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VIA HAND DELIVERY & ELECTRONIC SUBMITTAL

September 29, 2022

Kent Walia, Director of Community Development
Community Development Department
City of North Miami Beach
17050 NE 19 Avenue
North Miami Beach, Florida 33162

Re: Letter of Intent for Site Plan Approval and Associated
Requests for the Property located at 2261 NE 164 Street North
Miami Beach, Florida

Dear Mr. Walia:

This law firm represents BH – SG LLC (the “Applicant”), the owner of the property located at 2261 NE 164 Street (the “Property”) in the City of North Miami Beach (the “City”). Please let this letter serve as the Applicant’s required letter of intent in connection with an application for Site Plan Approval and accompanying requests for administrative waivers and non-use variances.

Property Description. The Property is an irregularly-shaped single lot with unified development located at the north side of the eastern terminus of NE 164 Street with the railway to the east, the canal to the north and a commercial and multi-family residential buildings to the west on properties under different ownership. The Miami-Dade County Property Appraiser’s Office identifies the Property with Folio No. 07-2216-026-0010. The Property has a lot size of approximately 85,334 square feet (1.95 acres). There are many inherent challenges and restrictions impacting redevelopment of this property, such as its shape, large long-standing FPL easements and numerous required open spaces and two (2) new streets by the MU/TC district regulations.

The Property is currently developed with a north-south configured warehouse running along the majority of the property. The Property’s only access point is in the south from NE 164 Street;

there is no connection to any property to the east or west. While NE 23 Avenue runs south of the Property, that only allows a right-turn to westbound NE 163 Street, meaning no access at all to NE 163 Street eastbound and nearby Biscayne Boulevard.

The Property has a future land use designation of Fulford MU/TC, Mixed-Use Town Center and an accompanying zoning designation of MU/TC, Mixed-Use Town Center District ("MU/TC District"). Figure MUTC-1, the Sub-Areas Regulating Plan designates the Property Core Sub-Area. The Street Network Connectivity Regulating Plan places two (2) new streets on the Property: (1) a new primary street that wraps completely around the front open space, which maintains the angular nature and also extends further west into the neighboring property, which is under separate ownership; and (2) a new secondary street connecting to the new primary street and extending along and completely within the west side of the property to the open space by the canal, with a large turn around.

As stated above, there are many inherent challenges and restrictions impacting redevelopment of this property, such as its shape, large long-standing easements and numerous required open space and new streets by the MU/TC district regulations.

Property Shape. The Property is a highly irregularly-shaped, long narrow property with a narrow frontage of only 152 feet and has been in this configuration since platted in 1969. See Exhibit A, Plat Book 86 at Page 4.

Easements. The entire east side of the Property is subject to an FPL easement that is 52 feet wide in the south for approximately 1/3 of the lot depth, then the easement reduces to 18 feet extending all the way to the canal. This easement narrows the frontage to only 105 feet. Further, on the west side at the front there is a 6' utility easement that reduces the usable frontage to only 99 feet. FPL actively uses the easement with aboveground transmission wires running through it north-south and also additional aboveground guy wires anchored west of and outside the 52-foot portion and leading east across Biscayne Blvd. This additional infrastructure covers an area of approximately 50 feet by 50 feet and is part of another easement area. FPL also has a powerline oriented east-west at the front property line with two utility poles, that contain other utilities as well.

Designated Open Space. The MU/TC designates three (3) required open spaces for the Property: (1) a large rectilinear open space at the front, which notably is angled into the existing portion of NE 164 Street and a part of the property to the west; (2) a 10-foot wide landscape buffer on the entire east side of the Property; and (3) a triangular open space at the north abutting the canal, along with the associated CG 2 canal greenway. Taken together, these three

(3) required open spaces excessively burden the Property and restrict the developable area, especially in concert with the narrow shape and the wide FPL easement and additional guy wires.

New Streets. The MU/TC places two (2) new streets on the Property: (1) a new primary street that mainly overlays the existing NE 164 Street at the front of the Property with a portion that wraps completely around the front open space and also extends further west into the neighboring property under separate ownership; and (2) a new secondary street connecting to the new primary street and extending along and completely within the west side of the property to the proposed garage, with a turn around. Notably, there is only 45' of existing right-of-way, with 25' north of the centerline, yet the mixed-use regulations provide a minimum width of this Primary Street of 78 feet (assuming only 11-foot travel lanes and only a 14-foot-wide median, and the open space at the south appears much larger), and 60 feet minimum for Secondary Streets with parking and approximately 50 feet without parking. Placement of both of these streets, in the south and west portions conflict with easements and excessively restrict development on the Property, and also extend onto property not owned by the Applicant and therefore not under the Applicant's control.

