



CITY OF NORTH MIAMI BEACH

City Council Meeting
Council Chambers, 2nd Floor
City Hall, 17011 NE 19 Avenue
North Miami Beach, FL 33162
Tuesday, July 17, 2012
7:30 PM

Mayor George Vallejo
Vice Mayor Frantz Pierre
Councilman Philippe Derose
Councilwoman Barbara Kramer
Councilwoman Marlen Martell
Councilwoman Phyllis S. Smith
Councilwoman Beth E. Spiegel

City Manager Lyndon L. Bonner
City Attorney Darcee S. Siegel
City Clerk Pamela L. Latimore, CMC

Notice to All Lobbyists

Any person who receives compensation, remuneration or expenses for conducting lobbying activities is required to register as a Lobbyist with the City Clerk prior to engaging in lobbying activities before City Boards, Committees, or the City Council.

AGENDA

1. **ROLL CALL OF CITY OFFICIALS**
2. **INVOCATION - TBA**
3. **PLEDGE OF ALLEGIANCE**
4. **REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA**
5. **PRESENTATIONS /DISCUSSIONS**
 - 5.1 **Presentation of Certificate of Recognition to North Miami Beach Police Explorers (Councilwoman Phyllis S. Smith)**
 - 5.2 **Proclamation Presentation to North Miami Beach Senior High School Principal Raymond L. Fontana (Councilwoman Phyllis S. Smith)**
6. **PUBLIC COMMENT**

To All Citizens Appearing Under Public Comment

The Council has a rule which does not allow discussion on any matter which is brought up under Public Comment. We are, however, very happy to listen to you. The reason for this is that the Council must have Staff input and prior knowledge as to the facts and figures, so that they can intelligently discuss a matter. The Council may wish to ask questions regarding this matter, but will not be required to do so. At the next or subsequent Council meeting you may have one of the Councilpersons introduce your matter as his or her recommendation. We wish to thank you for taking the time to bring this matter to our attention. Under no circumstances will personal attacks, either from the public or from the dais, be tolerated.

Speaking Before the City Council

There is a three (3) minute time limit for each speaker during public comment and a three (3) minute time limit for each speaker during all public hearings. Your cooperation is appreciated in observing the

three (3) minute time limit policy. If you have a matter you would like to discuss which requires more than three (3) minutes, please feel free to arrange a meeting with the appropriate administrative or elected official. In the Council Chambers, citizen participants are asked to come forward to the podium, give your name and address, and the name and address of the organization you are representing, if any. If you are speaking on a public hearing item, please speak only on the subject for discussion. Thank you very much, in advance, for your cooperation.

Pledge of Civility

A resolution was adopted by the Mayor and City Council of the City of North Miami Beach recognizing the importance of civility, decency, and respectful behavior in promoting citizen participation in a democratic government. The City of North Miami Beach calls upon all residents, employees, and elected officials to exercise civility toward each other. (Resolution Nos. R2007-57, 11/06/07 and R2011-22, 4/26/11)

7. **APPOINTMENTS** - *None*

8. **CONSENT AGENDA**

8.1 **March 6, 2012 Regular Meeting Minutes (City Clerk Pamela L. Latimore)**

9. **CITY MANAGER'S REPORT**

10. **CITY ATTORNEY'S REPORT**

10.1 **Litigation List**

Litigation List (As of 7/17/12)

11. **MAYOR'S DISCUSSION**

12. **MISCELLANEOUS ITEMS** - *None*

13. **WAIVER OF FEE** - *None*

14. **BUSINESS TAX RECEIPTS** - *None*

15. **DISCUSSION ITEMS** - *None*

16. **LEGISLATION**

16.1 **Resolution No. R2012-54 (City Planner Christopher Heid)**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL FOR THE CONSTRUCTION OF A ONE HUNDRED NINETY-THREE (193) SQUARE FOOT GAZEBO, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-81(A)(8) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO EXCEED BY FORTY-NINE (49) SQUARE FEET THE MAXIMUM ALLOWED FLOOR AREA FOR A GAZEBO OF ONE HUNDRED FORTY-FOUR (144) SQUARE FEET, WHERE GAZEBO FLOOR AREA OF ONE HUNDRED NINETY-THREE (193) SQUARE FEET IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: Lot 14, Block 12, of Eastern Shores First Addition, According to the Plat Thereof, as Recorded in Plat Book 65, Page 39, of the Public Records of Miami-Dade County, Florida A/K/A 3323 N.E. 171 Street, North Miami Beach, Florida (P&Z Item No. 12-528 of June 11, 2012) .

16.2 **Resolution No. R2012-55 (City Planner Christopher Heid)**

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 TWO HUNDRED AND EIGHT (208) SQUARE FOOT ADDITION TO AN EXISTING SINGLE- FAMILY HOME, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-44(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THREE (3) FEET SIX (6) INCHES OF THE REQUIRED CORNER SIDE YARD SETBACK OF FIFTEEN (15) FEET, WHERE CORNER SIDE YARD SETBACK OF ELEVEN (11) FEET SIX (6) INCHES IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: Lot 1, Block 159, of Fulford by the Sea, According to the Plat thereof, as Recorded in Plat Book 10, Page 29, of the Public Records of Miami-Dade County, FL. A/K/A 2100 N.E. 180 Street, North Miami Beach, Florida. (P&Z Item No. 12-527 of June 11, 2012).

16.3 Resolution No. R2012-56 (City Planner Christopher Heid)

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 575 SQUARE FOOT CANOPY OVER AN EXISTING WOOD DECK, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-81(2) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE FOUR (4) FEET OF THE MINIMUM REQUIRED CORNER SIDE YARD SETBACK FOR A FIFTEEN (15) FEET CANOPY, WHERE CORNER SIDE YARD CANOPY SETBACK OF ELEVEN (11) FEET IS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-81(2) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE ELEVEN (11) FEET OF THE MINIMUM REQUIRED REAR YARD SETBACK FOR A FIFTEEN (15) FEET CANOPY, WHERE YARD CANOPY SETBACK OF FOUR (4) FEET IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: Lot 14 & 15 in Block 11, "Unit 1, Monticello Park", According to the Plat Thereof, as Recorded in Plat book 40, at Page 65, of the Public Records of Miami-Dade County, Florida. A/K/A 1101 North Miami Beach Boulevard, North Miami Beach, Florida (P&Z Item No. 12-525 of June 11, 2012).

16.4 Resolution No. R2012-57 (City Planner Christopher Heid)

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 2,324 SQUARE FOOT ONE-STORY ADDITION TO AN EXISTING TWO-STORY FIRE RESCUE STATION, WHERE AN EXISTING 1,002 SQUARE FOOT ONE-STORY PORTION OF THE BUILDING WILL BE DEMOLISHED TO ACCOMMODATE THE PROPOSED ADDITION; 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 FOUR (4) FEET OF THE MINIMUM REQUIRED FRONT YARD SETBACK OF THIRTY (30) FEET, WHERE FRONT YARD SETBACK OF TWENTY-SIX (26) FEET 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)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE ELEVEN (11) FEET OF THE MINIMUM REQUIRED (NORTH) CORNER SIDE YARD SETBACK OF TWENTY-FIVE (25) FEET, WHERE (NORTH) CORNER SIDE YARD SETBACK OF FOURTEEN (14) FEET IS PROPOSED, ON PROPERTY LEGALLY

DESCRIBED AS: Lots 17 through 28, Lots A, B, C & D, and the 20 foot Alleys adjacent to said Lots, Block 41 as shown on the Plat of "Fulford by the Sea Section "D", According to the Plat Thereof, as Recorded in Plat Book 8 at Page 58, of the Public Records of Miami-Dade County, Florida. A/K/A 17050 N.E. 19th Avenue, North Miami Beach, Florida. (P&Z Item No. 12-526 of June 11, 2012).

16.5 Ordinance No. 2012-14 - First Reading by Title Only (City Attorney Darcee S. Siegel)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, CREATING AND ADOPTING AN ORDINANCE PROHIBITING CAMPAIGN CONTRIBUTIONS IN CITY ELECTIONS BY CITY VENDORS AND LOBBYISTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR A WAIVER OF THE PROHIBITION BY CITY COUNCIL; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

17. CITY COUNCIL REPORTS

18. NEXT REGULAR CITY COUNCIL MEETING - August 7, 2012

19. ADJOURNMENT



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Pamela L. Latimore, City Clerk
DATE: Tuesday, July 17, 2012

RE: March 6, 2012 Regular Meeting Minutes (City Clerk Pamela L. Latimore)

BACKGROUND: None.
RECOMMENDATION: Approval.
FISCAL IMPACT: None.
CONTACT PERSON(S): Pamela L. Latimore, City Clerk

ATTACHMENTS:

[Meeting Minutes of March 6, 2012](#)



CITY OF NORTH MIAMI BEACH

City Council Meeting
Council Chambers, 2nd Floor
City Hall, 17011 NE 19th Avenue
North Miami Beach, FL 33162

Tuesday, March 6, 2011

7:30 PM

Mayor George Vallejo
Vice Mayor Beth E. Spiegel
Councilman Philippe Derosé
Councilwoman Barbara Kramer
Councilwoman Marlen Martell
Councilman Frantz Pierre
Councilwoman Phyllis S. Smith

City Manager Lyndon L. Bonner
City Attorney Darcee S. Siegel
City Clerk Pamela L. Latimore, CMC

REGULAR MEETING MINUTES

1. ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 7:34 p.m. Present at the meeting were Mayor George Vallejo, Vice Mayor Beth E. Spiegel and Council Members Philippe Derosé, Barbara Kramer, Marlen Martell, Frantz Pierre, and Phyllis S. Smith. Also, present were City Manager Lyndon L. Bonner, City Attorney Darcee S. Siegel and City Clerk Pamela L. Latimore.

