices.

- Sheet C-2.0 provided demonstrates compliance with the traffic control regulations in the code. Furthermore, the plans have been reviewed by the City's independent traffic consultant and met compliance.

**Landscape Regulations:**

The following table analyzes the landscape plans provided for compliance with ZLDC Sections 24-58 (L), and 24-122:

Landscape Code Requirements				
Zoning - MU/ SWF				
Description	Application	Calculation	Qty. Required	Qty. Provided
West Perimeter	1 tree/ 25 LF	280/ 25'	11	11
North Perimeter	1 tree/ 30 LF	308/ 30'	10	10
South Perimeter	1 tree/30 LF	400 st/ 30'	13	13
Street Trees	1 tree/ 30 LF	Biscayne Blvd 280/ 30'	9	9
		Royal Glades Drive 308/ 30'	10	10
Total Trees			53	53
Maximum Palms Allowed	25% of required site trees	25% of 34 =	9	5
Foliage trees	75% of required site trees	75% of 34 =	26	29

- The trees, palms and shrubs selected on sheet L-1 consist of drought tolerant, low maintenance native and Florida Friendly plant varieties. However, the plant sizes selected are smaller than the minimum required size for properties with buildings above 3 stories, thus, a note has been added to code requiring the minimum plant sizes to be increased on the plans prior to the City Commission meeting.

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.

- Sheet TD-1 provide shows 17,851 sf of tree canopy to be removed and 20,500 sf of tree canopy replacement, thus demonstrating tree mitigation compliance. A tree removal permit will be required prior demolition.

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 trees on site, excluding two date palms, are to be removed with no preservation. The landscape plans provided show that the new canopy provided would exceed the square footage of the canopy removed. A tree removal permit will be required prior to demolition.

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 shows clearly defined vehicular circulation from the access points on NE 165<sup>th</sup> Terrace (Royal Glades Drive) and the new secondary street to the east, through the surface valet queuing area, ground floor parking garage and 8 parking garage levels, demonstrating compliance with subsection (a). Sheet C-2 shows pavement markings and signage to control traffic and reduce internal speed (compliance with subsection a). The plans show the residential units starting at level 9 facing the residential streets and not along the ground level (compliance with subsection b). The 8-story parking garage is screen with architectural aluminum screening that will not create any incompatible visual relationships (compliance with subsection c). Lastly, sheet FS-1 shows adequate vehicular access and circulation of fire trucks throughout the site on the ground level (compliance with subsection d). The plans were also reviewed by the City's independent traffic consultant for compliance.

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 review for concurrency prior City Commission review.

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 site plan application proposes a 28-story building with architecture features that are similar to height and scale of the surrounding properties. The building is compatible in scale with the 31 story The Harbour apartments located east of the subject site and the 23 story Riverwalk North building to the north (under construction). The modern building style proposes broad vistas, room balconies, architectural canopies, faux wood cornices, aluminum screening, and varying shades of grey and white colors.
- b) Maximum privacy should be incorporated into the design of any individual residential units and related outdoor patio and living areas.
  - 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 has been indicated for US-1.
- 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.
  - See previous
- e) Proposed buildings and site shall be compliant with the Americans with Disabilities Act (ADA) and Miami-Dade County Code of Ordinances.
  - Proposed buildings will be reviewed for Americans with Disabilities Act (ADA) and Miami-Dade County Code of Ordinances during permit review and shall demonstrate compliance.
- f) Proposed buildings shall be compliant with the **Fair Housing Act** as required.
  - The proposed will be reviewed in accordance with the Fair Housing Act during permit review.

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. Final approval pending.

**Waiver Review Analysis**

Pursuant to ZLDC Section 24-176.1, The purpose of this section is to provide a procedure for property owners of existing developments to obtain minor administrative "non-use waivers" of regulations pertaining to dimensional development standards such as setback lines, frontage requirements, height limitations, lot size restrictions, and other minor waivers, provided that the specified standards of this section are met. The Director or designee shall review for the following standards listed in ZLDC Section 24-176.1 (F) when considering granting an administrative waiver.

**Waiver request #1 – Lot Width**

Pursuant to ZLDC Section 24-58 Table MU-2, note (1), t(1) The Planning Director shall have the authority to waive administratively the requirements for minimum lot coverage, pervious area, lot depth and lot width.

- Per Table MU-2, the minimum lot width for a Tower building is 200' and the maximum is 250'. Per ZLDC Section 24-21 Lot, width: "*The horizontal distance between the side lot lines measured along the front building setback line of the lot as determined by the prescribed front yard requirements of the zoning district.*" The minimum front setback from US-1 in the MU/SWF zoning district is a minimum 15' and a maximum 30'. The plans provide show a 20' front setback provided. The lot depth as measured along the 20' setback line provided between the side street setback and the side interior setback is approximately 284'. As a result of the non-conforming lot size, a waiver can be submitted to increase the maximum lot width from 250' to 284'.

