

RESOLUTION NO. R20XX-XX

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING/DENYING A VARIANCE FROM TABLE MU/IB-5, TO ALLOW FOR A REAR SETBACK OF FIVE (5) FEET, IN LIEU OF THE REQUIRED THIRTY (30) FEET; APPROVING/DENYING A VARIANCE FROM TABLE MU/IB-5, TO ALLOW FOR AN INTERIOR SIDE SETBACK OF FIVE (5) FEET, IN LIEU OF THE REQUIRED THIRTY (30) FEET; APPROVING/DENYING A VARIANCE FROM TABLE MU/IB-1, TO ALLOW FOR A ONE-THOUSAND, ONE HUNDRED AND THIRTEEN (1,113) SQUARE FOOT OPEN SPACE, IN LIEU OF THE FOUR-THOUSAND AND FIFTY-TWO (4,052) SQUARE FEET REQUIRED; AND APPROVING/DENYING THE SITE PLAN APPLICATION FOR THE CONSTRUCTION OF A TWELVE (12) UNIT RESIDENTIAL DEVELOPMENT ON A THIRTEEN THOUSAND AND EIGHT (13,008) SQUARE FOOT LOT, WITH TWENTY-FIVE (25) PARKING SPACES, LOCATED AT 317 NE 168th STREET; PROVIDING FOR FINDINGS OF FACT; CONFIRMING EXPIRATION AND LIMITATION OF APPROVAL; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, Ari Sklar, on behalf of 13 Million 84, LLC. (the “Applicant”), requests site plan approval and three (3) non-use variances to construct a twelve (12) unit residential development, with twenty-five (25) parking spaces on a 0.3-acre parcel located at 317 NE 168th Street; and

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

WHEREAS, the Applicant requests a non-use variance from Table MU/IB-1 to allow for a 1,113 square foot open space, in lieu of the required 4,052 square feet; and

WHEREAS, the Applicant requests a non-use variance from Table MU/IB-5, to allow for a rear setback of five (5) feet, where thirty (30) feet is required; and

WHEREAS, after a duly noticed public hearing held on November 18th, 2024, the Planning and Zoning Board by a vote of 7 to 0, recommended Approval/Denial of the site plan and non-use variances, subject to the conditions set forth and included below in Section 2; and

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

WHEREAS, the Mayor and City Commission finds that the proposed Site Plan application and three (3) non-use variances are consistent with the North Miami Beach Comprehensive Plan and are in the best interests of the City.

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

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

Section 2. Decision. Pursuant to Section 24-172 and Section 24-176 of the Zoning and Land Development Code, the following site plan attached and incorporated by reference as Exhibit “B,” which includes the three (3) non-use variances as specified herein and in the Application for the proposed construction of a twelve (12) unit residential development with twenty-five (25) parking spaces on a 0.3-acre parcel, legally described in Exhibit “A,” is hereby approved, subject to the following conditions:

Project Conditions:

1. The applicant will dedicate the necessary easement for the sidewalk along the southwest portion of the property to allow for pedestrian access and ensure adherence to the City's prescribed right-of-way design.

General Conditions:

1. Prior to issuance of any Master Building Permit, the Applicant shall execute a covenant running with the land, binding upon its heirs, successors, and assigns, subject to the approval of the City Attorney, which shall be recorded in the public records of Miami- Dade County, Florida, at Applicant's sole expense, containing all of the conditions and provisions required by this Resolution. This recorded covenant may be amended from time to time and shall be re-recorded after each amendment at the Applicant's sole expense, subject to the approval of the City Attorney
2. Construction of the proposed project shall be in conformance with the following certified plans signed by the Community Development Director on file with the City of North Miami Beach Community Development Department Planning & Zoning Division with file number 24-29.
3. Prior to the issuance of the Master Building Permit, the Applicant shall submit a Site Management Plan and a Temporary Construction Fencing plan pursuant to Section 16-5 of the North Miami Beach Code of Ordinances.