2. INVOCATION – City Manager Lyndon L. Bonner

3. PLEDGE OF ALLEGIANCE

4. REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA

Withdrawal of Items 8.1, 8.2 & 8.3 – Minutes and Item 15.6 - Ordinance No. 2012-2

5. PRESENTATIONS/DISCUSSIONS

5.1 Proclamation presentation to Judith Rogoff of Greynolds Park Elementary School, winner of the Race to the Top Program Award. (Councilman Frantz Pierre)

5.2 Presentation to thank Karl Thompson, Assistant Director of Public Services, for his 17 years of service to the City. (Shari Kamali, Public Services Director)

6. PUBLIC COMMENT

City Clerk Latimore read the rules of Public Comment into record. The following person(s) spoke on the record:

1. Charles R. Loeb, 16800 NE 15 Avenue, North Miami Beach, FL
2. Rolland Veilleux, 13730 Highland Drive, North Miami Beach, FL

3. Actions For Better Future Inc., 1733 NE 162 Street, North Miami Beach, FL
4. Ketley Joachim, 210 NE 170 Street, North Miami Beach, FL
5. Richard Riess, 23 NW 169 Street, North Miami Beach, FL
6. Bruce Lamberto, 3420 NE 165 Street, North Miami Beach, FL
7. Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL
8. Carmen Kienzle, 1653 NE 178 Street, North Miami Beach, FL

7. APPOINTMENTS

7.1 Economic Development Commission (Councilwoman Marlen Martell)

Larry Thompson

Motion by Councilwoman Martell, seconded by Councilman Pierre, to approve the appointment of Larry Thompson to the Economic Development Commission. (**Approve** 7-0)

8. CONSENT AGENDA

8.1 Resolution No. R2012-22 (City Attorney Darcee S. Siegel)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH ACRE ENGINEERING AND CONSTRUCTION, INC. FOR THE NE 2ND AVENUE WASTEWATER METER INSTALLATION.

8.2 Resolution No. R2012-23 (City Attorney Darcee S. Siegel)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO NEGOTIATE WITH FIRSTSOUTHWEST COMPANY, THE FIRST RANKED FIRM, FOR FINANCIAL ADVISORY SERVICES FOR THE CITY OF NORTH MIAMI BEACH, AND IF UNABLE TO REACH AN AGREEMENT, THEN PROCEED TO NEGOTIATE WITH THE SECOND RANKED FIRM, THE PFM GROUP.

Motion by Councilman Derose, seconded by Councilwoman Smith, to approve the Consent Agenda. (**Approved** 7-0)

9. CITY MANAGER'S REPORT

9.1 Forfeiture (LETf) Appropriation Request (Interim Chief of Police Larry Gomer)

Motion by Vice Mayor Spiegel, seconded by Councilwoman Smith, to approve \$2,000.00 for the North Miami Beach Little League. (**Approved** 6-0 Councilwoman Kramer absent)

Councilwoman Smith made a request for Chief of Police Gomer to evaluate if LETf has extra funds to help the pool at Washington Park stay open one night a week and to re-instate the Midnight Basketball program. Chief of Police Gomer stated that he would look into whether the programs meet the criteria for funds to be used from LETf.

10. CITY ATTORNEY'S REPORT

10.1 Litigation List

City Attorney Siegel waived her report.

11. MAYOR'S DISCUSSION

Mayor Vallejo directed his comment to the Council's three (3) employees, primarily to the City Manager and City Attorney, on the issue of speed. The Council can't waste any time moving things forward to another meeting with the upcoming budget season, labor negotiations, pension reform, and the sanitation RFP. We need to move quickly on these issues, get the facts or numbers to move these things forward. He doesn't want anything put off unnecessarily.

12. MISCELLANEOUS ITEMS

None

13. WAIVER OF FEE

None

14. BUSINESS TAX RECEIPTS

None

15. LEGISLATION

15.1 Resolution No. R2012-21

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE STATE REVOLVING FUND LOAN AGREEMENT BETWEEN THE CITY OF NORTH MIAMI BEACH AND THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE SECOND PHASE OF THE FIXED NETWORK AUTOMATED METER READING PROJECT FOR AN ADDITIONAL AMOUNT NOT TO EXCEED \$4,253,990; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Public Comment open and comments were made by the following:

1. Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL
2. Charles Loeb, 16800 NE 15 Avenue, North Miami Beach, FL
3. Richard Reis, 23 NE 169 Street, North Miami Beach, FL

Vice Mayor Spiegel requests a report from the City Manager with the estimated saving on fuel, vehicle maintenance, and vehicle insurance.

MOTION by Councilman Derosé, seconded by Councilwoman Smith, to approve Resolution No. 2012-21. (**Approved** 7-0)

15.2 Resolution No. R2012-24

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AUTHORIZING THE EXECUTION AND DELIVERY OF A FORWARD

RATE LOCK IN CONNECTION WITH THE ISSUANCE OF A GENERAL OBLIGATION REFUNDING BOND, SERIES 2012 OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,000,000 FOR THE PRIMARY PURPOSE OF REFINANCING THE ACQUISITION AND CONSTRUCTION OF VARIOUS CAPITAL IMPROVEMENTS FOR INTEREST COST SAVINGS; AND PROVIDING AN EFFECTIVE DATE.

Public Comment open and comments were made by the following:

1. Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL

MOTION by Councilman Derose, seconded by Councilwoman Smith, to approve Resolution No. 2012-24. (**Approved 7-0**)

15.3 Ordinance No. R2012-4 (First Reading by Title Only)

AN ORDINANCE AMENDING THE POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, PROVIDING FOR COMPLIANCE WITH CHAPTER 2009-97, LAWS OF FLORIDA; AMENDING ARTICLE VI, OPTIONAL FORMS OF RETIREMENT INCOME; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE, PROVIDING FOR AN EFFECTIVE DATE.

Public Comment: None

MOTION by Councilman Derose, seconded by Councilman Pierre, to approve Resolution No. 2012-4. After discussion Councilman Pierre withdraws his motion to approve Resolution No. 2012-4. (**Motion Withdrawn**)

MOTION by Councilwoman Smith, seconded by Councilman Pierre, to withdraw Ordinance No. 2012-4 to amend the wording of the ordinance. (**Approved 7-0**)

15.4 Ordinance No. 2012-6 (First Reading by Title Only)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING SECTION 2, PARAGRAPH 9, OF ORDINANCE 2006-6 LOWERING THE INTEREST RATE ON EACH MEMBER'S DROP ACCOUNT FROM 6.5% COMPOUNDED MONTHLY TO 3% COMPOUNDED MONTHLY; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

Public Comment open and comments were made by the following:

1. Terry Campbell, 17050 NE 19 Avenue, North Miami Beach, FL – **Against**
2. Marsha Alexander, 17050 NE 19 Avenue, North Miami Beach, FL – **Against**
3. Susan Ritter, 17011 NE 19 Avenue, North Miami Beach, FL – **Against**
4. Carlos Ramirez, 16901 NE 19 Avenue, North Miami Beach, FL – **Against**
5. Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL - **For**

ROLL CALL: Councilman Derose – **Yes**, Councilwoman Kramer – **Yes**, Councilwoman Martell – **No**, Councilman Pierre – **Yes**, Councilwoman Smith – **Yes**, Vice Mayor Spiegel – **Yes**, Mayor Vallejo – **Yes** (**Approved 6-1**)

15.5 Ordinance No. 2012-7 (First Reading by Title Only)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER XIV SECTION 14-8.22(C) OF THE CODE OF THE ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "ENFORCEMENT OF MUNICIPAL CODES OR ORDINANCES" BY PROVIDING FOR AN APPEAL HEARING PROCESS AND BY PROVIDING A SCHEDULE OF CIVIL PENALTIES FOR CODE ENFORCEMENT CITATIONS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

Public Comment open and comments were made by the following:

1. Marilyn Baumohl, 18635 NE 20 Court, North Miami Beach, FL – **Against**
2. Richard Riess, 23 NW 169 Street, North Miami Beach, FL – **Against**
3. Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL - **Against**

MOTION by Councilwoman Smith, seconded by Councilwoman Kramer, to table Ordinance No. 2012-7 to amend the wording. (**Approved** 7-0)

Ordinance No. 2012-2 (Previously Ordinance No. 2011-17) Second and Final Reading **WITHDRAWN**

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING SECTION 2-61 OF THE CODE OF ORDINANCES ENTITLED "POLICE AND FIRE PENSION BOARD" BY SUGGESTING THAT THE FOUR BOARD OF TRUSTEES MEMBERS ON THE POLICE AND FIRE PENSION BOARD CONSIDER THE FIFTH CANDIDATE'S QUALIFICATIONS PRIOR TO SELECTING THE FIFTH MEMBER OF THE BOARD AND FURTHER CLARIFYING WHICH THREE (3) MEMBERS OF THE BOARD CONSTITUTE A QUORUM FOR PURPOSES OF A MEETING; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

16. CITY COUNCIL REPORTS

Councilman Derosé took a moment to thank Karl Thompson for 17 years of exemplary service to the City of North Miami Beach. He will be missed and wishes him the best on this new endeavor. He directed his comments to Assistant City Manager Weisblum in the absence of City Manager Bonner in regards to lack of progress at the Gun Mount. He referred to the frustration expressed by Bruce Lamberto and something needs to be done to find a way to move the project along.

Councilwoman Kramer thanked Karl Thompson for his dedication to the City of North Miami Beach and wishes him the best of luck at his new position. She also sends her condolences to Chris Heid on the passing of his mother. She wanted to remind everyone about the Cultural Cinema Night on Friday, March 9, 2012 at 7:00 p.m. in the Silver Auditorium; the movie is "The Great Debaters". Also, the Multi-Cultural Committee will be meeting on Monday, March 12, 2012 at 7:00 p.m. The Greater North Miami Beach Chamber of Commerce will be having its monthly Luncheon at Duffy's on March 20, 2012 at 12:00 p.m. She wishes the Jewish community a Happy Purim and everyone a Happy St. Patrick's Day. In closing, she reminded everyone about Jazzapalooza here at the City of North Miami Beach on April 21, 2012, tickets will be available for free on Thursday.