Proposed Development. The Applicant proposes to redevelop the Property with a mixed-use project called "BH 164" that benefits the MU/TC District. The Applicant plans a 32-story tower containing 400 residential units above a parking podium with a recreational deck, pool, and amenities on the top level of the podium, and 1,825 square feet of commercial area on the ground, with half located by the lobby on the south facing NE 164 Street and the other half at the north lining the garage and facing the required open space and canal (the "Proposed Development"). The above-described challenges and restrictions dictate the only viable placement of the building. The Applicant is fully committed to providing all required open space and the site provides extensive access to the public to enjoy these outdoor areas and access the commercial establishments. The expansive green spaces on the north and south are connected by a walkway on the east and vehicular traffic may use the ground floor to public parking at the north for convenient access to the commercial use, north open space and the canal.

New Streets. Regarding the new Streets, the Applicant seeks modifications to ensure appropriate access and safety and to provide beautiful publicly-accessible open spaces that create a park-like environment with access to the canal. For the Primary Street, rather than provide extensive paving for travel lanes encircling the south open space that would substantially minimize the open space and create numerous pedestrian and vehicular conflicts, the Applicant will provide a streetscape as intended in the Code, which, due to the very limited existing right-of-way, includes a dedication of 15' of land at the south portion of the Property (approximately 2,407.5 square feet), and ensures appropriate traffic flow with applicable signage and markings

at the eastern terminus of NE 164 Avenue to and from NE 23 Avenue and the FPL easement/fire lane at the southeast corner of the Property. The sidewalk on the north side of the Primary Street will connect to the sidewalk network leading along the new Secondary Street discussed further below, through the open space and throughout the entire Property.

The Secondary Street will follow the Regulating Plan from NE 164 Avenue but terminate at the south side of the building at the entry to the parking garage with a roundabout leading to the front lobby for appropriate vehicular access in and out of the Property. The Street ending at the building creates a street vista where the Tower portion may be at 0 feet from the edge of the podium, which provides better urban design for the Proposed Development. Notably, the south side of building is over 140' from the end of pavement of NE 164 Avenue and 125'-7" from the proposed new property line. While the Street will end at the building, the public will still be allowed to enter the garage and use 5 spaces at the north end to assist with access to the north commercial area, open space and canal.

These modified new Streets provide the necessary vehicular and pedestrian access to the Property, the open spaces, the canal and the commercial establishments and in a safer and more environmentally friendly way than the regulating plan and thus meet the intent and purpose of the Code. Further, the Applicant will provide an easement to the City for public access to the open spaces, the canal and the commercial establishment on the new Secondary Street, through the ground level parking garage, and on associated walkways.

Height. Regarding the tower's overall height, the additional two (2) stories provide higher floor to ceiling heights and better distribution of residential units for increased quality of living that is necessary to meet today's market demands. The additional stories in no way serve to increase the intensity of the Proposed Development and result in an enhanced architectural design that is more streamlined and better for the neighborhood and for the tenants. Moreover, the additional height allows for an additional floor for parking on the 7th level.

Security Plan. The urban design of the Proposed Development discourages criminal activity through providing the buildings right at the sidewalk with lots of fenestration. The plazas leading to the lobbies are regular in shape and open without tall obstructions and will be well-lit. The Proposed Development will have manned security 24/7 at a central location assisted by cameras in all public areas on the ground level, including the two plazas and central private roadway, and the parking levels and amenity areas. Security patrolling will be provided as needed and managed by a licensed and certified security company. Through the permit process, the Applicant will ensure appropriate lighting in all locations to enhance security and provide

safety. Additional security will be provided through access control entry to the offices, lobbies and elevators, with cards, key fobs, or other devices for off-hour access.

Parking. The Applicant proposes 400 residential units and 1,825 square feet of commercial space on the ground floor. Off-street parking requirements include one (1) parking space per residential unit and (1) guest parking space per twenty (20) residential units. The Applicant provides five (5) parking spaces for the south retail and five (5) spaces for public use at north end to access the north commercial area, canal and associated open space. Overall, the Applicant provides 587 spaces, thus exceeding the minimum parking requirement. Off-street parking will take place in the parking garage located on levels 1 through 7 of the Proposed Development.

Requests. In order to achieve the Proposed Development, the Applicant respectfully requests approval, administrative waivers, non-use variances and modifications as follows:

Approval and Administrative Waivers:

- a. Site Plan Approval for the Property pursuant to the proposed development plan;
- b. Administrative Waiver of the active liner requirement per Section 24-58(K)(2)b.i. for levels 2-7 of the parking garage fronting on Biscayne Boulevard (side frontage), Royal Glades Canal (rear frontage) and NE 164 Street (primary frontage) and approval of the alternative liner (the "Parking Liner Waiver"); and
- c. Administrative Waiver of lot width requirement per Section 24-58 Figure MU-8 Lot Standards for Tower Building Type to allow for a tower development on a lot with a width of 158 feet when 200 feet minimum is required (the "Lot Width Waiver").

