



BERCOW RADELL & FERNANDEZ
ZONING, LAND USE AND ENVIRONMENTAL LAW

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VIA HAND-DELIVERY

March 25, 2016

Richard Lorber
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 in Support of Site Plan Approval and Non-Use Variance Request for the Property located at 16415 NE 11 Avenue, North Miami Beach, Florida

Dear Mr. Lorber:

This law firm represents Toras Emes Development Company, Inc. (the "Applicant") with regard to their application seeking site plan approval for a 1-story modular classroom building and associated non-use variance for side, corner setback along NE 164 Avenue for the property located at 16415 NE 11 Avenue (the "Property"). Please let the following serve as the required letter of intent in connection with the requests for approval of the project.

Description of Property. The Property is a long, narrow "L"-shaped parcel that comprises the southern half of the block between NE 11 and 12 Avenues and between NE 164 and 165 Streets. It also contains the northeast corner of the block as the tip of the "L". The Property contains approximately 68,935 square feet (1.58 acres) and contains a 2-story structure of approximately 5,143 square feet at the west end of the Property. The existing structure is setback 10' from the south property line, which abuts NE 164 Street.

The north portion of block not part of the Property contains single-family homes. The properties to the east of the Property are not within the City limits of North Miami Beach and contain the 163rd Street Mall and Home Depot. The properties to the south of the Property contain commercial uses, including offices, restaurants and retail establishments.

The Property falls within two (2) land use designations and zoning districts. The western portion of the Property is within the Public and Quasi-Public Land Use

Designation and the Community Facility ("CF") Zoning District. The eastern portion of the Property is within the Residential Medium Density Land Use Designation and Residential Single-Family ("RS-2") District.

The Property is part of the Toras Emes Academy campus, the main portion of which is located across NE 11 Avenue at 1099 NE 164 Street (a.k.a. 1051 North Miami Beach Boulevard). The existing building on the Property is already used for educational instruction. An extensive paved area to the east of the existing classroom building is used for playground and basketball activities for all students. The eastern portion of the Property is undeveloped, sodded open space.

The Applicant previously obtained approval for and recently completed construction of a comprehensive redevelopment of the main campus. See attached Resolution No. R2011-19. That approval allows for a future student population of 690 students (present enrollment is only around 600) for both properties. Notably, the main campus, through the prior approval, contains all parking spaces for the entire campus, including the Property, for the 690 students and staff. There are 72 parking spaces, with standard dimensions of 9' x 18' and handicap spaces of 12' x 18'. See further explanation attached.

Description of Development Program. As part of the next phase of redevelopment of the campus, which now focuses on the Property, the Applicant proposes to place a 1-story modular classroom building on the existing paved area east of the existing classroom building. The modular building, measuring 68' x 164', contains 12 rooms with a wide central corridor. It is already approved for educational use and complies with building code requirements. A ramp for ADA accessibility will be located on the west side. An existing playground along the north side of the Property will be removed in order to locate the modular building on the Property.

The Applicant also proposes to relocate and improve the basketball court to the east of the modular building. The existing landscaping will be enhanced with many new trees and shrubs to further beautify the Property. The grassy area at the east end of the Property will remain. The Property will contain a significant amount of open space, 49.6%, where the minimum requirement is 25%.

Importantly, the modular building will not increase student capacity. The purpose of the classrooms is for specialty, enrichment programs, such as art, therapy, science, special education, and computer lab. 1 or 2 rooms will also be used as multipurpose rooms and will be utilized as an additional lunch room for students.

Richard Lorber, Director of Community Development

March 25, 2016

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Description of Non-Use Variance. The setbacks for this narrow lot, combined with a side facing a street (NE 164 Street) and the residential uses along the north side of the Property substantially restrict the buildable area of the Property. The Applicant proposes to push the building further south towards the adjacent street to comply with the 25' setback in the north. As a result, the Applicant requests of variance to allow a proposed setback of 7' where 25' is required for the side, corner of NE 164 Street.

Satisfaction of Hardship Criteria. The Applicant's request satisfies all variance review standards as follows:

The nonuse variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community; the non-use variance will be otherwise compatible with the surrounding land uses; and the non-use variance would not be detrimental to the community.

The intent and purpose of the zoning setback regulations is to provide adequate spacing between disparate uses. The proposed layout complies with the 25' setback to the residences in the north, and therefore, provides an adequate buffer for those residences. Placing the 1-story modular building closer to the street does not adversely affect the appearance of the neighborhood as the existing building is also close to the Street (10'), the new building has a low profile, additional landscaping will help screen the buildings and there are commercial, not residential uses, on the south side of NE 164 Street. As a result, granting the non-use variance will not be detrimental to the community.