Councilwoman Martell was fortunate enough to have worked with Karl Thompson and wishes him well on his future endeavors. On Saturday, March 10, 2012 at 1:00 p.m. she will be at the Uleta Community Center and invites the residents to stop in for a casual one on one with her. Get Fit NMB we are walking on Monday's and Thursday's at 7:00p.m. for an hour, come and join us.

Councilman Pierre sends his condolences to Chris Heid on the passing of his mother. He thanked Karl Thompson for his years of service to the City. He will be conducting the annual Teen Spring Clean Up this year concentrating on Highland Village and the 10th Avenue area.

Councilwoman Smith also extends her condolences to Chris Heid and his family during this difficult time. She commended Karl Thompson for his exemplary work with the City and wishes him the best, he will be missed. For Black History Month she had the pleasure to attend events at the Community Centers in Washington Park and Highland Village and was proud of children participating in the events. She thanked the City Manager for his assistance with the Special Olympics. She would like to remind everyone there is a Senior Trip planned for Duck Tours on Thursday. There are some openings left, its \$28.00 per person call Leisure Services at 305-947-7581 to make reservations. Public Utilities Commission meeting will be Wednesday, March 14, 2012 at 6:00 p.m. She made a request to have Mayor Vallejo and Councilwoman Martell give a report on their community meetings at the next Council Conference.

Vice Mayor Spiegel again acknowledged the exemplary work done by the Explorers at the Special Olympics. Commission on the Status of Women (COSW) will be meeting on Monday, March 12, 2012 at 7:00 p.m. COSW is preparing for the upcoming Health Fair on March 31, 2012 at 9:00 a.m. The 3rd Annual Wheelchair Tennis Classic is March 24th – 25th, held at the Judge Arthur Snyder Tennis Center, for more information call 305-919-0839 or 305-948-2957. On Saturday, April 14, 2012 at 9:00 a.m. – 1:00 p.m. NMB Leisure Services Dept. in conjunction with COSW, is having the 2012 Youth Symposium, call 305-948-2957 to RSVP. The Planning and Zoning meeting on March 12, 2012 has been canceled.

Mayor Vallejo announced that the City will be hosting at the McDonald Center about 250 U.S. soldiers participating in a training program. He will be at the Civic Association Meeting on Thursday, March 15, 2012 at 7:30 p.m. to do a Q & A session to get feedback from the residents on community issues. He thanked the pension board for making the difficult decision to change the interest rate on the Drop Program. He went over a few of the residents concerns from the two (2) "Coffee with the Mayor" meetings: the cell towers in Washington Park and Uleta areas, the sanitation privatization bid and the impact on the employees, the collaboration with NMB High School, Sundevil Football Team, and the City for the use of City facility, security cameras at City facilities monitoring the parking areas, Pension reform, and cost saving measures for the City.

17. NEXT REGULAR CITY COUNCIL MEETING

Tuesday, March 20, 2012

18. ADJOURNMENT

There being no further business to come before the City Council, Meeting was adjourned at 11:00 p.m.



CITY OF NORTH MIAMI BEACH

City Council Meeting
Council Chambers, 2nd Floor
City Hall, 17011 NE 19th Avenue
North Miami Beach, FL 33162
Tuesday, March 6, 2012
7:30 PM

AGENDA WITHDRAWALS:

Moved to next Council Meeting:

Item 8.1 September 6, 2011 Budget #1 Meeting Minutes

Item 8.2 September 6, 2011 Regular Meeting Minutes

Item 8.3 September 20, 2011 Budget #2 Meeting Minutes

Item 15.3 Ordinance No.2012-2 (Previously Ordinance No. 2011-17) Second and Final Reading

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING SECTION 2-61 OF THE CODE OF ORDINANCES ENTITLED "POLICE AND FIRE PENSION BOARD" BY SUGGESTING THAT THE FOUR BOARD OF TRUSTEES MEMBERS ON THE POLICE AND FIRE PENSION BOARD CONSIDER THE FIFTH CANDIDATE'S QUALIFICATIONS PRIOR TO SELECTING THE FIFTH MEMBER OF THE BOARD AND FURTHER CLARIFYING WHICH THREE (3) MEMBERS OF THE BOARD CONSTITUTE A QUORUM FOR PURPOSES OF A MEETING; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.



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MEMORANDUM

 Print

TO: Mayor and City Council
FROM: Darcee S. Siegel, City Attorney
DATE: Tuesday, July 17, 2012

RE: Litigation List

BACKGROUND: As of July 17, 2012.
RECOMMENDATION: N/A
FISCAL IMPACT: N/A
CONTACT PERSON(S): Darcee S. Siegel, City Attorney

ATTACHMENTS:

▣ [Litigation List](#)

TO: Mayor and City Council
FROM: Darcee S. Siegel, City Attorney
DATE: July 17, 2012

LITIGATION LIST

I. Civil Rights: (6)

Charles, Islande v. CNMB, Nelson Reyes
Wrongful Death

Grizzle, R. and Wilson, D. v. CNMB, Mayor George Vallejo,
Jason Williams (Aventura) and Christian Lystad (NMB)
Civil Rights Violation/False Arrest **MAYOR HAS BEEN REMOVED
FROM THE CASE.**

Joseph, Johnny v. CNMB and City of Aventura
Civil Rights Violation/False Arrest

Madura, Maryla v. CNMB, Antonio Marciante and Tony Sanchez, individually
Civil Rights Violation/False Arrest **PARTIAL SUMMARY JUDGMENT/
PARTIAL DISMISSAL/
JURY VERDICT/
JUDGMENT GRANTED IN FAVOR OF
CITY AND POLICE OFFICERS
DEFENDANTS.
PLAINTIFF HAS FILED A NOTICE
OF APPEAL.**

Smith, T. v. CNMB, Nelson Reyes (NMB), Luis Soto (NMB),
Nelson Camacho (NMB), and Castronovo Cosimo (Aventura)
Civil Rights Violation

Young, Chondria v. CNMB
Employment and Racial Discrimination

II. Personal Injury: (7)

* Donato, Karen v. CNMB
Personal Injury

Garcia, Ramona v. CNMB
Personal Injury

Kassie v. CNMB
Vehicle Accident

Ordonez Rotavista v. CNMB
Vehicle Accident

Rathjens, Margaret v. CNMB
Slip & Fall/Personal Injury

Ruiz, Adriel v. CNMB
Personal Injury

Thomas v. CNMB
Personal Injury

**CITY INDEMNIFIED AND
HELD HARMLESS**

III. Other Litigation: (16)

American Pinnacle v. Susan Owens
Writ of Mandamus/Public Records

American Pinnacle v. City of North Miami Beach
Water Fees

Asset Acceptance LLC v. Pierre and CNMB
Writ of Garnishment

CACV of Colorado v. Lubin and CNMB
Writ of Garnishment

Citifinancial Services, Inc. v. Gordo and CNMB
Writ of Garnishment

Equable Ascent Financial v. Darden and CNMB
Writ of Garnishment

Fernandez v. CNMB
Employment Discrimination

Hellinger v. CNMB
Bid Dispute/Breach of Contract

**CITY INDEMNIFIED AND
HELD HARMLESS**

Perry v. CNMB
Class Action

Leme v. CNMB and American Traffic Solutions, LLC
Ordinance No. 2007-13 "Dangerous Intersection Safety Act"
Class Action for Civil Damages

Progressive American Insurance/Weinblatt v. CNMB
Property Damage

Richard/Green v. CNMB
Property Damage

CLOSED/CITY PREVAILED

Rosner/Zabel v. CNMB
Appeal of Code Enforcement Board Order

SMG Entertainment Inc. v. CNMB
Constitutional Violation

Thomas v. CNMB
Writ of Garnishment

Weinberg, Bill v. CNMB
Water Fees

IV. Forfeitures: (20)

CNMB v. Alvarado/Paul
Forfeiture

CNMB v. Bullard/Taylor/Paez
Forfeiture

PARTIALLY SETTLED

CNMB v. Central Auto Service/Fourreau/Guthrie
Forfeiture

PARTIALLY DEFAULTED

CNMB v. Espinal
Forfeiture

CNMB v. Fast Lane Auto/Rene/Rene/Walker
Forfeiture

CNMB v. Garcia, J/Figueroa/King/Sirmons/Garcia, H
Forfeiture

CNMB v. Garcia-Flores/Nieves
Forfeiture

CNMB v. Georges
Forfeiture

CNMB v. Gomez
Forfeiture

CNMB v. Hawkins/Caldwell
Forfeiture

CNMB v. Hunter/Hunter
Forfeiture

CNMB v. Jean/Joseph/Guthrie/Central Auto Sales
Forfeiture

CNMB v. McCray/Sims/Nealy
Forfeiture

PARTIALLY SETTLED

CNMB v. Osmann/Osmann
Forfeiture

**JUDGE FOUND PROBABLE
CAUSE TO EXIST**

CNMB v. Perez/Sosa
Forfeiture

CNMB v. Philidor, A.
Forfeiture

CNMB v. Rodriguez/Harris/Dunston
Forfeiture

CNMB v. Silva
Forfeiture

CNMB v. Unknown Individual (\$587,310.00 in US Currency)
Forfeiture

CNMB v. Vargas/Sevilla
Forfeiture

V. Mortgage Foreclosures: (200)

Ajami Carpet Company v. (McCullough, et al.)
Mortgage Foreclosure

American Airlines Federal Credit Union v. CNMB (Henriquez)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Garcia, et al.)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (George)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Gomez, et al)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Hernandez)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Martinez, et al)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Perez, et al.)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Rodriguez, M., et al.)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Alberto, et al.)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Bonet, et al.)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Berger, et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Jacobi et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Morales, et al)
Mortgage Foreclosure

