

RESOLUTION NO. R2023-105

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-58(K)(2)b.i. TO ALLOW DECORATIVE SCREENING OF THE NORTH PARKING GARAGE ELEVATION FRONTING NE 168th STREET (SECONDARY STREET FRONTAGE), IN-LIEU OF THE REQUIRED HABITABLE LINER BUILDING; GRANTING A VARIANCE FROM SECTION 24-58(K)(2)b.i. TO ALLOW DECORATIVE SCREENING OF THE SOUTH PARKING GARAGE ELEVATION FRONTING NE 167th STREET (SECONDARY STREET FRONTAGE), IN-LIEU OF THE REQUIRED HABITABLE LINER BUILDING; GRANTING A VARIANCE FROM SECTION 24-58(K)(2)b.ii TO PROVIDE A THIRTY SIX (36) FOOT WIDE ENTRANCE WITH ONE INGRESS AND TWO EGRESS LANES IN THE SOUTH GARAGE; GRANTING A VARIANCE FROM SECTION 24-58(R)(2)(a), TO ALLOW PORTIONS OF THE GROUND FLOOR IN BUILDING 3 TO BE TWENTY-FOUR (24) FEET AND FOUR (4) INCHES IN HEIGHT, WHERE TWENTY FEET IS THE MAXIMUM HEIGHT ALLOWED; GRANTING A VARIANCE FROM SECTION 24-58(R)(2)(a), TO ALLOW PORTIONS OF THE GROUND FLOOR IN THE NORTH GARAGE TO BE TWENTY-FOUR (24) FEET AND FOUR (4) INCHES IN HEIGHT, WHERE TWENTY (20) FEET IS THE MAXIMUM HEIGHT ALLOWED; GRANTING A VARIANCE FROM SECTION 24-58(R)(2)(a), TO ALLOW PORTIONS OF THE GROUND FLOOR IN THE SOUTH GARAGE TO BE TWENTY-FOUR (24) FEET AND FOUR (4) INCHES IN HEIGHT, WHERE TWENTY (20) FEET IS THE MAXIMUM HEIGHT ALLOWED; GRANTING A VARIANCE FROM SECTION 24-58(S)(1)(a), TO ALLOW THE SOUTH SIDE OF BUILDING 1 TO HAVE A LENGTH OF FOUR HUNDRED FIVE (405) FEET AND NINE (9) INCHES WHERE THE MAXIMUM BUILDING LENGTH ALLOWED BY CODE IS THREE HUNDRED (300) FEET; GRANTING A VARIANCE FROM SECTION 24-58(S)(2)(a). TO ALLOW LOT 1 TO HAVE A BLOCK LENGTH OF EIGHT HUNDRED TWENTY-FIVE (825) FEET AND A PERIMETER OF APPROXIMATELY TWO THOUSAND (2,000) FEET, WHEN THE MAXIMUM BLOCK LENGTH IS SIX HUNDRED (600) FEET AND THE MAXIMUM PERIMETER ALLOWED IS ONE THOUSAND NINE HUNDRED (1,900) FEET; GRANTING A VARIANCE FROM SECTION 24-58.1(I)(2)(g) FIGURE MU/TC-17 TO PROVIDE A CANAL GREENWAY TYPE 6, WITH A LANDSCAPE AREA BETWEEN THE CANAL GREENWAY AND THE MULTIPURPOSE TRAIL HAVING A WIDTH LESS THAN FIFTEEN (15) FEET ALONG PORTIONS OF THE GREENWAY THAT FRONT BUILDING 2, WHERE THE CANAL GREENWAY TYPE 6 REQUIRES A FIFTEEN (15) FOOT LANDSCAPED AREA BETWEEN THE CANAL WATERS AND THE MULTIUSE TRAILS; GRANTING A VARIANCE FROM SECTION 24-58.1(I)(2)(g)ii FIGURE MU/TC-17 TO PROVIDE A MINIMUM WIDTH OF ELEVEN (11)