Conclusion. The granting of the requested non-use variance will be in harmony with the intent and purpose of the City Code, and compatible with the surrounding area. We respectfully request your recommendation of approval of the Applicant's request. If you have any questions or comments with regard to the application, please give me a call at (305) 377-6236.

Sincerely,



Matthew Amster

Attachments

cc: Rabbi Harayl Askotzky (email only)
Rabbi Zev Roth (email only)

RESOLUTION NO. R2011-19

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT A 19,680 SQUARE FOOT, TWO-STORY CLASSROOM ADDITION TO AN EXISTING SCHOOL CAMPUS ON A 129,106 SQUARE FOOT (2.96 ACRE) LOT, AS PROPOSED; AND

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-55(D))(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE SEVENTEEN FEET AND FOUR INCHES (17'4") OF THE MINIMUM REQUIRED FRONT YARD SETBACK OF THIRTY FEET (30'), WHERE FRONT YARD SETBACK OF TWELVE FEET AND EIGHT INCHES (12'8") IS PROPOSED; AND

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-55(D)(4) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO EXCEED BY FOUR FEET (4') THE MAXIMUM PERMITTED BUILDING HEIGHT OF THIRTY-FIVE FEET (35'), WHERE BUILDING HEIGHT OF THIRTY-NINE FEET (39') IS PROPOSED; AND

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-95(C) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE 101 OF THE MINIMUM REQUIRED 173 VEHICULAR PARKING SPACES, WHERE PROVISION OF 72 VEHICULAR PARKING SPACES IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS:

(LENGTHY LEGAL - SEE ATTACHED EXHIBIT ("A"))

A/K/A

**1051 North Miami Beach Boulevard
North Miami Beach, Florida**

(P&Z Item No. 10-482 of March 14, 2011)

RESOLUTION NO. R2011-19

WHEREAS, the property described herein is zoned CF, Community Facility District; and

WHEREAS, the applicant requests site plan approval and variances in order to construct a 19,680 square foot, two-story classroom addition to an existing school campus on a 129,106 square foot (2.96 acre) lot located at 1051 North Miami Beach Boulevard; and

WHEREAS, the Planning and Zoning Board on March 14, 2011 recommended approval of the site plan and related variances, subject to the following conditions:

1. Plans submitted for building permit(s) shall substantially comply with those as currently submitted, including the following:

- Survey, Sheet SU-100, by J.H. Manucy, Inc., dated 10/1/1993, revised 8/26/2009;
- Paving, Grading & Drainage Plan, Sheet C-100, by Zyscovich Architects, dated 11/18/2009, revised 12/12/2009;
- Planting Plan, Sheet L1.0, by Zyscovich Architects, dated 11/6/2009, revised 12/12/2009;
- Alternate Planting Plan Notes and Details, Sheet L1.1, by Zyscovich Architects, dated 11/6/2009, revised 12/12/2009;
- Tree Disposition Plan, Sheet TD-1.0, by Zyscovich Architects, dated 11/6/2009, revised 11/12/2009;
- Demolition Site Plan, Sheet D-100, by Zyscovich Architects, dated 2/18/2011;
- Proposed Master Site Plan, Sheet MS-100, by Zyscovich Architects, dated 2/18/2011;
- Site Plan Phase, Sheet A-101, by Zyscovich Architects, dated 2/18/2011;
- First Floor Site Plan, Sheet A-211, by Zyscovich Architects, dated 2/18/2011;
- Second Floor Plan, Sheet A-221, by Zyscovich Architects, dated 2/18/2011;
- Third Floor Plan, Sheet A-231, by Zyscovich Architects, dated 2/18/2011;
- Elevations, Sheet A-501, by Zysocvich Archetects, dated 2/18/2011;
- Elevations, Sheet A-502, by Zysocvich Architects, dated 2/18/2011;
- Elevations, Sheet A-503, by Zysocvich Architects, dated 2/18/2011;
- Site Plan Photometric Electrical, Sheet E-101, by Zyscovich Architects, dated 2/18/2011.

2. All utilities, including but not limited to electrical, cable television and telephone must be located underground. The manner of locating these utilities, as well as the location of the transformer(s) must be submitted to and approved by the Community Development Director. Transformers and other above ground equipment must be screened with landscaping.