Non-Use Variances:

- d. Non-use variance to allow decorative screening of the parking garage fronting along Biscayne Boulevard (side frontage), Royal Glades Canal (rear frontage) and NE 164 Street (primary frontage) instead of the liner building required per Section 24-58(K)(2)b.i. (the "Parking Liner Variance");
- e. Non-use variance to waive the 15-foot tower setback from the podium required per Section 24-58 Figure MU-8 to permit a 7'-2" setback at southeast corner of the tower (the "Tower Setback Variance");
- f. Non-use variance to reverse the configuration of the landscape strip and sidewalk requirement per Section 24-58(J)(3)(c) Figure MU-3 to permit a Secondary Street with sidewalk adjacent to the drive lanes on both sides (the "Secondary Street Variance");

- g. Non-use variance to allow for handicapped parking spaces to be eighteen (18) feet in length to match length of standard parking spaces, where twenty (20) feet is required per Section 24-93(C)(2)(a) (the "Handicapped Parking Variance");
- h. Non-use variance to allow for a maximum floor-to-floor height of 18'-8" where per Section 24-58(R)(2)(c) 14'-0" is the maximum allowed (the "7th Level Height Variance");
- i. Non-use variance from Section 24-58.1(K)(2) Table MU/TC-4 to allow for a setback of zero (0') feet from the new Secondary Street where ten (10') feet is the minimum required (the "Secondary Street Setback Variance");
- j. Non-use variance from Section 24-58.1(K)(2) Table MU/TC-4 to allow for a setback of 125'-7" from the Primary Street where twenty (20') feet is the maximum permitted (the "Primary Street Setback Variance");
- k. Non-use variance from Section 24-58.1(K)(2) Table MU/TC-4 to allow for seventy-seven (77%) percent of frontage along the Primary Street where ninety (90%) percent is required (the "Primary Street Frontage Variance");
- l. Non-use variance from Section 24-58.1(K)(2) Table MU/TC-4 to allow for seventy-one (71%) percent of frontage along Canal Greenway Type CG 2 where ninety (90%) percent is required (the "Canal Greenway Frontage Variance"); and
- m. Non-use variance from Section 24-58.1(K)(2) Table MU/TC-4 to allow for a setback of 12'-7" to 80'-4" from the Canal Greenway Type CG 2 where fifteen (15') feet is the maximum permitted (the "Canal Greenway Setback Variance").

Modifications of Streets:

- n. Modification of layout of new Primary Street pursuant to Section 24-58(J)(3) (the "Primary Street Modification"); and
- o. Modification of layout of new Secondary Street pursuant to Section 24-58(J)(3) (the "Secondary Street Modification").

Analysis for Approvals and Administrative Waivers.

- a. *Site Plan Approval.* The Property is the Core-Sub Area subdistrict of the MU/TC District. The Proposed Development is exactly the kind of development envisioned for the Property. The thoughtfully designed tower offers a desirable mix of uses and open space that will create pedestrian-oriented spaces where people can live, work and play. The Proposed Development will contribute to the creation of a modern urban downtown area, synergizing with other nearby developments, the Royal Glades Canal and the future greenway to transform the area. The Proposed Development provides ample ground level open space that will substantially increase the street-level activity and encourage pedestrianism.

The Applicant satisfies the site plan review standards laid out in Section 24-172(G) of the Code. Although the Proposed Development proposes a 32-story tower, the tower is 331 feet in height as permitted under the MU/TC District's Height Regulating Plan. The additional stories are necessary in order to accommodate the development on this narrow and substandard lot and they do not increase the intensity of the Proposed Development above what would otherwise be permitted. To the contrary, the additional height streamlines the design and allows for a better outdoor amenity level and additional parking levels. Accordingly, the 32-story tower is permitted pursuant to Table MU/TC-2, Note (3).

- b. *Parking Liner Waiver.* Section 24-58(K)(2)b.i. of the Code calls for the development of a minimum 20-foot liner building along Biscayne Boulevard (side frontage), Royal Glades Canal (rear frontage) and NE 164 Street (primary frontage) to screen the parking garage. Due to the previously discussed lot constraints, an active liner cannot be reasonably provided on the side frontage, rear frontage or primary frontage. The Code allows for the Director to waive the active liner requirement in the side, rear and primary frontages as long as alternative screening through architectural elements which ensures that no parked vehicles are visible from the street is provided. The Proposed Development provides for artistic screening of the garage with varying and interesting architectural elements that are consistent and harmonious with that of habitable space. This screening is sufficient so that no parked vehicles are visible from the street at any angle and the varying decorative architectural elements increase the towers' aesthetic and better the pedestrian experience. Due to the lot constraints highlighted, no reasonable design solution can accommodate the required parking garage with active liner use along each frontage.