FEET ALONG PORTIONS OF THE CANAL GREENWAY MULTIPURPOSE TRAIL THAT FRONT THE SOUTHWEST CORNER OF BUILDING 2, WHERE THE CANAL GREENWAY TYPE 6 REQUIRES CONSISTENCY IN THE MULTI-PURPOSE TRAIL WITH A MINIMUM OF FIFTEEN (15) FEET; GRANTING A VARIANCE FROM SECTION 24-58.1(K)(1) TABLE MU/TC-4 TO ALLOW FOR A MAXIMUM SETBACK OF SEVENTEEN (17) FEET AND ELEVEN (11) INCHES FOR BUILDING 1 ALONG A PORTION OF THE BUILDING THAT FRONTS THE CANAL GREENWAY, WHERE A MAXIMUM SETBACK OF FIFTEEN (15) FEET IS REQUIRED; GRANTING A VARIANCE FROM SECTION 24-58.1(K)(1) TABLE MU/TC-4 TO PROVIDE A TWENTY (20) PERCENT BUILDING FRONTAGE ALONG THE CANAL GREENWAY FOR BUILDING 2, WHERE A MINIMUM OF NINETY (90) PERCENT OF BUILDING FRONTAGE IS REQUIRED; GRANTING A VARIANCE FROM SECTION 24-58.1 (K)(1) TABLE MU/TC-4 TO ALLOW FOR A MAXIMUM SETBACK OF ONE HUNDRED FIFTEEN (115) FEET AND ELEVEN (11) INCHES FOR BUILDING 2 ALONG THE PORTIONS OF THE BUILDING THAT FRONT THE CANAL GREENWAY, WHERE A MAXIMUM SETBACK OF FIFTEEN (15) FEET IS REQUIRED; GRANTING A VARIANCE FROM SECTION 24-58.1(K)(1) TABLE MU/TC-4 TO PROVIDE A FOURTEEN (14) PERCENT BUILDING FRONTAGE ALONG THE CANAL GREENWAY FOR THE SOUTH PARKING GARAGE, WHERE A MINIMUM OF NINETY (90) PERCENT OF BUILDING FRONTAGE IS REQUIRED; GRANTING A VARIANCE FROM SECTION 24-58.1 (K)(1) TABLE MU/TC-4 TO ALLOW FOR A MAXIMUM SETBACK OF EIGHTEEN (18) FEET FOR THE SOUTH PARKING GARAGE ALONG THE PORTIONS OF THE BUILDING THAT FRONT THE CANAL GREENWAY, WHERE A MAXIMUM SETBACK OF FIFTEEN (15) FEET IS REQUIRED; GRANTING A VARIANCE FROM SECTION 24-93(C)(2)(a) TO ALLOW FOR HANDICAP PARKING SPACES TO BE TWELVE (12) FEET IN WIDTH AND EIGHTEEN (18) INCHES IN LENGTH, WHERE STANDARD HANDICAP PARKING SPACES ARE REQUIRED TO HAVE A MINIMUM OF TWELVE (12) FEET IN WITH AND TWENTY (20) FEET IN LENGTH; AND APPROVING THE SITE PLAN APPLICATION WITH CONDITIONS FOR THE CONSTRUCTION OF A MULTI-FAMILY, MIXED-USE DEVELOPMENT WITH SEVEN HUNDRED TWENTY EIGHT (728) RESIDENTIAL UNITS, WITH TWO PARKING GARAGES OF A TOTAL OF TWO HUNDRED TWO (202) ON-STREET PARKING SPACES, FOUR HUNDRED (400) SQUARE FEET OF GROUND FLOOR COMMERCIAL SPACE, AND SEVEN HUNDRED EIGHTY-FOUR (784) OFF-STREET PARKING SPACES ON A FOUR (4) PARCEL SITE CURRENTLY OCCUPIED BY THREE, 4-STORY EDUCATIONAL BUILDINGS, A PARKING DECK AND A SURFACE PARKING LOT PREVIOUSLY HOSTING NOVA SOUTHEASTERN UNIVERSITY LOCATED AT 1699, 1750 AND 1755 NE 167th 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, Matthew Amster, on behalf of PPG Ark Equishares Owner, LLC. (the "Applicant"), requests site plan approval and sixteen (16) non-use variances to construct a five-building, mixed-use development with 728 residential units, 784 off-street parking spaces, and approximately 400 square feet of ground commercial space on a 7.51-acre parcel located at 1699, 1750, and 1755 NE 167th 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 Section 24-58(K)(2)b.i., to allow decorative screening of the North Parking Garage elevation fronting NE 168th Street (primary frontage); and

