

RESOLUTION NO. R2019-XX

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL TO CONSTRUCT AN APPROXIMATELY 513,347 SQUARE FOOT, FIFTEEN-STORY MULTIFAMILY RESIDENCE, ON A 1.74 ACRE LOT, CONSISTING OF 259 RESIDENTIAL UNITS AND 396 PARKING SPACES; AND GRANTING A NON-USE VARIANCE FROM SECTION 24-58(R)(2) OF THE ZONING AND LAND DEVELOPMENT CODE TO PERMIT THE FOURTH LEVEL OF THE BUILDING TO HAVE A FLOOR TO CEILING HEIGHT OF FIFTEEN (15) FEET, WHERE TWELVE (12) FEET IS THE MAXIMUM HEIGHT ALLOWED; ON PROPERTY LOCATED AT 13899 BISCAYNE BOULEVARD, NORTH MIAMI BEACH, FLORIDA.

(P&Z Item No. 18-14, February 11th, 2019)

WHEREAS, the property described herein is zoned Mixed-Use Arch Creek Corridor District (MU/C) in the City of North Miami Beach's ("City") Zoning and Land Development Code ("Code"); and

WHEREAS, Tomajo LLC, ("Applicant") requests site plan and a non-use variance approval to redevelop the property and construct an approximately 513,347 square foot, fifteen-story multifamily residential development, on a 1.74 acre lot, consisting of 259 residential units and 396 parking spaces; and

WHEREAS, the requested variance is needed due to the additional height required to accommodate the depths for the amenities located on the fifth level; and

WHEREAS, the Mixed-Use/Corridor (MU/C) district is intended to capitalize on its location of a primary transit and business corridor, supporting a balanced mix of land uses, and established to provide a variety of workforce and market rate housing opportunities; and

WHEREAS, after a public hearing on January 14, 2019, the Planning and Zoning Board, by a ___ to ___ vote, recommend approval of the site plan, and non-use variance, subject to the conditions set forth and included herein below in Section 1; and

WHEREAS, the Mayor and City Commission find the proposed site plan and non-use variance application consistent with the North Miami Beach Comprehensive Plan and find approval of the application is in the best interests of the City.

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

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Section 1. Site plan and non-use variance approval to construct a 513,347 square foot, fifteen story multifamily development project, on an approximately 1.74-acre lot, consisting of 259 residential units, 396 parking spaces, on property legally described as:

LOTS 1 THRU 8 & LOTS 19 THRU 23, IN BLOCK 8, OF “ARCH CREEK HIGHLANDS” according to the Plat thereof as recorded in Plat book 15 at page 3 of the Public Records of Miami-Dade County, Florida.

Tax Folio: 07-2221-002-0590

A/K/A

13899 Biscayne Boulevard

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. 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.
3. Construction of the proposed project shall be in conformance with the following:
 - a. Boundary Survey prepared by Royal Point Land Surveyors, Inc.
 - b. Plans prepared by Frankel Benayoun Architects, Inc., including the following:
 - A-0.1 Rendering – North West View
 - A-01a Rendering – North West View/Night
 - A-01b Rendering – North West View Detail
 - A-0.2 Rendering – North East View
 - A-0.3 Rendering – South West View
 - A-0.4 Rendering – South View
 - A-0.4a Aerial Rendering – View from South
 - A-04b Aerial Rendering – Neighborhood View
 - Survey
 - Plat
 - A-0.5 Project Data
 - A-0.6 Location Map / Zoning & Land Use Map – MU/C
 - A-0.7 Streetscape Diagram
 - A-0.8 Temporary Construction Fencing Plan
 - A-1.0 Site Plan
 - A-1.1 Level 1 Floor Plan
 - A-1.1a Rendering – North Entry View
 - A-1.1b Courtyard/Playground View