3. Project must be in complete conformity with the Americans with Disabilities Act (ADA) in accordance with State and Federal laws.
4. Building materials and color samples must be submitted to, and approved by, the Public Services Director prior to the issuance of a building permit for this project.
5. A lighting plan for the entire property shall be submitted by a qualified lighting professional. Said plan shall include the entire property, and, if necessary, the adjacent swale areas, and shall include decorative facade lighting in addition to that provided for safety and security needs. All exterior lighting shall be white lighting only. Lighting shall be contained on-site only and, in particular, not bleed into adjacent residential properties.
6. A revised landscape and irrigation plan, signed and sealed by a Florida registered Landscape Architect, shall be submitted to, and approved by, the City Forester. The plan shall be approved prior to the issuance of a building permit, and the installed materials inspected and approved prior to the issuance of a Certificate of Occupancy. This plan shall include all adjacent swale areas.
7. The design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles and street furniture must be submitted to and approved by the Public Services Director.
8. Garbage dumpsters shall be constructed of CBS, with roll up over-head doors, be large enough to encompass recycling materials and be equipped with air conditioning, running water, hose hook-up and a floor drain.
9. All modular structures must be removed prior to the issuance of a certificate of occupancy for the proposed classrooms.
10. If the City elects to dispose of the City's property located adjacent to the southeast corner of the subject property, it must be done in a manner approved by the City Attorney.
11. A unity-of-title must be created joining all parcels of the subject property. Said unity-of-title must be reviewed and approved by the City Attorney prior to the issuance of building permit(s) for this project.
12. When plans are submitted for building permit, a cover sheet must be included incorporating the final Resolution approving this project, including all conditions related to said approval.

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of North Miami Beach, Florida.

RESOLUTION R2011-19

Section 1. Site plan approval in order to construct a 19,680 square foot, two story classroom addition, to an existing school campus on a 129,106 square foot (2.96 acre) lot, on property legally described as:

(LENGTHY LEGAL - SEE ATTACHED EXHIBIT "A")

**A/K/A
1051 North Miami Beach Boulevard
North Miami Beach, Florida**

(P&Z Item No. 10-482 of March 14, 2011)

is hereby granted subject to the following conditions:

1. Plans submitted for building permit(s) shall substantially comply with those as currently submitted, including the following:

- Survey, Sheet SU-100, by J.H. Manucy, Inc., dated 10/1/1993, revised 8/26/2009;
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- Site Plan Photometric Electrical, Sheet E-101, by Zyscovich Architects, dated 2/18/2011.
2. All utilities, including but not limited to electrical, cable television and telephone must be located underground. The manner of locating these utilities, as well as the location of the transformer(s) must be submitted to and approved by the Community Development Director. Transformers and other above ground equipment must be screened with landscaping.
 4. Project must be in complete conformity with the Americans with Disabilities Act (ADA) in accordance with State and Federal laws.
 4. Building materials and color samples must be submitted to, and approved by, the Public Services Director prior to the issuance of a building permit for this project.
 5. A lighting plan for the entire property shall be submitted by a qualified lighting professional. Said plan shall include the entire property, and, if necessary, the adjacent swale areas, and shall include decorative facade lighting in addition to that provided for safety and security needs. All exterior lighting shall be white lighting only. Lighting shall be contained on-site only and, in particular, not bleed into adjacent residential properties.
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 7. The design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles and street furniture must be submitted to and approved by the Public Services Director.
 8. Garbage dumpsters shall be constructed of CBS, with roll up over-head doors, be large enough to encompass recycling materials and be equipped with air conditioning, running water, hose hook-up and a floor drain.
 9. All modular structures must be removed prior to the issuance of a certificate of occupancy for the proposed classrooms.
 10. If the City elects to dispose of the City's property located adjacent to the southeast corner of the subject property, it must be done in a manner approved by the City Attorney.
 11. A unity-of-title must be created joining all parcels of the subject property. Said unity-of-title must be reviewed and approved by the City Attorney prior to the issuance of building permit(s) for this project.

12. Upon the commencement of construction, the North Miami Beach Boulevard Street frontage shall be treated in an attractive and decorative manner consistent with importance of the street as a main commercial entry into the City. A solution could include, but not be limited to, a decorative graphic on the construction fence wind screen.

13. The fence atop the rooftop basketball courts shall be of a "shepherd's crook" type with a curved top facing in to the courts.

14. A performance assurance must be provided to the City to guarantee that the required off-site improvements be installed. The type and amount of the assurance and the manner of disbursement must be approved by the City Manager prior to the issuance of any building permit for the proposed project.

15. When plans are submitted for building permit, a cover sheet must be included incorporating the final Resolution approving this project, including all conditions related to said approval.

Section 2. A variance from Section 24-55(D)(3) to waive seventeen feet and four inches (17'4") of the minimum required front yard setback of thirty feet (30'), where front yard setback of twelve feet eight inches (12'8") is proposed, on property legally described as aforesaid, is hereby granted subject to the aforementioned conditions.

Section 3. A variance from Section 24-55(D)(4) to exceed by four feet (4') the maximum permitted building height of thirty-five feet (35'), where building height of thirty-nine feet (39') is proposed, on property legally described as aforesaid, is hereby granted subject to the aforementioned conditions.