WHEREAS, the Applicant requests a non-use variance from Section 24-58(K)(2)b.i., to allow decorative screening of the South Parking Garage elevation fronting NE 167th street (primary frontage); and

WHEREAS, the Applicant requests a non-use variance from Section 24-58(K)(2)b.ii., to allow a thirty-six (36) foot wide opening off of NE 167th street for the South Parking Garage; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58(R)(2)(a), to allow a floor-to-ceiling height of 24'-4" on the ground level of Building 3 where 20 feet is the maximum; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58(R)(2)(a), to allow a floor-to-ceiling height of 24'-4" on the ground level of the North Parking Garage where 20 feet is the maximum; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58(R)(2)(a), to allow a floor-to-ceiling height of 24'-4" on the ground level of the South Parking Garage where 20 feet is the maximum; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58(S)(1), to allow Building 1 a building length of 405'-9" where 300 feet is the maximum; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58(S)(2)a., to allow a block length 825 feet and a perimeter of approximately 2,000 feet for Lot 1, where the maximum length for a block in the MU/TC district is 600 feet and the maximum block perimeter is 1,900 feet; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58.1(I)(2)g., to allow portions of the Canal Greenway Type CG-6 multipurpose trail adjacent to Building 2, to have a width of 11 (eleven) feet where (15) feet are the minimum required; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58.1(I)(2)g., to allow portions of the Canal Greenway Type CG-6 landscape strip adjacent to Building 2 between the multipurpose trail and Snake Creek Canal, to have a width of less than (15) feet, where 15 feet is the minimum required; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58.1(K)(2) Table MU/TC-4 to increase the maximum required setback of fifteen (15) feet to 17'-11" along the Canal Greenway Type CG-6 for Building 1; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58.1(K)(2) Table MU/TC-4 to reduce the required ninety percent (90%) frontage and allow twenty percent (20%) of frontage along the canal greenway for Building 2; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58.1(K)(2) Table MU/TC-4 to increase the maximum required setback of fifteen (15) feet to 115'-11" along the Canal Greenway Type CG-6 for Building 2; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58.1(K)(2) Table MU/TC-4 to reduce the required ninety percent (90%) frontage and allow fourteen percent (14%) of frontage along the canal greenway for the South Parking Garage; and

WHEREAS, the Applicant requests a non-use variance from Section 24-58.1(K)(2) Table MU/TC-4 to increase the maximum required setback of fifteen (15) feet to eighteen (18) feet along the Canal Greenway Type CG-6 for the South Parking Garage; and

WHEREAS, the Applicant requests a non-use variance from Section 24-93(C)(2)(a) to allow for handicapped parking spaces to be eighteen (18) feet in length where twenty (20) feet is required; and

WHEREAS, after a duly noticed public hearing held on August 14th, 2023, the Planning and Zoning Board by a vote of 5 to 0, recommended Approval 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 sixteen (16) 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 sixteen (16) non-use variances as specified herein and in the Application for the proposed construction of a five building, mixed-use development with 728 residential units, 400 square feet of ground floor commercial space, and 784 on-site parking spaces on a 7.51-acre parcel, legally described in Exhibit "A," is hereby approved, subject to the following conditions:

Project Conditions:

The conditions of approval for this site plan are binding on the Applicant, the property owners, operators, and all successors in interest.