BAC Home Loans. CNMB (Piedrahita, L. et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Prado, et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Sigler)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Temirao, et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Torain, et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Torres, et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Zephir, et al.)
Mortgage Foreclosure

Bank of America v. CNMB (Alvarez, et al)
Mortgage Foreclosure

Bank of America v. CNMB (Betancourt, et al)
Mortgage Foreclosure

Bank of America v. CNMB (Failer, et al)
Mortgage Foreclosure

Bank of America v. CNMB (Failer, et al)
Mortgage Foreclosure

Bank of America v. CNMB (Feliu)
Mortgage Foreclosure

Bank of America v. CNMB (Gonzalez, et al.)
Mortgage Foreclosure

Bank of America v. CNMB (Hernandez, et al.)
Mortgage Foreclosure

Bank of America v. CNMB (Jean-Pierre, et al.)
Mortgage Foreclosure

Bank of America v. CNMB (Miller, et al.)
Mortgage Foreclosure

Bank of America v. CNMB (Pasmanter, et al)
Mortgage Foreclosure

Bank of America v. CNMB (Peck, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Blaustein, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Clancy, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Fiallo, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Lauriston et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Le)
Mortgage Foreclosure

Bank of New York v. CNMB (Mellian, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Pierre/Calixte, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Valdes et al)
Mortgage Foreclosure

Baron, Marylin S., et al v. CNMB (Campbell, et al)
Mortgage Foreclosure

Beach Club Villas Condominium v. CNMB (Letizia)
Mortgage Foreclosure

Beachwalk Properties, LLC v. CNMB (Oceanic Development, et al)
Mortgage Foreclosure

Bayview Loan v. CNMB (Thomas)
Mortgage Foreclosure

Beal Bank v. CNMB (Ramos, et al.)
Mortgage Foreclosure

Bejarano, Antonio v. CNMB (Lightsey, et al.)
Quiet Title

Chase Home Finance LLC v. CNMB (Cohen, et al)
Mortgage Foreclosure

Chase Home Finance LLC v. CNMB (Marc, et al)
Mortgage Foreclosure

Chase Home Finance, LLC v. CNMB (Panunzio, et al)
Mortgage Foreclosure

Chase Home Finance, LLC. V. CNMB (Rene et al)
Mortgage Foreclosure

Chase Home Finance LLC v. CNMB (Santiago et al)
Mortgage Foreclosure

Citibank, N.A. v. CNMB (Anglade, et al)
Mortgage Foreclosure

Citibank,N.A. v. CNMB (Austin)
Mortgage Foreclosure

Citibank, N.A. v. CNMB (Boakye, et al)
Mortgage Foreclosure

Citifinancial Equity Services, Inc. v. CNMB (Morales)
Mortgage Foreclosure

Citimortgage v. CNMB (Bilgoray)
Mortgage Foreclosure

Citimortgage v. CNMB (La Fond, et al.)
Mortgage Foreclosure

Citimortgage v. CNMB (Garces), et al.)
Mortgage Foreclosure

Citimortgage v. CNMB (Hernandez, et al.)
Mortgage Foreclosure

Citimortgage v. CNMB (Pena et al)
Mortgage Foreclosure

Citimortgage v. CNMB (Rudnick et al)
Mortgage Foreclosure

Citimortgage v. CNMB (Rivaroli, et al)
Mortgage Foreclosure

City of Miami Gardens v. CNMB (Beckford, et al)
Action to Quiet Title

Cong Vo v. CNMB (Perroti, Miranda)
Action to Quiet Title

Consumers Alliance Corp. v. CNMB (Haronda Realty)
Action to Quiet Title

Credit Based Asset Servicing v. CNMB (Rojas, et al)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Bennette, et al)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Castaneda)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Daniels)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Evans, et al.)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (James, et al.)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Jimenez, L., et al)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Jonace, et al.)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Lobo, et al.)
Mortgage Foreclosure

Deutsche Bank Trust v. CNMB (Marks-Williams)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Martinez, et al.)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (McCullough)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Nascimento)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Phillips)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Rodriguez)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Sanchez)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Saint-Jean, et al)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Voltaire, et al)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Zaso, et al.)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Bennette, et al)
Mortgage Foreclosure

Doured, LLC v. CNMB (Steele, et al)
Quiet Title

DYC, LLC v. CNMB (Macala, LLC, et al)
Mortgage Foreclosure

Eastern Shores White House Association v. CNMB (Donoso)
Mortgage Foreclosure

Eastern Shores White House Association v. CNMB (Grimany)
Mortgage Foreclosure

Emmer, Bradford, Trustee v. CNMB (Weston, et al.)
Mortgage Foreclosure

Fanny Mae v. CNMB (Van Wyk, et al.)
Mortgage Foreclosure

Federal National v. CNMB (Fernandez, et al.)
Mortgage Foreclosure

Federal National v. CNMB (Ledesma, et al.)
Mortgage Foreclosure

FirstBank Puerto Rico v. CNMB (Perez, et al.)
Mortgage Foreclosure

Flagstar Bank v. CNMB (Celiny, et al.)
Mortgage Foreclosure

Flagstar Bank v. CNMB (Cox, et al)
Mortgage Foreclosure

Flagstar Bank v. CNMB (Pena)
Mortgage Foreclosure

Flagstar Bank v. CNMB (Starlight Investments)
Mortgage Foreclosure

Flagstar Bank v. CNMB (Haronda Realty)
Mortgage Foreclosure

Floridian Arms, Inc. v CNMB (Merino)
Mortgage Foreclosure

Fiserv ISS & Co., vs. CNMB (Estime)
Mortgage Foreclosure

FNBN I, LLC v. CNMB (Gomez, et al)
Mortgage Foreclosure

GGH48, LLC v. CNMB (Louis, et al)
Mortgage Foreclosure

GGH48, LLC v. CNMB (Levy, et al)
Mortgage Foreclosure

Global Trust v. CNMB (Roth)
Mortgage Foreclosure

Golden Beach (Town of) v. CNMB (Goodman, et al)
Mortgage Foreclosure

Great Florida Bank v. CNMB (Miranda, et al)
Mortgage Foreclosure

Great Florida Bank v. CNMB (Miranda, et al)
Mortgage Foreclosure

Green Tree Servicing, LLC v. CNMB (Jesurum, et al)
Mortgage Foreclosure

* HSBC Bank v. CNMB (Jones-Clark, et al.)
Mortgage Foreclosure

HSBC Bank v. CNMB (Miller, et al.)
Mortgage Foreclosure

HSBC Bank, N.A. v. CNMB (Seepersad)
Mortgage Foreclosure

HSBC Bank v. CNMB (Vidal, et al)
Mortgage Foreclosure

HSBC Bank v. CNMB (Ward, et al)
Mortgage Foreclosure

HSBC Bank v. CNMB (Williams, et al)
Mortgage Foreclosure

Indymac Federal Bank v. CNMB (Hernandez, et al)
Mortgage Foreclosure

James B. Nutter & Co v. CNMB (Drayton Davis, et al)
Mortgage Foreclosure

* JP Morgan v. CNMB (Arroyo, et al.)
Mortgage Foreclosure

JP Morgan v. CNMB (Caceres, et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Carlos)
Mortgage Foreclosure

JP Morgan v. CNMB (Garcia, Ramon et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Garcia)
Mortgage Foreclosure

JP Morgan v. CNMB (Lopez, et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Monsalve, et al.)
Mortgage Foreclosure

JP Morgan v. CNMB (Perez, et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Rodriguez, et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Villanustre)
Mortgage Foreclosure

Juelle, Perla v. CNMB (Rodriguez, et al.)
Mortgage Foreclosure

Kondaur Capital Corp v. CNMB (Rodarte, et al)
Mortgage Foreclosure

Lago Mar Ventures v. CNMB (Oliver)
Mortgage Foreclosure

Metro Bank v. CNMB (Macala, LLC)
Mortgage Foreclosure

Miami-Dade County v. CNMB (Morrobel)
Mortgage Foreclosure

Mortgage Investment Group v. CNMB (Deliford, et al)
Mortgage Foreclosure

Nationstar Mortgage, LLC v. CNMB (Gonzalez et al)
Mortgage Foreclosure

Navy Federal Credit Union v. CNMB (D'Onofrio)
Mortgage Foreclosure

New York Community Bank v CNMB (Lazerson)
Mortgage Foreclosure

One West Bank v. CNMB (Allen, Deceased, et al.)
Mortgage Foreclosure

OneWest Bank v. CNMB (Gutierrez)
Mortgage Foreclosure

OneWest Bank v. CNMB (Howard, et al.)
Mortgage Foreclosure

OneWest Bank v. CNMB (Lopez)
Mortgage Foreclosure

OneWest Bank v. CNMB (McCullough)
Mortgage Foreclosure

OneWest Bank v. CNMB (Rodriguez, et al)
Mortgage Foreclosure

OneWest Bank v. CNMB (Rodriguez, A. et al)
Mortgage Foreclosure

OneWest Bank v. CNMB (Ward, et al.)
Mortgage Foreclosure

OneWest Bank v. CNMB (Wright, et al)
Mortgage Foreclosure

Owen Federal Bank v. CNMB (Bain)
Mortgage Foreclosure

Pennymac Corp v. CNMB (Iglesias)
Mortgage Foreclosure

PHH Mortgage v. CNMB (Martinez, et al)
Mortgage Foreclosure

PNC Mortgage v. CNMB (Ordonez/Child, et al.)
Mortgage Foreclosure

RMS Residential v. CNMB (Heredia)
Mortgage Foreclosure

Shoreland Estates Condominium v. CNMB (Zalezhnew, et al.)
Condominium Association Lien foreclosure