- c. *Lot Width Waiver.* The lot width of the Property varies at 158 feet fronting on NE 164 Street and 173 fronting Royal Glades Canal. The Code requires that any structure above 8 stories is developed as a tower. The building typology standards pursuant to Section 24-58 of the Code require a minimum lot width of 200' for a tower typology. The Property is located within the Core Sub-Area subdistrict of the MU/TC District and is designated to allow for up to 30 stories and 375 feet in height. A tower structure is what is reasonably expected and planned for this Property and can be accomplished despite its narrow width.

Most of the properties along this corridor within the MU/TC face a similar issue with lots of substandard widths due to the existing platted layouts of the properties. The Applicant

seeks to develop the Property pursuant to the allotted density and intensity in accordance with and encouraged by the MU/TC District regulations. The existing layout of the Property make it so that compliance with the lot width standard cannot be reasonably achieved.

Analysis for Non-Use Variances.

The Applicant respectfully requests five (5) non-use variances in order to effectuate the best development possible for this unique Property. All requested non-use variances meet the criteria laid out in Section 24-176(C) of the Code for granting non-use variances:

- (1) *The non-use 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. The non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community.*
- d. *Parking Liner Variance.* Similar to the previously discussed Parking Liner Waiver, the Applicant seeks an accompanying Parking Liner Variance to permit the required 20-foot active liner along Biscayne Boulevard, Royal Glades Canal and NE 164 Street to be replaced with alternative architectural screening. Again, the Parking Liner Variance is needed to accommodate the full scope of the development on this substandard narrow lot. The platted conditions of the lot create a situation where fitting a functional parking garage that accommodates the level of density anticipated and encouraged for this Property is not possible without using the entire floorplate. Therefore, the Applicant cannot accommodate the 20-foot liner along Biscayne Boulevard, Royal Glades Canal and NE 164 Street. The basic intent and purpose of this Code requirement is to protect the general welfare of the public by curtailing the visual impacts of multilevel parking garages and ensuring aesthetically pleasing façades that can be enjoyed by the public. The proposed architectural screening meets the intent and purpose of the Code by ensuring that parked vehicles are not visible from the street from any angle and by providing varying interesting architectural treatments that create an aesthetically pleasing design and beautify the Property and the neighborhood.
- e. *Tower Setback Variance.* The Applicant seeks the Tower Setback Variance to waive 7'-10" of the tower setback from the podium at the southeast corner only where 15 feet required per Section 24-58 Figure MU-8 of the Code, to permit a setback of 7'-2" for a limited area. For the most part, the Proposed Development complies with this setback requirement as

the tower is setback greater than 15 feet for majority of the east side and even more for the north and west. Along the south the terminus of the new Secondary Street creates a street vista that allows a setback of 0' and the tower setback is at 3'-10". Moreover, the building is setback over 125 feet from proposed new property line on NE 164 Street.

Specifically, the narrow lot and its varying dimensions, along with the FPL easement create a challenge for laying out the building and units making it difficult to provide the 15-foot setback at the southeast corner of the tower. The intent of this Code provision is to create articulation and movement and clearly distinguish the podium from the tower to effectively break up the massing of the structure. The tower complies with the intent of the Code as the tower is setback from the podium at various depths and locations and the design incorporates varying treatments on the façades, including balconies, which effectively break up the building's massing. Further, the Tower Setback Variance will allow for additional open space at the southeast corner of the Property and provide a true urban greenway under which urban design encourages lining of such open spaces with buildings. As such, the requested variance meets the intent and purpose of the Code.

- f. *Secondary Street Variance.* The MU/TC places a new Secondary Street connecting to the new Primary Street and extending along and completely within the west side of the property to the proposed garage entrance, with a roundabout. As explained above, the Applicant proposes to provide the new Secondary Street at the south side of the Property with a roundabout at the front lobby and terminating at the parking garage entrance. The mixed-use regulations provide a minimum width of this secondary street of 60 feet minimum for secondary streets with parking and approximately 50 feet without parking. The narrow lot width, made narrower by the extensive FPL easement and the required open space at the south excessively restrict the location of this new Street. Nonetheless, the Applicant is able to provide the intended components for the Secondary Street.

However, the Applicant proposes a reverse configuration for the landscaping and sidewalk located on both sides of the new Secondary Street. On the west side of the Secondary Street there is only 10' to the Property line, so for privacy and stormwater retention purposes it is best to have the landscape strip along the property line. The Applicant proposes the same layout on the east side for symmetry of the street scape and to allow for more expansive open space, otherwise the sidewalk would break up the required open space. The sidewalk will provide access to the walkway network that connects to the south and north open spaces and canal, thus meeting the intent of the Code.