1. Prior to the Issuance of a Master Building Permit, the Applicant shall obtain a unity of title, or a covenant in lieu of a unity of title, to assemble the parcels under one subject parcel and satisfy the requirement that all residential use parking shall be located on the same parcel of property that they are intended to serve.
2. Prior to issuance of a Certificate of Occupancy for each building, the applicant shall provide a letter from a certified arborist or landscape architect, certifying

- the landscape installation is in accordance with the approved plans.
3. Prior to the issuance of a Certificate of Occupancy, all garage screening shall be installed to ensure no vehicles in the parking garage are visible from the street.
4. Prior to issuance of Certificate of Occupancy, Applicant shall work with the City and daycare owner to ensure design and implementation of appropriate and safe pedestrian connectivity by the daycare property.
5. Prior to issuance of Certificate of Occupancy, the applicant will complete agency coordination with Miami Dade County DTPW regarding approval of the modified traffic signal timings at the identified signalized intersections in the Palm Aire traffic impact study prepared by David Plummer and Associates, Inc. dated 05/11/23.
6. Prior to the issuance of a Master Building Permit, if the Applicant fails to obtain approvals for the text code amendments related to Street Standards Sec. 24-58(J) under Ordinance No. 23-XX, they shall update and revise the proposed perpendicular on-street parking shown on the plans. The revisions should ensure compliance with Section 24-58(J)(3)(c) and Section 24-58.1(H)(6). The modified site plan shall be reviewed by the City's Public Works Department and the City's Community Development Department for compliance with City codes.
7. Drainage improvements as required on all surrounding rights of way to ensure proper stormwater management throughout the site shall be installed and completed prior to the issuance of the Certificate of Occupancy.
8. Prior to the issuance of a Master Building Permit, the Applicant shall ensure design and permits are reviewed and approved by the South Florida Water Management District (SFWMD) for any Canal Greenway improvements, proposed lighting, and connection to existing pedestrian bridge.
9. Prior to the issuance of a building permit for the installation of any landscape material, the applicant shall provide plans showing 15 ft. x 15 ft. vision clearance triangles at all access points and roadway intersection of the property, in order to demonstrate compliance with the North Miami Beach Code of Ordinances.
10. Prior to the issuance of a Master Building Permit, the applicant shall submit an Architectural Screening Plan detailing the architectural treatment of the decorative garage screens for the North and South Garages. The plan shall be reviewed and approved by the City Manager and/or the Community Development Department Director.
11. Prior to the issuance of a Certificate of Occupancy, all garage screening shall

- be installed to ensure no vehicles in the parking garage are visible from the street.
12. 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. The covenant in lieu shall tie the North Garage and the Paseo (205 parking spaces) to residential buildings 4, 5 and 6 as required provided parking on-site, and the South Garage to residential buildings (579 parking spaces) to residential buildings 1, 2 and 3. 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.
13. Applicant proposes public art, potentially as sculptures in the pedestrian paseo and/or a mural in the breezeway of Building 1, to be reviewed and approved by Community Development during permitting.