SunTrust Mortgage v. CNMB (Del Pilar, et al.)
Mortgage Foreclosure

SunTrust Mortgage v. CNMB (Garcia, et al.)
Mortgage Foreclosure

SunTrust Mortgage v. CNMB (Solomon, et al.)
Mortgage Foreclosure

TBOM Mortgage Holding, LLC v. CNMB (Robiou, et al.)
Mortgage Foreclosure

The Bank of New York Mellon v. CNMB (Jones, et al.)
Mortgage Foreclosure

The Bank of New York Mellon v. CNMB (Riderelli, et al)
Mortgage Foreclosure

Three Seasons Association v. CNMB (Cleary, et al.)
Mortgage Foreclosure

Transatlantic Bank v. CNMB (and/or Expressway Corp., et al.)
Mortgage Foreclosure

Transouth Mortgage Corp v. CNMB (Mozell)
Mortgage Foreclosure

U.S. Bank N.A. v. CNMB (Gonzalez, et al)
Mortgage Foreclosure

U.S. Bank N.A. v. CNMB (Gonzalez, J., et al.)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Jean-Louis)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Joseph, et al.)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Marin)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Martinez)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Mathieu, et al)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Mendez)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Miller, et al)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Otero)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Morcillo)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Robinson, et al)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Rodriguez, et al)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Rodriguez, Maria A., et al).
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Rosenberg)
Mortgage Foreclosure

* U.S. Bank NA v. CNMB (Rubi), et al.
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Serrano, et al)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Suarez, et al.)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Torres, et al.)
Mortgage Foreclosure

U.S. Century Bank v. CNMB (Martinez, et al.)
Mortgage Foreclosure

Vericrest Financial, Inc. v. CNMB (Palmer/ Webb Estate)
Mortgage Foreclosure

Wachovia Bank v. CNMB (Martinez)
Mortgage Foreclosure

Wachovia Bank v. CNMB (Rodriguez, D)
Mortgage Foreclosure

Washington Mutual Bank, F.A. v. CNMB, Sandra T. Porter, et al
Mortgage Foreclosure

Wells Fargo Bank N.A. v. CNMB (Amador)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Campos, et al.)
Mortgage Foreclosure

Wells Fargo Bank N.A. v. CNMB (Clozeille)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Fil-Aimee)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Frye)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Garcia)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Gonzalez)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Hernandez, et al)
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Lopez, et al)
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Marcaisse, et al)
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Mendez, et al)
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Parish, et al.)
Mortgage Foreclosure

Wells Fargo v. CNMB (Roberts)
Mortgage Foreclosure

Wells Fargo v. CNMB (Robinson, et al.)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Zamora, et al.)
Mortgage Foreclosure

Woodside Apartments Assoc. v. CNMB (Mizrahi)
Mortgage Foreclosure

VI. Bankruptcies:

17315 Collins Avenue, LLC, dba Sole on the Ocean, dba Alba Mare
Adeleke, Mary M.

American LaFrance LLC

American Home Mortgage Holdings

Barros, Carlos D (Fogovivo North Miami)

Blockbuster

Cadet, Jean & Marie

Carcamo, Ana Maritza

Carl's Furniture, Inc.

Casa Bonita Garden, LLC

Contract Research Solutions, Inc. (dba Allied Research)

Cimax USA, LLC

Curbelo, Federico

Drummond, Errol

Filene's Basement, Inc.

Greater Miami Neighborhoods, Inc.

Henao, Luz Stella

Idowu, Linda Eneas

Innovida Group

Jennifer Convertibles

Kazi Foods of Florida, Inc.

K&S Foods LLC

Lauriston, Charles

* Office 2020, LLC

* Pasmarter, Diana

DISCHARGED

Phelan, Michael

Ravazzani, Robert

Residential Capital, LLC

Rife, Joseph Alan

Russel Harold

Sandy Segall

Siahaya, Jermias

South Pointe Family and Children Center

Saint-Fart, Lucner & Bernice

United Retail Group, Inc.

Vartec Telecom, Inc.

Vitro America

***New Cases**



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 Print

TO: Mayor and City Council
FROM: Lyndon L. Bonner, City Manager
DATE: Tuesday, July 17, 2012

RE: Resolution No. R2012-54 (City Planner Christopher Heid)

BACKGROUND: The applicant, Darci Fantin, request site plan approval and variance for the construction of a 193 square foot gazebo at 3323 NE 171 Street.

RECOMMENDATION: Approval

FISCAL IMPACT: None

CONTACT PERSON(S): Shari Kamali, Director of Public Services
Christopher Heid, City Planner

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [Planning & Zoning Board Minutes - June 11, 2012](#)
- ❑ [Resolution No. R2012-54](#)



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

CITY COUNCIL MEETING

TUESDAY, JULY 17, 2012

ITEM # 12-528	GAZEBO (SINGLE-FAMILY HOUSE)
OWNER OF PROPERTY	ESTATES OF EASTERN SHORES, LLC.
ADDRESS OF PROPERTY	3323 NE 171 STREET
LEGAL DESCRIPTION	LOT 14, BLOCK 12, OF EASTERN SHORES FIRST ADDITION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, PAGE 39, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FL
EXISTING ZONING	RS-1, RESIDENTIAL SINGLE-FAMILY ZONING DISTRICT
EXISTING LAND USE	SINGLE-FAMILY HOUSE
FUTURE LAND USE DESIGNATION	RESIDENTIAL LOW DENSITY

The applicant, Darci Fantin, requests site plan approval and variance for the construction of a 193 square foot gazebo at 3323 NE 171 Street, in the RS-1, Residential Single-Family Zoning District.

Variance requested is as follows.

1. Request variance from Section 24-81 (A) (8) to exceed by 49 square feet the maximum allowed floor area for a gazebo of 144 square feet. (Gazebo floor area of 193 square feet is proposed.)

ZONING – The subject properties, as well as the properties to the south, east and west, are zoned RS-1, Residential Single-Family. The properties to the north are located in the City of Aventura. (See attached Exhibit #1 for a Zoning Map of the subject property).

EXISTING LAND USE - The subject property, as well as the properties to the south, east and west, are single-family houses. The properties to the north are high rise condominiums located in the City of Aventura. (See attached exhibit #2 for a Land Use Map of the subject property).

FUTURE LAND USE - The subject property, as well as the properties to the south, east and west, have a future land use designation of Residential Low Density. The properties to the north are located in the City of Aventura. (See attached exhibit #3 for a Future Land Use Map of the subject property.)

THE SITE – The subject property is rectangular in shape measuring 85 feet wide and 113 feet deep, containing 9,605 square feet (0.22 acre). There is currently a 7,073 square foot single-family house under construction.

THE PROJECT – The project proposes the construction of a 193 square foot, 14 foot tall gazebo in the rear of the property. The gazebo also functions as a summer kitchen, which includes a grill, sink, and under-counter refrigerator.

COMMUNITY DEVELOPMENT DEPARTMENT ANALYSIS

The proposed gazebo is open on four sides with wooden columns supporting a barrel tile roof, matching the roof of the house in both pitch and material. The gazebo is in line with a large sliding glass door in the adjacent family room and the applicants would prefer to keep the views from the house unobstructed.

PLANNING & ZONING BOARD HISTORY

This item received a favorable recommendation from the Planning & Zoning Board by a vote of 6-0 at the meeting of Monday, June 11, 2012.

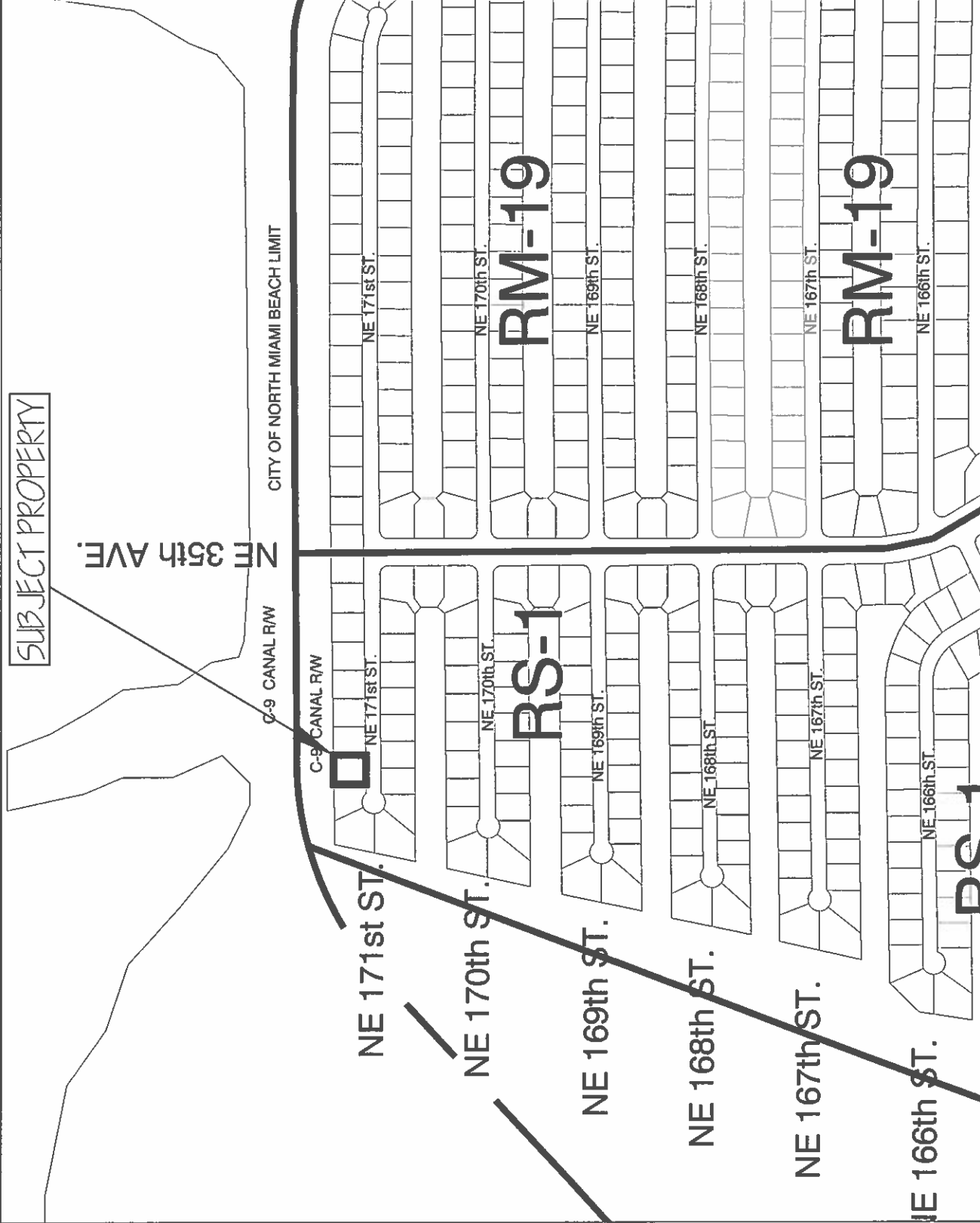
COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION

