

RESOLUTION NO. R2016-XX

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL TO CONSTRUCT A 64,319 SQUARE FOOT, EIGHT-STORY MIXED-USE DEVELOPMENT PROJECT ON 21,000 SQUARE FOOT LOT, INCLUDING 52 RESIDENTIAL UNITS AND 2,745 SQUARE FEET OF COMMERCIAL SPACE, AS PROPOSED; AND WITHIN THE CRA BOUNDARY, ON PROPERTY LOCATED AT 1640 NE 164 STREET.

WHEREAS, the property described herein is zoned FULFORD MIXED-USE TOWN CENTER DISTRICT, TRANSITIONAL SUB-AREA; and

WHEREAS, the Applicant requests site plan approval to construct a 64,319 square foot, eight-story mixed-use development project on a 21,000 square foot lot, consisting of 52 residential units and 2,745 square feet of commercial space located at 1640 NE 164 Street in the Fulford Mixed-Use Town Center District, within the CRA boundary; and

WHEREAS, after a public hearing on May 9, 2016, the Planning and Zoning Board, by a _ to _ vote, recommends approval of the site plan, subject to the conditions set forth and included herein below in Section 1.

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

Section 1. Site plan approval to construct a 64,319 square foot, eight-story mixed-use development on a 21,000 square foot lot, on property legally described as:

LOTS 5, 6, AND 7, BLOCK 81 OF "FULFORD BY THE SEA SECTION G" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 14, PAGE 39 OF THE PUBLIC RECORDS OF MIAMI/DADE COUNTY, FLORIDA

A/K/A
1640 NE 164th Street
North Miami Beach, Florida

is **HEREBY GRANTED** SUBJECT TO THE FOLLOWING CONDITIONS:

1. Unless otherwise provided, all of the below conditions shall be completed/complied with prior to the issuance of the building permit.
2. The conditions of approval for this site plan are binding on the Applicant, the property owners, operators, and all successors in interest and assigns.
3. Construction of the proposed project shall be in conformance with the following:
 - a. Sketch of Survey prepared by Cousins Surveyors & Associates, Inc.
 - b. Plans prepared by Joseph B. Kaller & Associates PA including the following:
 - Sheet T-1, Title Page
 - Sheet SP-1, Site Plan and Data
 - Sheet SP-2, Building Data
 - Sheet C-1, Engineering Plan
 - Sheet LE-1, Existing Landscape Plan
 - Sheet LP-1, Landscape Plan-Ground Floor
 - Sheet LP-Landscape Plan-3rd Floor
 - Sheet A-1, First Floor Plan
 - Sheet A-2, Upper First Floor Plan
 - Sheet A-3, Second Floor Plan
 - Sheet A-4, Third Floor Plan
 - Sheet A-5, Fourth Floor Plan
 - Sheet A-6, Fifth-Seventh Floor Plan
 - Sheet A7, Eighth Floor Plan
 - Sheet A-8, Roof Plan
 - Sheet A-9, North Elevation
 - Sheet A-10, East Elevation
 - Sheet A-11, South Elevation
 - Sheet A-12, West Elevation
4. All representations proffered by the Applicant's representatives as a part of the site plan application review at the Planning and Zoning Board and City Council public hearings.
5. Prior to issuance of any Master Building Permit, Applicant shall provide the City Manager or designee with a draft schedule for the construction of the Project, (the "Construction Schedule").
6. Prior to issuance of any Master Building Permit, 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.
7. Construction workers are prohibited from parking on residential streets or public parking lots. Prior to application for the Master Building Permit, the Applicant shall submit a construction parking plan providing off-street parking for construction workers during the period of construction to the City Manager or designee for review and approval. The construction parking plan shall provide: (a) Applicant's general contractor shall direct all workers to park at off street sites; (b) no workers shall park their vehicles in residential

neighborhoods; and (c) Applicant shall provide reports as needed to the City Manager or designee detailing any problems and complaints regarding the parking.