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 22-35.
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 Section 24-58(K)(2)b.i 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 Section 24-58(K)(2)b.i. to allow decorative screening of the North Parking Garage fronting along NE 168th Street (primary frontage), 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 Section 24-58(K)(2)b.i 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 Section 24-58(K)(2)b.i. to allow decorative screening of the South parking garage fronting along NE 168th Street (primary frontage), 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 Section 24-58(K)(2)b.ii 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 Section 24-58(K)(2)b.ii. to allow a thirty-six (36) foot wide opening with three (3) lanes off of NE 167th Street (primary frontage), 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. Non-Use Variance from Section 24-58(R)(2)(a) 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 Section 24-58(R)(2)(a), to allow a ground level height of 24'-4" for Building 3 where 20 feet is the maximum, 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 8. Non-Use Variance from Section 24-58(R)(2)(a) 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 Section 24-58(R)(2)(a), to allow a ground level height of 24'-4" for the North Parking Garage where 20 feet is the maximum, 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 9. Non-Use Variance from Section 24-58(R)(2)(a) 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 Section 24-58(R)(2)(a), to allow a ground level height of 24'-4" for the South Parking Garage where 20 feet is the maximum, 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 10. Non-Use Variance from Section 24-58(S)(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 Section 24-58(S)(1) to allow a building length of 405'-9" for Building 1 where 300 feet is the maximum, 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 11. Non-Use Variance from Section 24-58(S)(2)a. 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 Section 24-58(S)(2)a. to allow a block length 825 feet and a perimeter of approximately 2,000 feet for Lot 1, where the maximum block length is 600 feet and the maximum perimeter is 1,900 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 12. Non-Use Variance from Section 24-58.1(I)(2)g. 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 Section 24-58.1(I)(2)g. to reduce the required width of the multipurpose trail from fifteen (15) to eleven (11) feet within the Canal Greenway Type CG-6 adjacent to Building 2, 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 is compatible with the surrounding land uses and is in keeping with the surrounding properties

Section 13. Non-Use Variance from Section 24-58.1(I)(2)g. 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 Section 24-58.1(I)(2)g. to reduce the required width of portions of the Canal Greenway Type CG-6 landscape strip between the multipurpose trail and Snake Creek Canal, adjacent to Building 2, to be less than the required fifteen (15) 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 is compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 14. Non-Use Variance from Section 24-58.1(K)(2) 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 Section 24-58.1(K)(2) Table MU/TC-4 to increase the required setback of fifteen (15) to 17'-11" along the Canal Greenway Type CG-6 for Building 1, 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 is compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 15. Non-Use Variance from Section 24-58.1(K)(2) 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 Section 24-58.1(K)(2) Table MU/TC-4 to reduce the required ninety percent (90%) frontage and allow twenty percent (20%) of frontage along the canal greenway for Building 2, 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 is compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 16. Non-Use Variance from Section 24-58.1(K)(2) 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 Section 24-58.1(K)(2) Table MU/TC-4 to increase the required setback of fifteen (15) to 115'-11" along the Canal Greenway Type CG-6 for Building 2, 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 is compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 17. Non-Use Variance from Section 24-58.1(K)(2) 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 Section 24-58.1(K)(2) Table MU/TC-4 to reduce the required ninety percent (90%) frontage and allow fourteen percent (14%) of frontage along the canal greenway for the South Parking Garage, 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 is compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 18. Non-Use Variance from Section 24-58.1(K)(2) 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 Section 24-58.1(K)(2) Table MU/TC-4 to increase the required setback of fifteen (15) to eighteen (18) feet along the Canal Greenway Type CG-6 for the South Parking Garage, 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 is compatible with the surrounding land uses and is in keeping with the surrounding properties

Section 19. Non-Use Variance from Section 24-93(C)(2)(a) 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 Section 24-93(C)(2)(a) to allow for handicapped parking spaces to be eighteen (18) feet in length where twenty (20) feet is required, 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 is compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 20. 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.

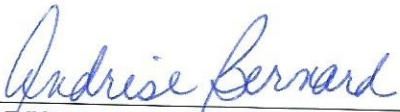
Section 21. Limitation of Approval. The issuance of this development permit does not in any way create a vested right(s) on the part of the Applicant to obtain a permit from a county, state, or federal agency, and does not create any liability on the part of the municipality for issuance of the permit 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 22. Conflicts. All resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

Section 23. Effective Date. This Resolution shall be in force and take effect immediately upon its passage and adoption.