It is recommended that the request for site plan review be approved, 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 1 of 2, by Accurate Land Surveyors, Inc., dated 5/10/2012;
 - Survey, Sheet 2 of 2, by Accurate Land Surveyors, Inc., dated 5/10/2012;
 - Site Plan, Sheet SP-1, by Luis LaRosa Architects, Inc., dated 5/18/2012;
 - Gazebo Floor Plan, Roof Plan, & Sections, Sheet A-1, by Luis LaRosa Architects, Inc., dated 5/18/2012;
 - Elevations, Sheet A-2, by Luis LaRosa Architects, Inc., dated 5/18/2012;
 - Landscape Plan, Sheet L-1, by Luis LaRosa Architects, inc., dated 5/18/2012.
2. 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.

Legend:

- RS-1 Residential Single Family (8,000 SF minimum)
- RS-2 Residential Single Family (7,000 SF minimum)
- RS-3 Residential Single Family (6,000 SF minimum)
- RS-4 Residential Single Family (5,000 SF minimum)
- RS-5 Residential Single Family (1,200 SF minimum)
- MH-1 Mobile Home Subdivision
- RD Residential Two-Family (Duplex)
- RM-19 Residential Low Rise Multifamily Medium Density-19 Units/ Acre
- RM-23 Residential Mid-Rise Multifamily High Density-23 Units/ Acre
- RM-32 Residential High-Rise Multifamily High Density-32 Units/ Acre
- RO Residential Office District
- B-1 Limited Business District
- B-2 General Business District
- B-3 Intensive Business District
- B-4 Distribution Business and Light Industrial
- B-5 Distribution Business and Medium Industrial
- CF Community Facility Planned Unit Development
- PUD



City of North Miami Beach
 17050 N.E. 19th Avenue
 North Miami Beach, Florida 33162

Gazebo
 3323 NE 171 Street



Existing Zoning Map
 Exhibit No. 1

Prepared by CNMB Engineering Division

SUBJECT PROPERTY

C-9 CANAL RW

CITY OF NORTH MIAMI BEACH LIMIT

NE 171st ST.

NE 170th ST.

NE 169th ST.

NE 168th ST.

167th ST.

C-9 CANAL R/W

SINGLE FAMILY HOUSES

NE 171st ST.

SINGLE FAMILY HOUSES

WATERWAY

SINGLE FAMILY HOUSES

NE 170th ST.

SINGLE FAMILY HOUSES

WATERWAY

SINGLE FAMILY HOUSES

NE 169th ST.

SINGLE FAMILY HOUSES

WATERWAY

SINGLE FAMILY HOUSES

NE 168th ST.

SINGLE FAMILY HOUSES

WATERWAY

SINGLE FAMILY HOUSES

NE 167th ST.

SINGLE FAMILY HOUSES

WATERWAY

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

NE 171st ST.

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

WATERWAY

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

NE 170th ST.

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

WATERWAY

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

NE 169th ST.

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

WATERWAY

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

NE 168th ST.

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

WATERWAY

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

NE 167th ST.

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

WATERWAY

APARTMENTS/TOWNHOUSES/CONDOMINIUMS

NE 166th ST.

NE 35th AVE.



City of North Miami Beach
17050 N.E. 19th Avenue
North Miami Beach, Florida 33162

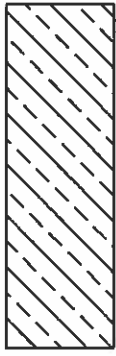
Gazebo
3323 NE 171 Street



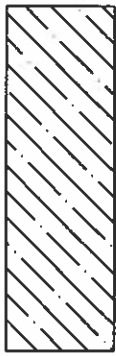
Existing Land Use Map
Exhibit No. 2

Prepared by CNMB Engineering Division

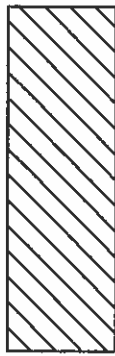
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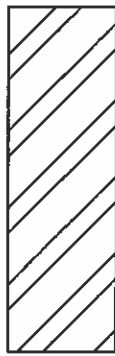
Residential Low Density



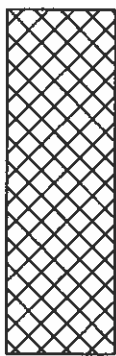
Residential Medium Density



Residential High Density



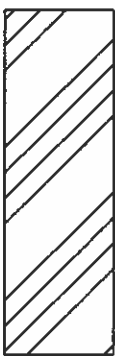
Business



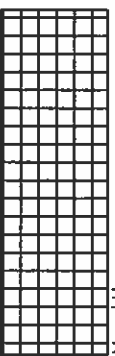
Public and Quasi - Public



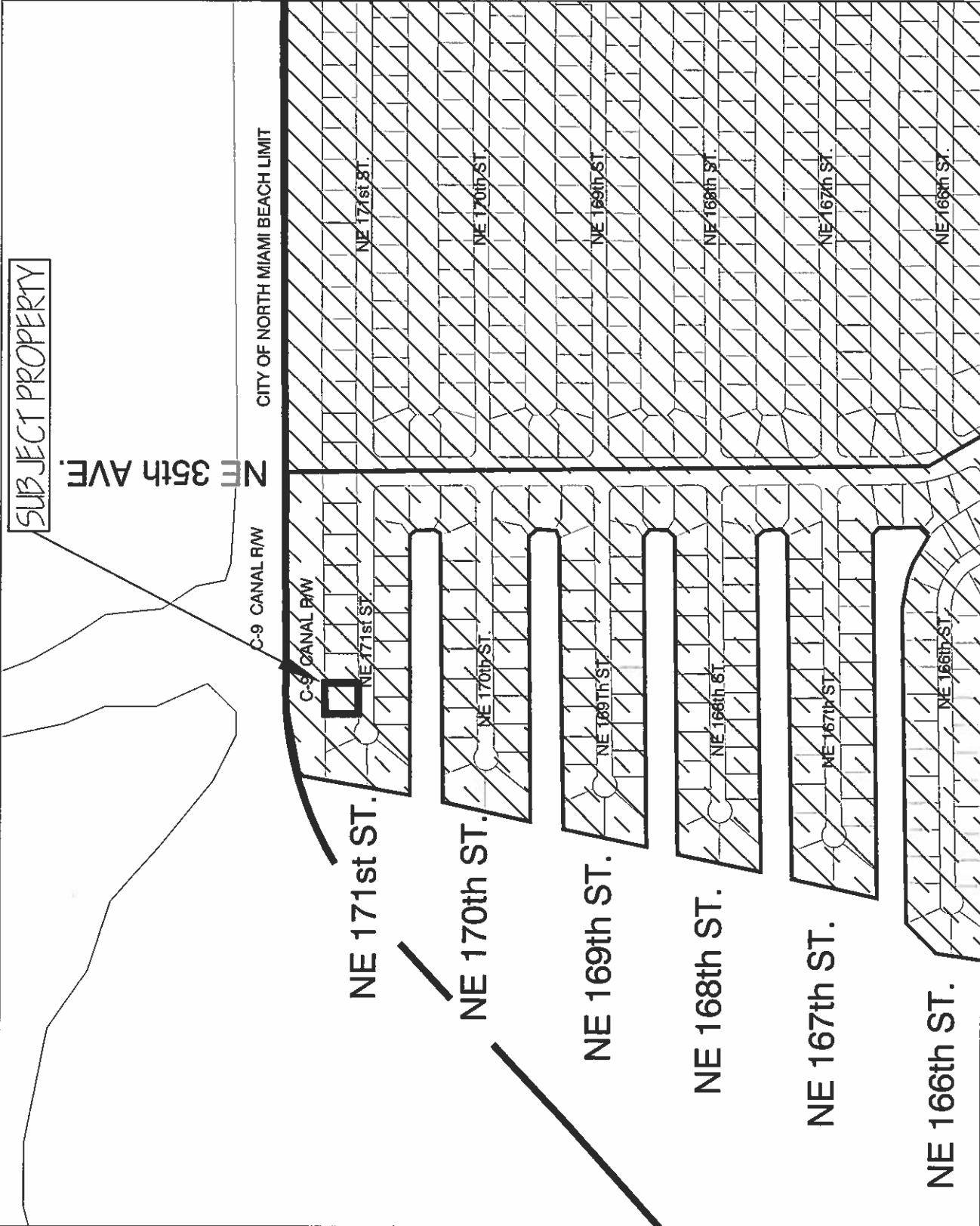
Recreation and Open Space



Industrial



Mixed Use



SUBJECT PROPERTY

NE 35th AVE.

CITY OF NORTH MIAMI BEACH LIMIT

C-9 CANAL RW

C-9 CANAL RW

NE 171st ST.

NE 170th ST.

NE 169th ST.

NE 168th ST.

NE 167th ST.

NE 166th ST.

NE 171st ST.