**Waiver request #2 - Active Liner (Side and Rear Frontages)**

Pursuant to ZLDC Section 25-58 (K)(2)b.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
  - The plans provided show architectural screening along the side street, side interior, and rear frontages from levels 2 through 7 in-lieu of a 20' deep liner use (non-commercial use area). Sheet A-101 shows commercial office and retail spaces on the ground floor on the front (adjacent to US-1), side street, and side interior sides of the building. The proposed design demonstrates compliance with the intent of mix use in provided commercial and residential uses in the building, and provide opaque architectural screening in accordance with ZLDC Section 24-58 (S)(1)i.; thus demonstrating compliance for granting of a waiver.

**Variance Review Analysis**

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

- 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.
- 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.
- The nonconforming use of adjacent lands, structures, or buildings shall not be considered grounds for the authorization of a variance.

**Variance #1 Tower Setbacks**

Pursuant to ZLDC Section 24-58(S)(3)a., The minimum setback for the tower shall be 15 feet from the podium. Where the portion of the tower is at the end of a street vista, the minimum setback shall be 0 feet from the podium.

- The Letter of Intent (LOI) provided requests a non-use variance to permit a tower setback of 0" from the podium along southern property line. The LOI indicates that the need for the non-use variance replace some of the developable area taken by a 100' foot FPL easement from the South property line. The podium is setback 64' feet (due to the staggered irregular south property line) from the property line. The massing study on sheet A-001.1 indicates that the building is losing approximately 150,759 gross square feet as an result of the FPL easement. If granted, the variance would allow the tower to continue from the same vertical plane as the podium and adhere to the same setback.

If granted, the proposed non-use variance does not appear to affect the stability and appearance of the community or creates any incompatibility with the surrounding land uses.

**Variance #2 Building Length**

Pursuant to ZLDC Section 24-58 (S)(1)a., Building Length. The maximum horizontal dimension of a building shall be three hundred (300) feet.

- The LOI provided requests a non-use variance to permit a building length of 384' feet, where a maximum 300' feet are allowed. The LOI indicates that the lot is a platted lot of record and is an irregular shape with an elongated lot depth. The maximum lot depth of the property is approximately 450'. Due to the FPL easement from the south property line, the building is constructed 64' feet from the south property line.

If granted, the building will maintain the code required front, side street, and rear setbacks. The non-use variance does not appear to affect the stability and appearance of the community or creates any incompatibility with the surrounding land uses.

**Variance #3 Building Frontages**

Pursuant to ZLDC Section 24-58 Table MU/SWF-4., the frontage setback from a Primary Street (Biscayne Blvd) shall be a minimum 15 feet to a maximum 30 feet with a minimum 70% frontage on the ground floor level only; a frontage setback from a Secondary A and B shall be a minimum 0 feet to a maximum 20 feet with a minimum 90% building frontage.

- The LOI provided requests a non-use variance to permit reduced frontages for the front (Biscayne Boulevard) and rear frontages. ZLDC Section 24-58 (H)(9), building frontage means the percentage of a building façade that is generally parallel, facing, or oriented toward a street and that lies within the minimum and maximum setback area allowed and shall include a principal building and active use. ZLDC Section 24-58 (H)(3), Active use, ground floor means an active use that attracts pedestrian activity, provides access to the general public, and conceals uses designed for parking and other non-active uses if present. Ground floor active uses generally include, but are not limited to, retail, other commercial, restaurants, coffee shops, libraries, institution, educational and cultural facilities, residential, and entrance lobbies.

The LOI indicates that the request for the non-use variance results from the 20' feet streetscape requirement along the north property line, and 64' feet setback from the FPL on the south property line. The variance requests to provide a reduction in building frontage adjacent to the primary street from 70% to 65%, and a reduction on the rear side of the building adjacent to the secondary street from 90% to 40%. The LOI indicates that the mechanical uses were designed towards the east side of the building whereas restaurant and commercial uses were moved to the west, south, and north sides of the building.

**Variance #4 Active Liner**

Pursuant to ZLDC Section 24-52 (K)(2)(b)(i), 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.

- The LOI provided requests a waiver for the active liner uses on levels 2 through 7 on the side street (north), side interior (south), and rear (east) façades in accordance with ZLDC Section 24-52 (K)(2)(b)(i). The code section allows the Director to waive the liner use requirement on side and rear frontages only. The LOI requests a non-use variance to reduce the linear use requirement on levels 2 through 7 on the north side to provide additional parking spaces for the building. A variance is requested because it exceeds the waiver threshold.