- g. *Handicapped Parking Variance.* The Applicant seeks the Handicapped Parking Variance because a 20' parking space is incongruous with the 18' length of standard parking spaces and would impede appropriate maneuverability in the drive aisles. Notably, other nearby cities only require 18' for handicap parking spaces so this is a sufficient length for vehicles. Including a 20' ADA parking space will result in an impractical and unworkable parking layout on this narrow Property. The Handicapped Parking Variance meets the intent and purpose of the Code because the Applicant still provides all the necessary ADA parking spaces, just at a length in context with the standard space length.
- h. *7th Level Height Variance.* The Applicant seeks the 7th Level Height Variance because an additional 4'-8" of height is needed for the sunken pool to properly align with the podium and provide enough clearance for passenger vehicles driving in the garage. The 7th level podium contains the sunken pool and is a garage level, not amenity level. Thus, City Code requires the floor-to-floor of this story to be a maximum height of 14'. Notably, under the pool and stairs, there is a 9'-8" clearance, which is suitable for passenger vehicles. As stated above, the 7th Level Height Variance is necessary to streamline the building as the pool will sit flush with the roof and be properly aligned with egress stairwells. The impact of the 7th Level Height Variance will be minimal as the overall height of the podium is shorter than the maximum allowed, and only has seven (7) stories, where the City Code allows for height (8) stories. In addition, the podium does not maximize the allowed 20' for the first two levels or 14' for all other levels. Further, the amenity level on top of the podium could be 20' but is only 14'-8" and the overall height of the building is below the maximum permitted. Thus, through the careful design of the podium and the amenity level, even with the 7th Level Height Variance the overall building is reduced in scale and massing compared to what is otherwise allowed.
- i. *Secondary Street Setback Variance.* There are many inherent challenges and restrictions impacting redevelopment of this Property. The Property is a narrowly shaped lot, a 52' wide FPL easement exists at the front of the Property that tapers 18' further north, the Code requires three (3) open spaces, including one (1) large open space at the south side of the Property, and the Code also requires a new Secondary Street along the west portion of the Property. Taken together, the Applicant cannot provide the required 10' setback from the new Secondary Street as that will further reduce the developable area. Due to the existing constraints, and that the Applicant is providing the new Secondary Street and all three (3) required open spaces, the only possible placement for the building is where it is currently placed in the plans. Overall, the Applicant thoughtfully placed the building in order to comply with the applicable setback regulations, existing FPL easement, and to provide the required open space for the Property.

- j. *Primary Street Setback Variance.* The same inherent challenges and restrictions defining the building placement on the Property as described for the Secondary Street Setback Variance apply here too. The building cannot be located anywhere near the front due to the required Secondary Street, open space and FPL easement, including the guy wires, therefore, the Applicant cannot provide the required 20' setback maximum from the Primary Street. The Applicant's building locates the building as close to the Primary Street as possible and creates a street vista at the north end of the Secondary Street to create a urban design befitting the mixed-use goals of the District. Further, the walkability from street to building and through the open spaces will be a welcome amenity to the tenants and the nearby neighbors and visitors.

- k. *Primary Street Frontage Variance.* The restrictive nature of existing conditions and Code requirements also impacts the building frontage requirement. While the Applicant's plan only provides seventy-seven (77%) percent of frontage where ninety (90%) percent is required, it orients the building for maximum frontage within the constraints of the setback at the west, the guy wires and FPL easement, which doubles as a required fire access lane, and the various open spaces. Notably, the project complies with the frontage on the Secondary Street, taken along the north.

- l. *Canal Greenway Frontage Variance.* As stated above, the restrictive nature of existing conditions and Code requirements also impacts the building frontage requirement along the rear canal. The Applicant's plan provides seventy-one (71%) percent of frontage where ninety (90%) percent is required. The Property is a highly irregularly-shaped, long narrow property with a frontage of only 152 feet. Further, numerous constraints on the buildable area of the Property make it inordinately difficult to comply with the nine (90%) percent frontage requirement. These conditions restrict the building's configuration, and, as a result, the Canal Greenway Frontage Variance is necessary. While the Applicant's plan only provides seventy-one (71%) percent of frontage along the rear canal, the plan orients the building for maximum frontage. Notably, the project complies with the frontage on the Secondary Street, taken along the north.