8. 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 Council 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 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 Council 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.
9. Prior to the issuance of a Master Building Permit, the City Manager or designee and the City Attorney, may refer any application for review by engineering, planning, legal, technical, environmental, or professional consultant(s) as deemed necessary. The City shall be reimbursed by Applicant for reasonable fees and charges made by such consultant(s) or professional(s) within thirty (30) days of submission of a City voucher. These fees and charges are in addition to any and all other fees required by the City.
10. The applicant shall submit an MOT (Maintenance of Traffic) to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
11. The master building permit from the City must be applied for within one (1) year of site plan approval. Extension requests may be extended administratively for good cause for one six (6) month period by the City Manager or designee upon the payment of the appropriate fee, otherwise reapplication is necessary. Such extension must be administratively documented and filed with the appropriate department. This period may be extended by the Mayor and City Council for good cause.
12. 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; and the Florida Department of Environmental Protection (FDEP), the Florida Department of Transportation (FDOT) and any other applicable regulatory agency.
13. Prior to sign off of the final inspection & Certificate of Occupancy, applicant must submit Letter of Substantial Compliance from Engineer of Record and As-built (for work on public right-of-way only) drawing from certified Provide Erosion & Sediment Control Plan.
14. Prior to the issuance of the Master Building Permit, a bond or equivalent amount of cash shall be posted with the City to replace public property damaged during the construction of the Project pursuant to the terms of Sections 14-1.10 and 14-1.11 of the City's Code of Ordinances in the amount of \$750.00. The final determination regarding property to be replaced shall be made by the City Manager or designee.

15. Applicant shall furnish payment and performance bonds, cash, or letter(s) of credit issued in a form and by a bank reasonably acceptable to the City to ensure Applicant's performance and/or payment of the public improvements; (the term "public improvements" does not include any voluntary proffers; however, if the City has completed the public improvements prior to issuance of the Temporary Certificate of Occupancy, the City shall be paid the sums due in cash immediately upon demand. The payment and performance bond(s) required by this Resolution shall be issued by a surety having a minimum rating of A-1 in the Best's Key Rating Guide, Property/Casualty edition, shall be subject to the approval of the City and shall include this legend: "This bond (these bonds) may not be cancelled or allowed to lapse until thirty (30) days after receipt by the City of North Miami Beach, by certified mail, returned receipt requested, addressed to: CITY MANAGER with a copy to: CITY ATTORNEY, both addressed to: 17011 NE 19 Avenue, North Miami Beach, FL 33162-3111 of written notice from the issuer of the bond of its intent to cancel or to not renew." As improvements and payments are made in accordance with the terms of this Resolution, the City, in its sole discretion, may reduce or eliminate the bond amount. These rights reserved by the City with respect to any construction bond or other performance or payment bond established pursuant to this section are in addition to all other rights and remedies the City may have under this Resolution, in law or in equity.
16. No building permits shall be issued (except for signage, demolition, foundation, temporary power, construction trailers and sales center) unless the Applicant has submitted all documents required under this approval as of that date, in form and content subject to the approval of the City Attorney with the City Manager or designee, and shall have paid all professional reimbursements and other payments required by the Code of Ordinances of the City of North Miami Beach.
17. Prior to the issuance of the Master Building Permit, the Applicant shall submit plans for the construction of an appropriate barrier between the construction site and adjoining properties in order to minimize blowing of dust and construction debris. Applicant shall comply with the regulations of the Code of Ordinances the City of North Miami Beach relating to construction site operations, including but not limited to the installation of a chain link construction fence with a windscreen displaying a rendering of the Project. Applicant shall use its good faith efforts to minimize vibration and noise during construction of the Project.
18. The Applicant shall satisfy the requirements of Code Section 24-58.1(o)(1) for Public Infrastructure and Streetscape, for improvement to and maintenance of the public infrastructure and streets in the MU/TC zoning district, prior to or at the time of issuance of the Master Building Permit, as determined by the City Manager or designee.
19. Compliance with Chapter 24, Article XVII Park Impact Fee shall satisfy the requirements of Code Section 24-58.1(O)(2) Public Open Space Assessment and Fund.
20. The Applicant shall contribute a sum of money equivalent to 1.0% of the total Project cost to the City's Art in Public Places Fund or provide artwork on the site of the Project, of a quality and design acceptable to the City Manager or designee, to satisfy the requirements of Code Section 24-58.1(O)(3) Public Art Assessment and Fund.
21. Prior to the issuance of the Master Building Permit, the Applicant shall meet all requirements of the Department of Public Works Solid Waste Division for trash containers.
22. All City impact fees shall be paid prior to the issuance of a master building permit.