4. All representations proffered by the Applicant's representatives as a part of the application review at the Planning and Zoning Board and City Commission public hearings.
5. Substantial modifications to the plans submitted and approved as part of the application may require the Applicant to return to the Planning and Zoning Board and Mayor and City Commission for approval. Insubstantial changes shall include proportionate reductions in residential units and parking spaces by less than 5% of the total proposed project, changes that do not alter the project by more than 5% of lot coverage, setbacks, height, density and intensity calculations so long as the proposed amendment does not cause an increase in the number of average daily trips; does not alter the location of any points of ingress, egress, access and vehicular and pedestrian patterns to the site; and does not violate any condition placed upon the site plan as originally approved. Insubstantial changes may be administratively approved by the City Manager or designee. Any de minimis amendments to the plans or site plans which cannot be resolved administratively shall be returned to the Mayor and City Commission for a formal review. However, under no circumstances, may any plans, site plans, building, structure, or project be administratively altered by more than 5% lot coverage, setbacks, height limitations, as well as density or intensity calculations set forth in a previously approved site plan.
6. The Applicant shall remove all public hearing signage no later than 48 hours after the final public hearing by the City Commission for the development project.
7. No later than 90 days following the final City Commission approval, the Applicant shall enter into an agreement with the City to defend, indemnify and hold harmless (using legal counsel acceptable to the City) the City, its agents, servants, and employees, from and against any loss, cost, expense, claim, demand or cause of action of whatever kind or nature arising out of or related to any act or omission related to the variances and for which the City, its agents, servants, or employees, are alleged to be liable or charged with such expense. The Applicant shall pay all costs and expenses related to any legal defense required by the City pursuant to the foregoing.
8. The Applicant shall comply with all applicable conditions and permit requirements of the Miami-Dade County Fire Department, the Water, and Sewer Department, and Department of Regulatory and Economic Resources, the Florida Department of Environmental Protection (FDEP), the Florida Department of Transportation (FDOT) and any other applicable regulatory agency.
9. The words "Aventura", "Miami Beach," and "Sunny Isles Beach" shall not be

used by the applicant immediately preceding or following the Project name. The words "Aventura", "Miami Beach" and "Sunny Isles Beach" shall not be part of the website address for the Project. References in the marketing materials to nearby communities shall be limited to descriptions of entertainment, shopping or dining locations, or other landmarks; the Applicant shall identify the Project as being in the City of North Miami Beach, Florida.

10. The Applicant shall post a sign on-site providing contact information in case of any complaint or concern during construction. The sign shall be removed upon the earlier of the City's issuance of a temporary or full Certificate of Occupancy.
11. The Applicant must join the NMBPD Trespass After Warning Program, provide the NMBPD with access to the property at all times, and a safety plan; participate in the NMBPD Rapid Response Training Program; link the alarm systems directly to the NMBPD; and keep former employee information on file after the termination of employment.
12. The Applicant, its successors, and assigns shall comply with all City ordinances applicable to development and permit approvals at the time of the approval of the Resolution, and in the event the Master Building Permit expires, all approvals and prior fees paid, shall be subject to forfeiture. This shall not be applied to the City of North Miami Beach impact fees paid, which would not be refunded but would be credited to the property for any subsequent development.
13. The Applicant shall obtain a Certificate of Occupancy and Certificate of Use from the City upon compliance with all terms and conditions. The Certificate of Use shall be subject to review upon violation of any of the conditions, in accordance with the law.
14. Upon issuance of a hurricane warning by the National Weather Service or similar agency, all removable items from pool decks, roof decks, and other outdoor spaces shall be immediately removed and secured.

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

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

Section 4. Non-Use Variance from Table MU/IB-1 The Mayor and City Commission

make the following FINDINGS OF FACTS from Section 24-176(B) based on the substantial competent evidence provided:

The requested non-use variance from Table MU/IB-1 to allow for an open space of 1,113 square feet, in lieu of the required 4,052 square feet, maintains the basic intent and purpose of the applicable zoning, subdivision, and other land use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 5. Non-Use Variance from Table MU/IB-5 The Mayor and City Commission make the following FINDINGS OF FACTS from Section 24-176(B) based on the substantial competent evidence provided:

The requested non-use variance from Table MU/IB-5, to allow for a rear setback of 5 feet, where 30 feet is required for flex building typologies, maintains the basic intent and purpose of the applicable zoning, subdivision, and other land use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 6. Non-Use Variance from Table MU/IB-5 The Mayor and City Commission make the following FINDINGS OF FACTS from Section 24-176(B) based on the substantial competent evidence provided:

The requested non-use variance from Table MU/IB-5, to allow for an interior side setback of 5 feet, where 30 feet is required for flex building typologies, maintains the basic intent and purpose of the applicable zoning, subdivision, and other land use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 7. Time for Building Permit. Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the site plan shall remain valid for a period of 18 months from the date of approval with a master building permit issuance required, unless extended pursuant to ZLDC Section 24-172 (I), or applicable State Law. If a master building permit is not issued prior to the expiration of the resolution, the site plan approval, including any development right entitlements and any subsequent phasing, shall be considered null and void. If a site plan expires, a new submittal shall be required with board approvals. Minor site plan modifications which do not require board approvals would still be required to adhere to the original site plan approval

expiration date. Major site plan modifications which require board approvals will receive a new 18- month period starting from the date of the modified final site plan approval. Additionally, if at any time a building permit lapses, the site plan, including all phases thereof, shall be considered null and void.