If granted, the proposed non-use variance does not appear to affect the stability and appearance of the community or creates any incompatibility with the surrounding land uses.

**Variance #5 Ground Floor Level Height**

Pursuant to ZLDC Section 24-58 (R)(2)a., Ground level stories shall be a maximum height of twenty (20) feet.

- The LOI provided requests a non-use variance to permit 22 feet height at the ground floor level. The LOI indicates that An additional two (2) feet of height for the ground level (22' in total) is necessary to allow for adequate clearance for Miami Dade County Water and Sewer to service their infrastructure located within this easement site. Due to the Water

and Sewer Easement, not only are permanent structures of any type prohibited on the ground floor within the realms of the easement, but a 20-foot vertical clearance is also required to ensure safe and unobstructed access to these facilities. The additional 2-feet of ground floor height, measured from slab to slab, accounts for the additional space needed to accommodate the typical building infrastructure located below the slab (e.g., water, electrical and other ductwork).

If granted, the proposed non-use variance does not appear to affect the stability and appearance of the community or creates any incompatibility with the surrounding land uses.

**Variance #6 Ground Floor Fenestration**

Pursuant to ZLDC Section 24-58 (S)(1)j., Fenestration Standards. All building types, except single-family, shall comply with the following fenestration standards:

- i. Except for storefronts, a minimum of thirty (30) percent of all ground floor street walls shall be fenestrated with windows;
  - ii. Mirror type glass shall be prohibited;
  - iii. All glazing shall be of a type that permits view of human activities and spaces within the structure; and
  - iv. Colonnade column spacing, windows, and doors shall be proportioned such that the height of each opening is greater than its width.
- The LOI provided requests a non-use variance to provide 0% fenestration along the northeastern, eastern and southeastern frontages. The LOI indicates that the fenestration (non-storefront glazing) was shift away from the northeastern, southeastern, and rear sides of the building to provide “back of house” services such as loading, utility, and emergency fire access areas.

If granted, the proposed non-use variance does not appear to affect the stability and appearance of the community or creates any incompatibility with the surrounding land use; so long as an active use is provided on the rear (east side) of the building on the ground floor.

**Traffic and Concurrency Regulations:**

Included in the site plan modification is a Traffic Impacted Study prepared for the applicant dated September 8, 2021. The study evaluates the traffic impacts resulting from the proposed development. The analysis d evaluates the existing traffic condition and future condition with and without project traffic during the adjacent roadway's AM and PM peak hours.

The study included a review of the following:

- Trip Generation Analysis
- Trip Distribution Analysis
- Intersection Level of Service Analysis
- Turning Movement Counts
- Existing and Proposed Conditions
- Comprehensive Plan policy analysis

The Traffic Impact Study concluded:

- The trip generation calculations yielded 190 net external trips (73 trips-in & 117 trips-out) during the AM peak hour and 175 net external trips (97 trips-in & 78 trips-out) during 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.
- The subject project will provide valet services for the hotel and restaurant only and it is expected between 30-40 % of their traffic will utilize the valet during the peak hour.
- Based on the analyses documented in this report, the subject project will not have a negative traffic impact on the study area. The studied intersections will maintain the same Level of Service of the proposed future condition without project while the adjacent roadways with the additional project trips will meet the City's adopted Level of Service. Therefore, it is fair to conclude that sufficient roadway capacity exists to support the proposed redevelopment.

The City's concurrency and traffic engineering consultant the Corradino Group reviewed the Applicant's Traffic Impact Study. They determined that all traffic-related comments were satisfactorily addressed.

**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 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 1.4.9:** The City will cooperate with MDTA in the development of multi-modal transit facilities along the Biscayne Boulevard/ U.S. 1 and/or NMBB corridors by ensuring that the City's Future Land Use Element and land development regulations encourage development of appropriate design, intensity, urban context, and mix of uses which will support usage of, and complement, these facilities. This policy shall be implemented in part through FLUE Policy 1.8.1 and Transportation Policy 1.1.3.

**Public Notices:**

- ✓ Public Notice was posted at the property by **July 1, 2022**, at least 10 days prior to the meeting.
- ✓ Courtesy notices were mailed to property owners within a 500-foot radius by **July 1, 2021**, at least ten days before the meeting date.
- ✓ The agenda was posted to the City's website by **July 4, 2022**, at least 7 days prior to the meeting date
- ✓ Public Notice was posted in the main lobby at City Hall by **July 1, 2022**, at least 10 days prior to the meeting date.