23. 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.
24. All water service installations are the responsibility of the owner / developer must be permitted through the City's Engineering Dept.
25. Sewer connection charges will be calculated and be payable at time of permitting. Any credits for any previous allocation on site will be evaluated.
26. All Miami-Dade County sewer connection fees will be calculated by the County at time of permitting and are the responsibility of the owner / developer.
27. Prior to issuance of the Temporary Certificate of Occupancy, the design of any public property litter receptacles shall be determined by the City Manager or designee. The Applicant shall fund the cost of litter receptacles along all street frontages in a quantity, design and location acceptable to the City Manager or designee.
28. The Applicant and its successors and assigns, including but not limited to the successor homeowners' association, if any, shall maintain all landscape and exterior hardscape features and materials on site and throughout all public improvements in good condition, replacing diseased, dying or dead plant material as necessary and repairing / cleaning / painting all hardscape features so as to present a healthy and orderly appearance at all times.
29. 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 located in the City of North Miami Beach, Florida.
30. Dumpsters shall be serviced wholly within the building envelope and only by the City of North Miami Beach or its approved contractor. All dumpsters shall be delivered to the trash room no later than 7 a.m. on collection days. The servicing of the dumpsters and their locations shall not be visible from pedestrians or passing motorists on the sidewalks, abutting rights-of way, adjacent streets or public beach.
31. 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.
32. 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.
33. Live, amplified music shall be prohibited outdoors. Recorded music no greater than 75 decibels shall be allowed from 10:00 a.m. to 10:00pm.
34. Garbage collection service will be provided by the City of North Miami Beach or designee.
35. Applicant must provide the NMBPD with access to the property at all times.
36. Applicant provide the NMBPD with a safety plan.
37. Applicant must join the NMBPD *Trespass After Warning* Program.
38. If the applicant proposes to develop this project in phases, each phase must stand alone with respect to amenities and infrastructure. Additionally, any public improvements, in addition to any project features to be open to the public must be constructed as part of the initial phase.

- 39. The applicant shall increase the existing size of the tree grates along NE 164th Street to a minimum of 5 feet by 5 feet as determined by the City Manager or designee.
- 40. 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.
- 41. The applicant shall remove the concrete filled bollard and Glaucous Cassia tree located in the eastern portion of the loading space in the approved site plan to accommodate access for loading space.

Section 2. Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the Applicant must apply for a master building permit from the City within one (1) year 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.

APPROVED AND ADOPTED by the City Council of the City of North Miami Beach, Florida at regular meeting assembled this ___**th day of** _____, **2016**.

ATTEST:

 PAMELA L. LATIMORE
 CITY CLERK

 GEORGE VALLEJO
 MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
 LANGUAGE & FOR EXECUTION

 JOSE SMITH
 CITY ATTORNEY

SPONSORED BY: Mayor and City Council

| | YES | NO | ABSTAIN | ABSENT |
|---------------|-----|----|---------|--------|
| COUNCILPERSON | | | | |

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|------------------------------|--|--|--|--|
| Mayor George Vallejo | | | | |
| Vice-Mayor Anthony DeFillipo | | | | |
| Councilwoman Barbara Kramer | | | | |
| Councilwoman Marlen Martell | | | | |
| Councilman Frantz Pierre | | | | |
| Councilwoman Phyllis Smith | | | | |
| Councilwoman Beth Spiegel | | | | |