- m. *Canal Greenway Setback Variance.* The same inherent challenges and restrictions defining the building placement on the Property apply here too. Specifically, the narrow lot and its varying dimensions, along with the FPL easement create a challenge for laying out the building and units making it difficult to comply with the fifteen (15') foot maximum setback along the rear canal. The Property is a narrowly shaped lot, a 52' wide FPL easement exists at the front of the Property that taper 18' further north, the Code requires

three (3) open spaces, including one (1) large open space at the south side of the Property. Taken together, the Applicant is severely limited in regard to building placement on the Property. As a result, the Canal Greenway Setback Variance is necessary to accommodate the Proposed Development.

- (2) Appropriate conditions and safeguards, in conformity with the Code, may be prescribed as a condition of the granting the variance, and violation of such conditions shall be deemed a violation of this Code.*

The Applicant understands that conditions and safeguards may need to be implemented to accommodate the variance requests, which are compelled due to the substandard lot width, a substantial FPL easement and associated guy wires, a new required Secondary Street and 3 required open spaces, along with a desire to execute the best design for this Property. Notably, the Applicant provides an abundance of publicly accessible open spaces connecting completely through the Property from Street to Canal, and ensures the safety of the public by avoiding the conflicts that would be prevalent with a street encircling the south open space.

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

The requested variances are not requested due to nonconforming uses of adjacent lands, structures, or buildings. Instead, they relate to the narrow lot width, restrictive easements and long-standing conditions and Code-required new street and 3 open spaces. The proposed uses and dimensions of the building on the site are within the parameters of what is called for such a site in the Core Sub-District of the MU/TC District. The proposed mixed-use residential development will serve to realize the revitalization of the MU/TC District in the manner envisioned by the City when creating these mixed-use corridors.

Analysis for Modifications of Streets.

- n. *Primary Street Modification.* The MU/TC places a new Primary Street mainly overlaying the existing NE 164 Street with a portion that wraps completely around the front open space, and also extends further west into the neighboring property under separate ownership and therefore not under the Applicant's control. The mixed-use regulations provide a minimum width of this Primary street of 78 feet (assuming 11-foot travel lanes and notably that is with only a 14-foot-wide median and the open space at the south

appears much larger). Existing conditions prohibit this full street layout, especially for on-street parking, as there are only 45 feet of existing right-of-way. Further, the narrow lot width, large FPL easement and required south open space create conflicts with the proposed expansion of the Primary Street to encircle the open space.

In summary, as shown on the regulating plan and overlaid on the Property, the Primary Street is excessively cumbersome and detrimental to safe public access. The Applicant's proposal for the eastern terminus of NE 164 Street r appropriately utilizes the existing right-of-way, provides a larger open space for the public, , and ensures better pedestrian safety by providing a sidewalk and street crossing. As required, the Primary Street will have sidewalk and landscape strip on the north side (note: the south side is not under control of the Applicant) that allow for connectivity through the neighborhood and into the Property, including access to the other open spaces and canal. The Primary Street Modification meets the intent and purpose of the Code because the new Primary Street will not extend into property not owned by the Applicant and provides for more open space creating a park-like experience, thus protecting and promoting the general welfare of the public.

Dedication and Conditions of Approval. Notably due to the narrow existing right-of-way, the only way to accomplish the intended streetscape is for the Applicant to dedicate 15' at the south end of the Property to the City. Further, the existing above-ground utilities, FPL and others on two large poles, along the front of the Property pose a significant issue at this time with compliance with the streetscape. Undergrounding the lines may not be possible and in that event, the Applicant has designed an alternative streetscape that best meets the intent of the Code and allows retention of the aboveground poles. If undergrounding the lines is determined to not be possible, the Applicant will work with the City to implement the alternate street improvements as shown in the architectural plans submitted along with the application. The Applicant will work with the City to incorporate the dedication and alternate street improvements as conditions of approval.

- o. *Secondary Street Modification.* The MU/TC places a new Secondary Street connecting to the new Primary Street and extending along and completely within the west side of the property to the open space by the canal, with a roundabout. This Street is completely on the Property and thus only serves the Property and as the Proposed Development is a single, unified site, there is no need for extensive public access to the north end as there is no connectivity to other properties or other areas of the City. The necessary access is more limited for the small-scale commercial use, open space and canal. The mixed-use regulations provide a minimum width of this secondary street of 60 feet minimum for

secondary streets with parking and approximately 50 feet without parking. The narrow lot width, made narrower by the extensive FPL easement and the required open space at the south excessively restrict the location and width of this new Street. Providing full street requirements in the west portion of the Property would inordinately burden the Property, and due to the limited utility is not necessary to still provide appropriate vehicular and pedestrian access.