APPROVED AND ADOPTED by the Mayor and City Commission of the City of North Miami Beach, Florida, at a regular meeting assembled this **17th day of October, 2023.**

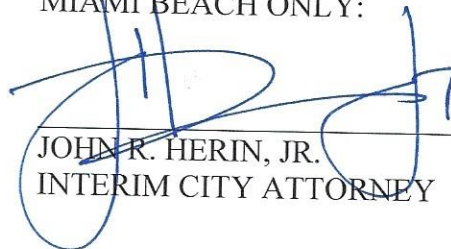
ATTEST:


 ANDRISE BERNARD, MMC
 CITY CLERK


 JAY CHERNOFF
 ACTING MAYOR

(CITY SEAL)

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


 JOHN R. HERIN, JR.
 INTERIM CITY ATTORNEY

Sponsored By: Mayor and City Commission

COMMISSIONERS	YES	NO	ABSTAIN	ABSENT
Mayor				
Acting Mayor Jay Chernoff	✓			
Commissioner McKenzie Fleurimond	✓			
Commissioner Daniel Jean	✓			
Commissioner Michael Joseph	✓			
Commissioner Phyllis Smith	✓			
Commissioner Fortuna Smukler	✓			

Exhibit "A"

LEGAL DESCRIPTION

Folio: 07-2217-003-0090

FULFORD BY THE SEA SEC G PB 14-39; BLK 63 & CLOSED STREETS PER OR 5944-226-227 & R-68-47 & R-68-48; LOT SIZE 66500 SQ FT; OR 15029-759 0591 1, AS RECORDED IN PLAT BOOK 14 PAGE 39 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

Folio: 07-2217-003-0100

17 52 42 3.125 AC; FULFORD BY THE SEA SEC G PB 14-39; BEG 40FTS & 40FTW OF NE COR OF SEC 17 W65.15FT TO POB W ALG ELY; PROJ OF N/L BLK 64 530.99FTSWLY; ARC DIST 39.13FT S ALG W/L BLK 64 & SLY PROJ OF W/L BLK 64; 192.89FTSELY ALG NWLY PROJ OF S/L; BLK 65 555.43FTNELY ARC DIST; 40.48FT N ALG E/L BLK 65 & NLY; PROJ OF E/L BLK 65 225.68FTNWLY; ARC DIST 39.42FT TO POB STS & ALLEY & LOT MARKED PARK CLOSED & VACATED PER RES 60-4406 & ORD 60-128; LOT SIZE 135870 SQUARE FEET; OR 15029-747 0591 3, AS RECORDED IN PLAT BOOK 14 PAGE 39 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

Folio: 07-2208-002-2450

8 52 42 FULFORD BY THE SEA SEC E PB 8-63; LOTS 9 THRU 13 BLK 60; LOT SIZE 28105 SQ FT; OR 11046-564 0381 5, AS RECORDED IN PLAT BOOK 8 PAGE 63 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

Folio: 07-2208-002-2350

PB 8-63; LOTS 1 THRU 9 & 12 THRU 20 BLK 59; PER UNITY OF TITLE OF 12486-2029 & N1/2 OF ALLEY LYG S & ADJ OF LOTS 1 THRU 9 & S1/2 OF ALLEY; LYG N & ADJ OF LOTS 12 THRU 12, CLOSED PER RES #2022-48, OR 33124-4931; LOT SIZE 111404 SQ FT M/L, OR 11046-564 0381 5, AS RECORDED IN PLAT BOOK 8 PAGE 63 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

Folio: 07-2208-002-2350

FULFORD BY THE SEA SEC E, PB 8-63; LOTS 1 THRU 9 & 12 THRU 20 BLK 59; PER UNITY OF TITLE OF 12486-2029 & N1/2 OF ALLEY; LYG S & ADJ OF LOTS 1 THRU 9 & S1/2 OF ALLEY; LYG N & ADJ OF LOTS 12 THRU 12, CLOSED PER RES #2022-48, OR 33124-4931; LOT SIZE 111404 SQ FT M/L, OR 11046-564 0381 5, AS RECORDED IN PLAT BOOK 8 PAGE 63 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

Exhibit "B" SITE PLAN

