

ORDINANCE NO. 2020-08

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, PURSUANT TO SECTION 24-214 OF THE CITY'S ZONING AND LAND DEVELOPMENT CODE, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY AND DEZER INTRACOASTAL MALL, LLC FOR A MIXED-USE PROJECT, KNOWN AS "INTRACOASTAL MALL," ON A ±29.08 ACRES PARCEL OF LAND, GENERALLY LOCATED AT 3501 SUNNY ISLES BOULEVARD, 3745 NE 163 STREET, AND 3909 NE 163 STREET, IN THE MIXED-USE EASTERN WATERFRONT ZONING DISTRICT; APPROVING A CONCEPTUAL MASTER DEVELOPMENT PLAN FOR A PHASED DEVELOPMENT PROGRAM, CONSISTING OF A MAXIMUM OF 2,000 MULTI-FAMILY RESIDENTIAL UNITS, 200,000 SQUARE FEET OF OFFICE SPACE, 375,000 SQUARE FEET OF COMMERCIAL SPACE, AND 250 HOTEL ROOMS, WITH MODIFICATIONS SUBJECT TO AN EQUIVALENCY MATRIX, ALONG WITH CORRESPONDING UNDERGROUND INFRASTRUCTURE, ±8.0 ACRES OF PUBLICLY ACCESSIBLE OPEN SPACE, AND PUBLIC SERVICES IMPROVEMENTS, ROADWAY IMPROVEMENTS AND SURROUNDING STREETScape; PROVIDING FOR EFFECTIVE DATE OF THE DEVELOPMENT AGREEMENT; PROVIDING FOR RECORDATION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Dezer Intracoastal Mall LLC, a Florida limited liability company ("Developer"), has a legal or equitable interest in property located at 3501 Sunny Isles Boulevard, 3745 NE 163rd Street, and 3909 NE 163 Street in North Miami Beach, Florida (the "Property legally described in Exhibit B") and intends to develop the Developer's Property as a mixed-use project that may include retail, hotel, office, and residential uses substantially in accordance with the master development plan entitled "Intracoastal," attached hereto and included as part of Exhibit "A," (the "Proposed Development"); and

WHEREAS, in contemplation of the Proposed Development, the Developer is seeking to enter into a development agreement with the City of North Miami Beach ("City"), in accordance

with the City’s Zoning and Land Development Code Section 24-214, attached hereto as Exhibit “A” (“Development Agreement”), to memorialize the terms and conditions of the Proposed Development; and

WHEREAS, the Development Agreement, is intended to and shall constitute a development agreement between parties pursuant to and consistent with the requirements of the Florida Local Government Development Agreement Act (Sections 163.3220-163.3243, Florida Statutes); and

WHEREAS, the Development Agreement provides for the enumerated requirements set forth in Zoning and Land Development Code Section 24-214(C), including general and specific requirements, improvements and related conditions of the Developer in order to assure that the Proposed Development complies with the City’s Zoning and Land Development Code and is consistent with the City of North Miami Beach Comprehensive Plan (“Comprehensive Plan”); and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the proposed Development Agreement at a duly noticed public hearing on July 13, 2020, and recommend **APPROVAL** by a **4** to **3** vote; and

WHEREAS, the Mayor and City Commission have reviewed the proposed Development Agreement at a duly noticed public hearing on October 20th, 2020 and find that the Development Agreement is consistent with the City’s Comprehensive Plan and approval of the Development Agreement is in the best interests of the City.

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

Section 1. Recitals. The foregoing findings and recitals are true and correct and incorporated by reference.

Section 2. **Approval.** Pursuant to Section 24-214 of the City’s Zoning and Land Development Code, and in accordance with Sections 163.3220–163.3243, Florida Statutes, the Development Agreement between the City and Dezer Intracoastal Mall LLC and related exhibits, attached hereto as Exhibit “A”, which are incorporated herein and made a part hereof by this reference, is hereby approved. The City Manager is authorized to execute the Development Agreement, subject to approval by the City Attorney as to form and legal sufficiency.

Section 3. **Effective Date of Development Agreement.** The Development Agreement shall become effective upon mutual execution by the City and Developer and proper recordation of the Development Agreement in the public records of Miami-Dade County, pursuant to Section 163.3239, Florida Statutes.

Section 4. **Recordation.** The City Clerk is hereby directed, upon second reading, to record a certified copy of this Ordinance and the Development Agreement in the Public Records of Miami-Dade County, Florida at the expense of Dezer Intracoastal Mall LLC.

Section 5. **Implementation.** The City Manager, City Attorney, and City Clerk are hereby authorized to take such further action as may be necessary to implement the purpose and provisions of this Ordinance.

Section 6. **Conflicts.** All ordinances or parts of ordinances in conflict therewith be and the same are hereby repealed.

Section 7. **Severability.** If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 8. **Effective Date.** This Ordinance shall become effective immediately upon adoption.

APPROVED on **first reading** at a duly noticed meeting of the City Commission on September 24th, 2020.

APPROVED AND ADOPTED on **second reading** at a duly noticed public hearing before the Mayor and City Commission on this **20th** day of October, **2020**.