Therefore, terminating the Secondary Street at the south side of the building with a roundabout by the front entrance provides the requisite circulation and the public may access the north area of the Property by using an easement through the ground level garage to five parking spaces and also as pedestrians using the sidewalks along the Secondary Street, which lead to the building entrance as well as the south open space and the walkway network that connects to the north open space and canal. Further, the terminus of the Street creates a street vista allowing a more prominent placement of the tower above that promotes a better urban design for the Proposed Development. The Applicant will provide an easement to the City for pedestrian and vehicular access thus achieving the intent of the Code.

Conclusion. The Proposed Development will contribute to the MU/TC District's vision as a cornerstone of the neighborhood. The Proposed Development will be a welcomed addition and a significant improvement from existing conditions that will serve as a catalyst to the further improvement of this area of the City. The Applicant provides a comprehensive development and substantial open spaces for the public despite marked restrictions and challenges. The Applicant respectfully requests approval of the site plan and accompanying waivers, non-use variances and street modifications. If you have any questions with regard to this request, please contact me at (305) 377-6236.

Sincerely,



Matthew Amster

Attachment

cc: Jeffrey Bercow, Esq.
David Butter, Esq.

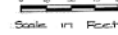
WILLIAM LEHMAN SUB.

BEING A SUBDIVISION OF A PORTION OF THE NW 1/4 OF THE NE 1/4 OF SEC 16, TWP 52N, RGE 42E, CITY OF NORTH MIAMI BEACH, DADE COUNTY, FLORIDA

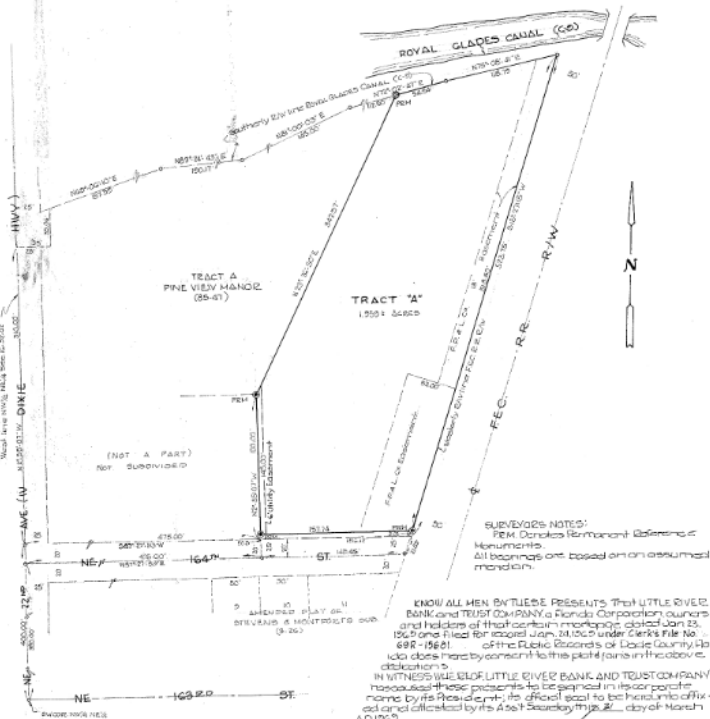
DONALD W. MINTOSH ASSOC. INC.

MIAMI SHORES, FLORIDA

Scale: 1" = 80'



NOVEMBER, 1968



KNOW ALL MEN BY THESE PRESENTS That LITTLE RIVER BANK and TRUST COMPANY, a Florida Corporation, owners and holders of that certain mortgage, dated June 25, 1968 and filed for record June 24, 1968 under Clerk's File No. 68-115681 of the Public Records of Dade County, Florida does hereby consent to this plat in the above dedication.

IN WITNESS WHEREOF, LITTLE RIVER BANK and TRUST COMPANY has caused these presents to be signed in its corporate name by its President, its official seal to be hereunto affixed and attested by its Attest Secretary this 21 day of March, A.D. 1968.

LITTLE RIVER BANK and TRUST COMPANY
Attest: *Carly J. Madson* Secretary

STATE OF FLORIDA
COUNTY OF DADE
I, WILBERT GLENN, Notary Public in and for the County of Dade, State of Florida, do hereby certify that on this 21 day of March, A.D. 1968, I personally appeared William Lehman, individually and as Trustee, and Margaret Lehman, his wife, who, upon being duly sworn, acknowledged that they executed the same freely and voluntarily for the uses and purposes herein expressed.

Witness my hand and Notarial Seal this 21 day of March, A.D. 1968.

W. Glenn
Notary Public, State of Florida

I, Donald W. Mintosh, a duly Licensed Professional Engineer, do hereby certify that the attached plat and the subdivision of the land as therein surveyed and plotted under my direction and that the Permanent Reference Monument is set on the 21 day of March, A.D. 1968 in accordance with Section 1, Chapter 12815 (No. 288) Laws of the State of Florida.