NE 170th ST.

NE 169th ST.

NE 168th ST.

NE 167th ST.

NE 166th ST.



City of North Miami Beach
17050 N.E. 19th Avenue
North Miami Beach, Florida 33162

Gazebo

3323 NE 171 Street



Future Land Use Map
Exhibit No. 3

Prepared by CNMB Engineering Division



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING

MONDAY, JUNE 11, 2012

Attendees:

Members - Chairman Evan Piper

Jaime Eisen

Saul Smukler

Julian Kreisberg

Norman Edwards

Joseph Litowich

Hector Marrero – ABSENT

Staff - Shari Kamali, Director of Public Services

Christopher Heid, City Planner

Maria Santovenia, Asst. City Attorney

Steven Williams, Board Recorder

Call to Order and Pledge of Allegiance:

Chair Piper called the meeting to order at 6:06 p.m. The Pledge of Allegiance was recited and roll was called. Mr. Hector Marrero was absent.

Minutes:

A motion made by Jaime Eisen, seconded by Joseph Litowich, to approve the minutes of the April 9, 2012 meeting. In a voice vote, the motion passed unanimously.

Chair Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

OLD BUSINESS

Mr. Heid advised that Item 12-517 (LDR Text Amendment: Commercial Window Signs) was favorably recommended by the Board and approved by City Council. Item 11-511 (LDR Text Amendment: Development Review Procedures) was also favorably recommended by the Board and will be presented to the City Council in July. Item 12-518 (After-the-Fact Variance: 1687 NE 174 Street) and Item 12-522 (Minor Site Plan Modification: 1055 Miami Gardens Drive) were favorably recommended by the Board and approved by City Council. Item 11-509 (FLUM and Rezoning: 17400 West Dixie Highway) was unfavorably recommended by the Board; however, City Council approved the Future Land Use Amendment change to Business, and the Rezoning was tabled until the June 19th meeting.

NEW BUSINESS

Item #12-527: Addition (Single-Family House): 2100 NE 180 Street – Site Plan Review and Variance

Mr. Heid stated that the existing zoning for this site is RS-4, Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use designation of Residential/Low-Density. The Applicant requests approval for the construction of a 208 sq. ft. addition to an existing house. The request is for variance from Section 24-44 (D) (3), for a 3 ft. 6 in. variance from the corner side yard setback of 15 ft. The change would result in a corner side yard setback of 11 ft. 6 in. Mr. Heid noted that approximately 10% of the addition would extend into the setback; the corner lot of the house is skewed, which means the addition could not be accommodated without a variance.

Larry Simon, representing the Applicants, explained that the house was constructed in the 1950s. Because the house was skewed when constructed, the addition of a family room would extend off one side and into the setback. He pointed out that while one corner extends into the setback, another corner is much farther away. The extension is not visible from the street and does not infringe upon any neighbors.

Mr. Heid added that the greater portion of the home is set back equal to or further than the required minimum setback. The section extending into the setback is approximately 8 ft. by 3 ft.

Mr. Kreisberg asked if the family room has been constructed at this time. Mr. Simon assured the Board that it has not.

Chair Piper asked if the City routinely approves scenarios such as this one, or if it is an isolated case. Mr. Heid replied that not many such requests have come before the Board; however, in the case of a house that is skewed on a lot, he noted that the corner yard setback is at least 100 ft. away from the nearest property. The yard is heavily landscaped so the extension would not be visible. Mr. Simon confirmed that the house and lot are unique.

Mr. Kreisberg commented that in many parts of the City, the side setback is 10 ft. Mr. Heid clarified that a corner side setback is always 15 ft.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid stated that only a small portion of the room would extend into the setback, and making the room smaller would be awkward and less usable, the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant would accept the two conditions. Mr. Simon said they could.

A motion to approve Item 12-527 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-527 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆

Item #12-528: Gazebo (Single-Family House): 3323 NE 171 Street – Site Plan Review and Variance

Mr. Heid advised that the property is within an RS-1 Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use of Residential Low Density. The Applicant requests site plan approval and variance for the construction of a 193 sq. ft. gazebo. The request is for variance from Section 24-81 (A) (8), which allows a maximum of 15 x 49 sq. ft. for a gazebo of 144 sq. ft. He reminded the Board that gazebos were previously not permitted in a required yard setback, but have recently been made an allowable exception if they are 144 sq. ft. or less. The request would exceed this by 49 sq. ft.

Luis LaRosa, representing the Applicant, stated he is the architect for the project. He explained that the gazebo meets the side and rear setback requirements for accessory use; however, it lies in front of a large family room, and has been slightly elongated so its glazing matches the width of the glazing in this room. If it were shortened, it would block the view from the room. He concluded that it is a light, attractive structure that does not affect waterway visibility. The neighbor to the east of the project has submitted a letter of no objection to the structure.

Mr. Heid referred the Board to the project’s plans, noting that the columns of the gazebo do not block the view from the family room when extended. He confirmed that the water view is maintained and the structure meets side and rear setback requirements, as well as building height. The materials and roof type are similar to those of the main residence. He concluded that the only concern was with regard to the affected property owner to the east, who is supportive of the gazebo.

Mr. Smukler asked how the 144 sq. ft. gazebo was adopted as an allowable exception. Mr. Heid said the Applicant has a good reason to want a slightly larger structure, as it is proportionate to the house.

Mr. Edwards noted that the Applicant’s neighbor to the south has also been shown the plans for the gazebo and did not object to the project. He asked if there was a letter from this

neighbor. Mr. Larosa said this was an error and referred to the neighbor to the east, who would be most affected by the project.

Mr. Kriesberg observed that the letter written on May 3, 2012 also states the gazebo is located in the southeast corner of the property. It was clarified that its actual location is the northeast corner, overlooking a canal.

Mr. Kriesberg asked if construction has begun and stopped on the addition. Mr. Larosa confirmed this, explaining that construction was halted so the Applicant could go through the appropriate channels for approval of the gazebo.

Mr. Litowich asked if the gazebo's proportions are calculated from outside column to outside column, not including the overhang. Mr. La Rosa confirmed this. Mr. Heid said the overhang is not typically included in size measurements of a structure.

Chair Piper asked if there were limitations on the size of an overhang. Mr. Heid said while there was no size limit, there is a limit on how far an overhang may encroach into a setback: this is limited to one-third of the required setback, or 3 ft., whichever is less. The gazebo in question has a 1 ft. overhang.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the two conditions. Mr. LaRosa said they could.

A motion to approve Item 12-528 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-528 passed with a vote of 6-0.

Mr. Heid advised that the Board's approval is only a recommendation: if members of the public would like to speak on any Items presented at tonight's meeting, they should do so at the appropriate City Council meeting, which will be advertised in the newspaper. Signage will also be posted on the properties and within 500 ft. of the properties' boundaries.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-525: IHOP: 1101 North Miami Beach Boulevard – Site Plan Review and Variance

Mr. Heid stated that this property is located in a B-2 General Business Zoning District, with an existing land use of Restaurant and a future land use designation of Business. The Applicant requests site plan approval and variances for construction of a 575 sq. ft. canopy over an existing wooden deck. The variances would be from Section 24-81 (2), which would waive 4 ft. of the minimum required corner side yard setback of 15 ft. for a canopy; a second variance would be from Section 24-81 (2), which would waive 11 ft. of the minimum required rear yard setback of 15 ft. for canopies.

Andreas Poschl, representing the Applicant, explained that he is Director of Construction and Development for Sunshine Restaurant Partners. The IHOP restaurant in question was built 52 years ago. The intent is to construct a canopy over an existing deck, which was built 42 years ago, in order to create outside dining for the restaurant. The canopy would match the restaurant's blue roof.

Mr. Litowich asked if the canopy overhang would extend farther than the existing deck. Mr. Poschl said it would overhang the perimeter of the deck by 1 ft. on three sides. It will abut the gable end of the structure.

Mr. Kreisberg asked if diners typically eat outside at the restaurant. Mr. Poschl said this occurs at times during the winter months; however, during the summer this is very difficult. The addition of a canopy would be an attempt to accommodate outside dining on a year-round basis. The deck itself will be redone, landscaping will be added, and repairs will be made to the parking lot in order to update the building.

Mr. Edwards asked if all restaurants may establish outside dining, or if special approval is required. Mr. Heid replied that a building permit is necessary, and some restaurants are difficult to retrofit for this purpose; in this case, however, there would be no impact on the landscaping or parking.

Mr. Smukler asked if the 11 ft. setback already existed with the deck. Mr. Heid confirmed this, explaining that the variance request is for the canopy, not the deck. There is no required setback for a deck. Mr. Smukler asked if electricity will be required for the outdoor dining area. Mr. Poschl said permits will be pulled to include fans and lighting, both of which are allowed beneath a canopy.

Mr. Litowich asked if the canopy will be made of canvas. Mr. Poschl said it will be a fireproof canvas-like material, which is recommended over plastic or vinyl. There will be plastic side curtains to exclude rain as well.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City’s recommendation. Mr. Heid said the City recommends favorably, with the seven conditions as listed in the Staff Report.

Mr. Edwards asked if there could be a condition requiring the canopy to remain open on the sides except in the event of rain. Mr. Heid said this condition could be added, bringing the number of conditions to eight.

A motion to approve Item 12-525 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-525 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-526: Addition (Fire Station): 17050 NE 19 Avenue – Site Plan and Variance Re-approval

Mr. Heid stated that this is a City-owned property located in a CF Community Facility Zoning District, with an existing land use of Fire Rescue Station and Offices and a future land use of Public. The request is for approval to construct a 2324 sq. ft. one-storey addition to an existing two-storey Fire and Rescue Station. An existing 1002 sq. ft. one-storey portion of the building will be demolished to accommodate the proposed addition.