Section 8. Limitation of Approval. The issuance of this development permit does not in any way create a vested right(s) on the part of the Applicant to obtain a permit from a county, state, or federal agency, and does not create any liability on the part of the municipality for issuance of the permit if the Applicant fails to obtain requisite approvals or does not fulfill the obligations imposed by a county, state or federal agency or undertakes actions that result in a violation of county, state, or federal law.

Section 9. Conflicts. All resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

Section 10. Effective Date. This Resolution shall be in force and take effect immediately upon its passage and adoption.

[SIGNATURE PAGE TO FOLLOW]

APPROVED AND ADOPTED by the City of North Miami Beach City Commission at the regular meeting assembled this ____ day of _____, 2024.

ATTEST:

ANDRISE BERNARD, MMC
CITY CLERK

(CITY SEAL)

EVAN S. PIPER
MAYOR

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE USE AND RELIANCE
OF THE CITY OF NORTH MIAMI BEACH:

GREENSPOON MARDER, LLP

BY: _____
CITY ATTORNEYS

Sponsored By: _____

QUASI JUDICIAL:

COMMISSIONERS	YES	NO	ABSTAIN	ABSENT
Mayor Evan S. Piper				
Vice-Mayor McKenzie Fleurimond				
Commissioner Jay Chernoff				
Commissioner Daniel Jean				
Commissioner Michael Joseph				
Commissioner Phyllis Smith				
Commissioner Fortuna Smukler				

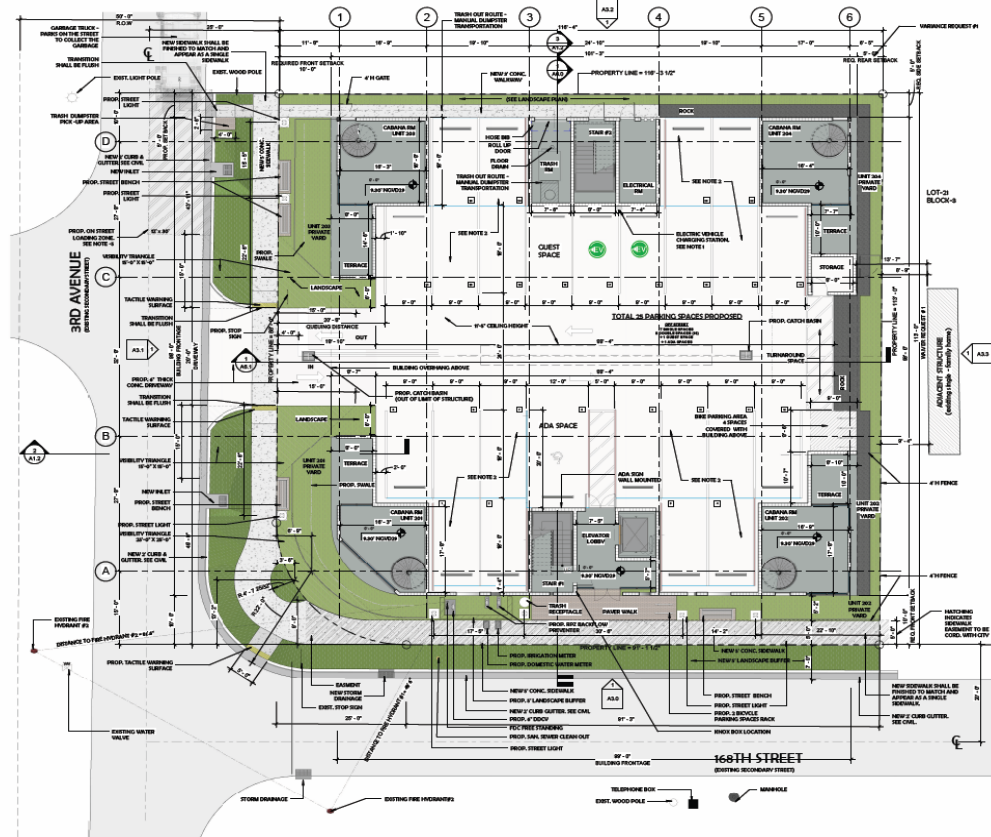
Exhibit "A"
LEGAL DESCRIPTION

Folio(s): 07-2207-005-0170

FULFORDALE PB 9-46
LOTS 22-23 AND 24 BLK 3
LOT SIZE 116.000 X 113
COC 25658-1943 05 2007 1

RESOLUTION NO. XX-XX

Exhibit "B" SITE PLAN



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