Donald W. Mintosh
Eng. Land Surveyor No. 1018
State of Florida

KNOW ALL MEN BY THESE PRESENTS That WILLIAM LEHMAN individually and as Trustee, and JOAN LEHMAN, his wife, WILLIAM LEHMAN individually and as Trustee, and MARGARET LEHMAN, his wife, have caused to be made the attached plat entitled "WILLIAM LEHMAN SUB." This same being a subdivision of the following described parcel of land, Commencing at the Southwest Corner of the Northwest 1/4 of the Northwest 1/4 of Section 16, Township 52 S., Range 42 E.; Thence run N 25° 58' 01" W along the West line of the Northwest 1/4 of the Northwest 1/4 of said Section 16 for a distance of 400 feet to a point; Thence run N 87° 21' 53" E along the North Right-of-Way line of NE 1/4 Section 16 for a distance of 400 feet to the Point of Beginning of the parcel of land hereinafter to be described; Thence run N 2° 58' 01" W for a distance of 40.00 feet to a point; Thence run N 23° 25' 00" E for a distance of 38.27 feet to a point, said point being located on the South Right-of-Way line of Royal Glades Causeway (C-8); Thence run N 12° 02' 41" E along said South Right-of-Way line for a distance of 84.84 feet to a point; Thence run N 85° 04' 41" E along said South Right-of-Way line for a distance of 118.15 feet to the point of intersection with the West line of the FEC Railroad Right-of-Way; Thence run S 88° 37' 15" W along the West line of the Right-of-Way line of the FEC Railroad Right-of-Way for a distance of 533.75 feet to the point of intersection with the North Right-of-Way line of NE 1/4 Section 16; Thence run S 88° 37' 15" W along said North Right-of-Way line for a distance of 184.7 feet to the Point of Beginning. All lying and being in the City of North Miami, Dade County, Florida.

That the streets shown on the attached plat, together with all existing and future planning, trees and shrubbery thereon, is hereby dedicated to the particular use of the public, reserving to themselves their own, successors or assigns, the easements or rights therein, if any, which are herein described by law.

That Tract "A" shall not be subdivided except under the provisions of Chapter 28 of the Code of Metropolitan Dade County, Florida.

That the official zoning regulations of the City of North Miami Beach, Florida, now in effect or as the same may be from time to time changed or amended applicable to the area within which this subdivision is located shall be observed.

That no individual wells will be permitted within this subdivision except for irrigation, swimming pools and similar purposes.

That no septic tanks will be permitted within this subdivision.

That the utility easements indicated by dashed lines are hereby reserved for the installation and maintenance of Public Utilities. That the P.U.L. Co. easements as indicated by dashed lines are hereby reserved for the installation and maintenance of P.U.L. Co. utility lines. That all gas and communication lines other than transmission lines within this subdivision shall be in accordance with the rules and regulations of the Florida Public Utilities Commission.

Signed in this presence of:
 1. *William C. Tye* Notary Public
 2. *Margaret Lehman* Attest
 3. *William Lehman* Seal
 4. *Joan Lehman* Seal
 5. *Margaret Lehman* Seal
 6. *William Lehman* Seal

STATE OF FLORIDA
COUNTY OF DADE
I, WILBERT GLENN, Notary Public in and for the County of Dade, State of Florida, do hereby certify that on this 21 day of March, A.D. 1968, I personally appeared William Lehman, individually and as Trustee, and Margaret Lehman, his wife, who, upon being duly sworn, acknowledged that they executed the same freely and voluntarily for the uses and purposes herein expressed.

Witness my hand and Notarial Seal this 21 day of March, A.D. 1968.

W. Glenn
Notary Public, State of Florida

Witness my hand and Notarial Seal this 22 day of January, A.D. 1968.
Abner A. Boring
Notary Public, State of Florida

9-7-72

This plat was approved and the foregoing dedications were accepted and approved by Resolution No. 769-1 passed and adopted by the City Council of the City of North Miami Beach, Florida, this 10 day of January, A.D. 1968.

Approved: *James Campbell* Mayor
 Director of Dade County

This plat was approved by the Dade County Florida Building Department this 12 day of February, A.D. 1968.

Approved: *Joseph Walker* Director

This plat was approved and the foregoing dedications were accepted and approved by Resolution No. 811-1 passed and adopted by the Board of County Commissioners of Dade County, Florida, this 15 day of April, A.D. 1968.

Approved: *Charles M. Lee* Director of Dade County
 Public Works Dept.

Filed for record this 21 day of April, A.D. 1968 at 10:57 AM in Book 36 of Plate Page 2 of the Public Records of Dade County, Florida. This plat complies with the laws of the State of Florida and Metropolitan Dade County, Florida.

Approved: *Edward S. Leatherrman* Clerk of Circuit Court
 Deputy Clerk