[SIGNATURE PAGE TO FOLLOW]

ATTEST:

ANDRISE BERNARD
CITY CLERK

ANTHONY F. DEFILLIPO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

WEISS SEROTA HELFMAN COLE &
BIERMAN, PL
CITY ATTORNEY

SPONSORED BY: Mayor and City Commission

	YES	NO	ABSTAIN	ABSENT
Commissioners				
Mayor Anthony F. DeFillipo				
Vice Mayor Barbara Kramer				
Commissioner McKenzie Fleurimond				
Commissioner Michael Joseph				
Commissioner Phyllis S. Smith				
Commissioner Fortuna Smukler				
Commissioner Paule Villard				

Exhibit "A"
DEVELOPMENT AGREEMENT

Exhibit "B"
LEGAL DESCRIPTION

Tract "A", Lots 2 through 18 and a portion of Lots 1, 19 and 20, Block 19 and also that vacated street known as NE 165th Street extending from NE 35th Avenue Eastward to the Western Boundary of Lots 5 and 6; thence Southerly to State Road 826, all in Block 19 of EASTERN SHORES 2nd ADDITION, according to the Plat thereof, recorded in Plat Book 65, Page 43, and that portion of Lessee's interest in that certain Sovereignty Submerged Lands Lease between the Board of Trustees' of the Internal Improvement Trust Fund of the State of Florida and MSW Intracoastal Mall, L.L.C., recorded on February 2, 2009 in Official Records Book 26738, Page 946, all being recorded in the Public Records of Miami-Dade County, Florida and being more particularly described as follows:

Begin at the Southwest corner of Lot 20 of said Block 19; thence N 00°53'14" E along the West line of said Lot 20 for 30.41 feet; thence N 58°36'22" E for 128.16 feet; thence N 31°23'42" W for 33.10 feet to a point on the North line of said Lot 20; thence N 86°46'13" E along the North line of said Block 19 for 1605.47 feet to the Northeast corner of said Lot 6; thence

N 04°46'53" W for 1.86 feet; thence N 39°53'07" E for 1.99 feet; thence N 05°06'53" W for 5.99 feet; thence N 86°29'12" E for 25.80 feet; thence S 04°59'49" E for 144.76 feet; thence

N 86°44'31" E for 9.64 feet; thence S 04°42'35" E for 496.02 feet; thence S 85°31'00" W for 36.72 feet; thence S 04°46'53" E along the East line of Block 19, for 31.70 feet to a point on the Northerly Right-of-Way line of State Road 826, per Official Records Book 12103, Page 1685, of the Public Records of Miami-Dade County, Florida; the following two (2) courses being along said Northerly Right-of-Way line; (1) thence S 83°09'49" W for 77.17 feet to a point of curvature of a 1952.86 foot radius curve leading to the left; (2) thence Westerly along said curve through a central angle of 02°49'34" for an arc of 96.32 feet; the following two (2) courses being along the Easterly and Northerly lines of the Warranty Deed granted to Miami Dade Water and Sewer Authority as described in Official Records Book 11323, Page 1086, of the Public Records of Miami-Dade County, Florida; (1) thence N 04°50'25" W for 102.70 feet; (2) thence S 86°46'13" W for 75.11 feet (75.19 feet Deed); thence N 64°54'39" W along said Northerly line of Miami Dade Water and Sewer property and the Northerly line of the property granted to Florida Power and Light Company as described in Official Records Book 6829, Page 118, of the Public Records of Miami-Dade County, Florida for 57.61 feet (57.66 feet Deed) to the Northeast corner of the corrective Warranty Deed granted to Florida Power and Light Company as recorded in Official Records Book 270, Page 60 of the Public Records of Miami-Dade County, Florida; the following (2) courses being along the Northerly and Westerly boundaries of said Florida Power and Light property; (1) thence

S 85°09'35" W for 150.00 feet; (2) thence S 04°50'25" E for 150.33 feet (Deed 150.00 feet) to a point on the Northerly Right-of-Way line of State Road No. 826 per property described in Parcel

103, Case Number 84-15796, Miami-Dade County, Florida, said point lying on a circular curve of a 1757.28 foot radius, leading to the left and whose point bears S 07°24'51" E; thence Westerly along said Northerly Right-of-Way line through a central angle of 6°48'46" for an arc of 208.95 feet to a point on a non-tangent line; thence S 58°36'07" W along said Northerly Right-of-Way line of State Road No. 826 as described in Parcel 103 per said Case 84-15796, said line also being the Southeasterly line of said Tract "A" for 675.36 feet to a point of curvature of a 25.00 foot radius curve leading to the right; thence Westerly and Northerly along said curve being along the Southerly line of said Tract "A" through a central angle of 90°00'00" for an arc of 39.27 feet to a point of tangency; thence N 31°23'53" W along the Southwesterly line of said Tract "A" and its Northwesterly prolongation thereof, said Westerly line also being the Easterly Right-of-Way line of NE 35th Avenue for 1006.59 feet to a point on the centerline of said vacated and abandoned NE 165th Street; thence N 86°46'13" E along said centerline for 35.79 feet; thence N 03°13'47" W for 30.00 feet to the POINT OF BEGINNING