Section 4. A variance from Section 24-95(C) to waive 101 of the minimum required 173 vehicular parking spaces, where provision of 72 vehicular parking spaces is proposed, on property legally described as aforesaid, is hereby granted subject to the aforementioned conditions.

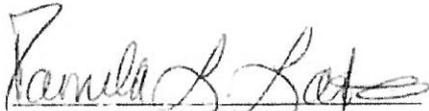
Section 5. Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the applicant must obtain a master building permit from the City within six (6)

months of the date of this Resolution or the site plan approval granted shall be deemed null and void and the applicant shall be required to reinstate the site plan review process unless the term is extended administratively or by the City Council prior to its expiration.

Section 6. Pursuant to Section 24-176(C)(4) of the Code of Ordinances of the City of North Miami Beach, any variance granted shall automatically expire if a permit has not been issued within six (6) months from the date of this Resolution or, if the permit is issued, expires or is revoked pursuant to the Florida Building Code.

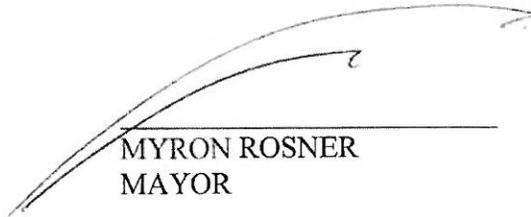
APPROVED AND ADOPTED by the City Council of the City of North Miami Beach, Florida at regular meeting assembled this **26th day of April, 2011**.

ATTEST:



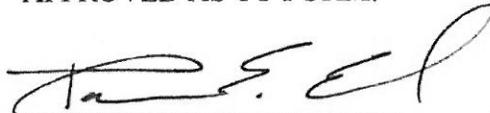
PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)



MYRON ROSNER
MAYOR

APPROVED AS TO FORM:



DARCEE S. SIEGEL
CITY ATTORNEY

SPONSORED BY: Mayor and City Council

COUNCILPERSON	YES	NO	ABSTAIN	ABSENT
Mayor Myron Rosner	X			
Councilman Philippe Derose	X			
Councilman McKenzie	X			
Vice-Mayor Barbara Kramer	X			
Councilman Frantz Pierre	X			
Councilwoman Phyllis Smith	X			
Councilwoman Beth Spiegel	X			

EXHIBIT A

LEGAL DESCRIPTION:

Lots 1 through 8, Block 8 and Lots 9 through 13, Block 6 of "MONTICELLO PARK UNIT 1", according to the plat thereof as recorded in Plat Book 40, at Page 65, of the Public Records of Miami-Dade County, Florida, LESS that portion of Lot 1, in Block 8, lying West of the following described line: Commence at the Northeast corner of said Lot 1 and run West along the North line of said Lot 1 for 125.70 feet to the Point of Beginning of said line; Thence deflect 89°47'00" to the left, and run 61.91 feet more or less to a point on the Southwesterly line of said Lot 1, said point being the termination of the aforescribed line.

Together With: That portion of N.E. 165th. Street from the West Right-of-Way Line of N.E. 11th. Avenue, running West 375.07 feet to the East line of Lot 14, in Block 6, projected South (the said N.E. 165th. Street Right-of-Way being bounded on the North by Lots 9 through 13, in Block 6, and being bounded on the South by Lots 1 through 4, in Block 8, of said plat of "MONTICELLO PARK UNIT 1", according to the plat thereof as recorded in Plat Book 40, at Page 65, of the Public Records of Miami-Dade County, Florida.

**Toras Emes Development Company, Inc.
16415 NE 11 Avenue, North Miami Beach**

Required Parking Explanation

Through Resolution No. R2011-19 and the associated site plan found on the following page, the City Council approved the redevelopment of the Toras Emes Academy ("Academy") at 1099 NE 164 Street (a.k.a. 1051 North Miami Beach Boulevard). The Toras Emes Academy is an elementary and middle school that also utilizes the subject property at 16415 NE 11 Avenue. The Academy provides 72 parking spaces for the entire campus.

According to State requirements for educational facilities, 26 spaces are required for the entire Academy (7 for students at 1 space per 100 students for 690 students plus 19 for staff at 1 space per 4 staff members for 73 staff members). The City Code requires a higher number of spaces, 173 spaces at 1 space per 4 students, but that does not take into account that the entire student population does not drive to the school. In recognition of this situation and the State requirements, the City Council approved a variance of 101 spaces. The waiver essentially substantiated that 26 spaces are required for the Academy pursuant to State regulations. The proposed modular building will not increase the number of student or staff members beyond the amounts approved in Resolution No. R2011-19, therefore, no additional parking spaces are required.