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- A-1.2 Level 2 Floor Plan
- A-1.3 Level 3 Floor Plan
- A-1.4 Level 4 Floor Plan
- A-1.5 Level 5 Floor Plan
- A-1.5a Rendering – Pool View from Tower Apartments
- A-1.6 Levels 6-15 Floor Plan
- A-1.7 Roof Level Floor Plan
- A-1.8 Level 5 Life Safety Plan
- A-1.9 Site Plan Photometric
- A-1.10 Level 5 Roof Deck Photometric
- A-2.1 North Elevation
- A-2.2 West Elevation
- A-2.3 South Elevation
- A-2.4 East Elevation
- A-3.1 Section
- A-4.1 Unit Types
- A-4.2 Unit Types
- A-4.3 Unit Types
- A-5.1 Stair Screen Elevation/Section and Detail
- A-5.2 Garage Screen Elevation/ Section and Detail
- A-6.0 Sample Board
- LD-1 Existing Tree – Disposition Plan
- LT-2 Existing Tree – Transplant / Protection Plan
- LP-1 Ground Level – Planting Plan
- LP-1A Tree Layout Plan
- LP-1B Level 1- Interior Tree Planting Plan
- LP-2 Level 5 – Planting Plan
- LP-3 Planting Detail and Specifications
- C-1 Paving, Grading, and Drainage
- C-2 Water and Sewer Plan
- C-3 Paving Marking & Signage Plan

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 Commission public hearings.
5. 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.
6. 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

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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 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.

7. 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.
8. Prior to the issuance of the Master Building Permit, the Applicant shall meet all requirements of the Department of Public Works Solid Waste Division and ensure that the solid waste container storage area be visually screened from ground view of surrounding and adjacent properties.
9. All City impact fees shall be paid prior to the issuance of a Master Building Permit. 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 impact fees paid to the City of North Miami Beach, which would not be refunded, but credited to the property for any subsequent development.
10. 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.
11. Applicant must join the NMBPD *Trespass After Warning* Program, provide the NMBPD with access to the property at all times, and a safety plan.
12. Prior to issuance of the Certificate of Occupancy, the Applicant shall have the registered engineer certify that on-site lighting has been constructed and is operating in accordance with the photometric plans and must not exceed 1.0 Footcandle beyond all property lines.
13. 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.

14. Prior to the issuance of a temporary Certificate of Occupancy, the applicant shall request and complete the address assignment process for the common areas and residential units as required, with the U.S. Postal Service, Miami-Dade County Fire Rescue, and the Miami-Dade County Property Appraisers. This Resolution shall be made part of any declaration of condominium and other applicable condominium documents, if so established.
15. All above ground utilities on-site and on adjacent public right of ways shall be relocated underground pursuant to Section 24-62(F) of the City's Code of Ordinances.
16. 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.
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 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.
19. All water and sewer service installations are the responsibility of the Applicant and must be permitted through the NMB Water Department.
20. The Applicant shall provide a unity of title or covenant in lieu, in a form acceptable to the City Attorney, for all parcels prior to the issuance of the Master Building Permit. The unity of title or covenant in lieu shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the Applicant.
21. Applicant shall remove all public hearing signage no later than 48 hours after the final public hearing for the development project.
22. Prior to issuance of a Certificate of Occupancy, the Applicant shall have the registered landscape architect or a certified arborist certify that the landscaping, tree removal, and tree mitigation have been completed in accordance to the landscape plan and tree removal permit.
23. The six (6) foot perimeter wall along the South and East property line shall be repaired or improved with new stucco and paint as necessary and maintained by the applicant or owner, in perpetuity of the development.
24. The Applicant shall abandon and restore curb cuts no longer in use.

25. The Applicant shall provide a 15-foot driveway radius for vehicles exiting the parking garage onto the Highland Drive driveway access in order to improve vehicular circulation for vehicles heading towards Biscayne Blvd.
26. The Applicant shall relocate the sidewalks closer to the street where they cross a driveway access point to safely accommodate a stop sign, stop bar, and double yellow lines pursuant to the recommendations by the City's Traffic Engineer.

Section 2. 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 3. Non-use Variance from Section 24-58(R)(2). The Mayor and City Commission make the following FINDINGS OF FACTS from Section 24-176(C) based on the substantial competent evidence provided:

The requested non-use variance from section 24-58(R)(2) of the Zoning and Land Development Code, to allow for the fourth (4th) level of the podium building to have a floor to ceiling height of fifteen (15) feet, where twelve (12) feet is the maximum height allowed for all floors above the ground floor, maintains the basic intent and purpose of the applicable zoning, subdivision and other land use regulations. The additional height is required to accommodate the depths needed for the amenities located on the fifth level. 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 4. 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 Commission prior to its expiration.

APPROVED AND ADOPTED by the City Commission of the City of North Miami Beach, Florida at regular meeting assembled this the day of , 2019.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

ANTHONY F. DEFILLIPO
MAYOR

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(CITY SEAL)

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

SARAH JOHNSTON
CITY ATTORNEY

SPOSORED BY: Mayor and City Commission

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