The variances requested are as follows: variance from Section 24-55 (B) (3), which would waive 4 ft. of the minimum required front yard setback of 30 ft., reducing it to 26 ft.; and variance from Section 24-55 (B) (3), to waive 11 ft. of the minimum required corner side yard setback of 25 ft., reducing this setback to 14 ft.

Mr. Heid pointed out that the Staff Report states this project was previously approved and favorably recommended by the Board and the City Council; however, the permit for the project has expired, which requires the Applicant to come back to the Board and regain approval. He concluded that Staff continues to support this project.

Mr. Heid explained that because the City is the property owner, the Applicant is Miami-Dade County Fire and Rescue. Angel Lamera, Facilities Division Manager for the project, was sworn in at this time. Mr. Lamera stated again that the project had been previously approved by the Board, but the permit had expired.

Mr. Smukler noted that p.5, Item 9 of the Staff Report discusses revising plans related to the curbing of the easternmost median. He requested clarification of this. Mr. Heid said this island is not currently curbed, and advised that these improvements are reflected in the building plans.

Mr. Kreisberg requested a brief description of the improvements to be made. Mr. Lamera said the north side of the building would be demolished and replaced with a new rescue side of the station. In addition, the entire station will be remodeled and repainted. Utilities will be segregated from the administration building, and will no longer be included under a single meter. This is expected to result in a slight decrease in the utility bill.

Mr. Heid stated that once the demolition is complete and the new addition has replaced it, there will be a new area of roughly 39 sq. ft.

Mr. Smukler noted that the corner side setback is 25 ft., on which the proposed addition will encroach by 11 ft. Mr. Heid confirmed this, advising that this will leave sufficient room for landscaping. It was also clarified that the building will always be owned by the City.

Mr. Edwards asked if the project would raise a legal question regarding unjust enrichment. Ms. Santovenia said she was not certain of the structure of the situation, so she could not answer this question. Mr. Lamera said once the funds have been spent to make the improvements, it would be even less likely that the Fire Station would leave the facility.

Mr. Edwards observed that the only issue would be if the City decided to take back the Fire Station. Chair Piper said it would be within the Board's purview to remind the City's Legal Department to ensure the contractual arrangement with Fire and Rescue does not have any unforeseen issues.

Ms. Santovenia asked if Mr. Edwards' question was whether there would be unjust enrichment to the City. Mr. Edwards confirmed this, and asked if the City would need to repay Fire and Rescue for these improvements if they took the property over from the tenant. Ms. Santovenia said leases are typically drafted so any improvements made by tenants will stay behind if the tenant leaves. Mr. Heid added that a permit would be necessary in order to physically remove any structures from the property, and as the property owner, the City would need to sign a permit allowing this removal.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the ten conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the ten conditions. Mr. Lamela said they could. He also noted that the variance is limited to six months, and asked if it would be possible to extend

this time period to one year, as it was not certain the improvements could be made within this time frame.

Ms. Kamali said the City is in the process of changing the six month time frame, although the change had not yet gone before the City Council. She asked that the Applicant ensure the request is made to renew the variance before the first six months have passed.

Mr. Heid said if this was part of the Code, it would require a variance to waive this requirement, and such a variance has been neither requested nor advertised. He did not feel this would be possible. However, he noted that the requirement was for six months to pull a permit or one year to submit it. The City Administration is also willing to write a letter on behalf of the Applicant to extend the time frame for six months. He felt this would be sufficient until the Code is changed.

A motion to approve Item 12-526 was made by Julian Kreisberg and seconded by Norman Edwards. The motion to approve Item 12-526 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-519: Fence Height – LDR Text Amendment

Mr. Heid stated that this Item was originally brought before the Board in April 2012, but was tabled because it was thought to be confusing. Upon further review, Staff felt the original amendment was complicated and difficult to understand. Portions of the original amendment, including hedge height and some fence specifications, have been omitted from the current draft. Hedges may now be the same height as fences, as long as the hedge is maintained. The height proposed for a corner side yard was originally 4 ft.; it has now been raised to 6 ft., as there are often requests from homeowners to make this change.

He continued that fences may remain 4 ft. in the front of a property and 6 ft. in the rear, corner, and side yards, which is commonly requested in the City.

Chair Piper asked if Mr. Heid recalled any of the details of the discussion about fence height. Mr. Heid said there had been significant resistance from homeowners with regard to limiting the size of hedges. He also clarified that rear yard fences are the side fences between buildings rather than a fence on the rear of the property. The limitation of a solid fence to 3 ft. in height will not be changed.

Mr. Kreisberg asked how this would affect hedges that encroach on a setback. Mr. Heid said this would not be an issue on private property, as the depth of rights-of-way should ensure sufficient room. If the fence extends beyond the property line, however, it may be cited. If a hedge results in complaints from neighbors, it may also trigger a citation.

Mr. Heid added that pedestrian and vehicular gates may be 1 ft. higher than the fence to which they are attached. This would allow for a less uniform and more decorative appearance.

Mr. Kreisberg noted that the measurement from the minimum finished floor elevations had also been changed, which could affect fence height if a home is at a higher elevation on one side. Mr. Heid said this occurs on occasion if a house is elevated. He noted, however, that most individuals do not object to fencing or landscaping.

A motion to approve Item 12-519 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-519 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-520: B-2 (Modification of Use) LDR Text Amendments

Mr. Heid advised that the Board has seen these amendments for the B-2 General Business Zoning District before, and recalled that they had expressed concern that pet stores would become permitted uses. This suggestion has been left as a conditional use for the sale of live pets, and pet groomers and sale of pet supplies will be permitted uses.

Other changes include repetition of some uses that are also allowed in the B-1 District; because these are clearly permitted uses in B-1, they were removed from the B-2 listing. These include health and exercise studios, coin laundries, convenience stores, and delis. Antiquated uses, such as dry goods stores and telegram offices, were also removed from the B-2 amendments. Code includes a clause that may allow for these uses if they are sufficiently similar in nature to other uses.

He continued that while it may sound easier to classify a use as conditional in order to retain better control over it, making some uses conditional will effectively mean they will not be allowed, particularly in the case of small local businesses, as they are less well-funded and may

not be able to afford the approval process. The result in many cases is that these businesses will simply relocate. Therefore, the suggestion is that many of these uses become permitted uses.

Mr. Heid said fast food restaurants are defined as those restaurants in which customers order from an overhead board, at a counter, and take their items. He explained that this term could apply to a small coffee shop that serves pastries. Two additional uses, museums and vintage/collectible goods, were introduced as well.

Chair Piper asked if this would not qualify as a standard retail use. Mr. Heid replied that there are specific regulations prohibiting secondhand sales, which are restricted to the warehouse district. The amendment would address this issue and allow the use in B-2 districts. He also clarified that standard fast food restaurants with a drive-through window will remain a conditional use, as these require more control.

Restrictions are also decreased for check cashing businesses, as they are currently very restricted. Mr. Heid said this restriction places a burden on individuals who rely on this service. He pointed out that many other businesses, such as grocery and convenience stores, will cash checks, which created an inequality between businesses. Lifting the restrictions would allow the market to determine whether or not this is an appropriate use.

Mr. Kriesberg asked why delicatessens were removed from the amendment. Mr. Heid explained they are permitted in B-1 Districts, and were removed to lessen confusion. Because it is allowed in B-1, it is not necessary to allow it in B-2.

Mr. Kriesberg asked why tanning salons were non-conditional rather than conditional uses. Mr. Heid said there are several national companies that manage tanning salons, and felt this use would be lost if subjected to the process for a conditional use.

Chair Piper requested clarification of the language regarding check cashing facilities. Mr. Heid said language would be clarified to show that this is now a permitted use.

Mr. Litowich asked how the Code differentiates between vintage and collectible goods and vintage or secondhand clothing. Mr. Heid said the difference in this case is in the eye of the beholder, as there is no defined difference. He observed that it can be "difficult to legislate quality," and reiterated that it is hoped the market will take care of any issues. He noted that there is no logical way to enforce distinctions between these categories: they must either be accepted as a class or not.

Mr. Heid continued that secondhand sales are a permitted use in B-4 Districts, and advised that a judgment call could be made based upon several factors to determine whether or not these sales qualify as vintage or collectible. Consignment stores, for example, are included under vintage/collectible use.

Mr. Smukler asked if the requirement that check cashing businesses would prevent them from being less than 200 ft. from a residential area. Mr. Heid said it would be recommended that this requirement be stricken from the amendment; while it may be associated with “unsavory” elements, this was not always accurate. He pointed out that this restriction represented more of a moral stance than zoning equality.

Mr. Smukler asked if the restriction preventing these businesses from being established within 200 ft. of a residential area would have limited the potential locations open to them. Mr. Heid said they are not allowed in some locations at all. He added that this was preferable to attaching so many restrictions that a location became prohibitive.

Chair Piper noted that the owners of some shopping centers would not want these businesses to be part of the centers. He commented that any problems could be controlled by a police presence or “No Trespassing” signs. Mr. Heid said this was an example of the issue being market-driven: landlords who have the long-term interests of their properties at heart would not want to rent to low-end establishments.

Mr. Edwards asked if the language moving pet grooming to a permitted use should also contain the conditions that it must take place in an air-conditioned, soundproof building no less than 300 ft. from a residential area. Mr. Heid said this was a good point, but noted that businesses selling pet supplies but not offering grooming services would not need the air-conditioned and soundproofed requirements. He suggested that there may need to be a separate category for pet groomers, or additional language attached to discussion of this business.

Mr. Edwards asked if places of public assembly would remain a permitted use. Mr. Heid said this use is currently permitted and no change was suggested. Mr. Edwards asked if this category would include schools and churches. Mr. Heid said they would include churches, but not schools. Ms. Kamali said schools are allowed in CF and RM-23 districts, but not B-2.

Mr. Edwards asked why schools were not allowed within B-2 districts if churches were allowed. He suggested that smaller schools, such as schools without playgrounds or tutoring facilities, might be permissible in this district. Chair Piper pointed out that there are several requirements that accompany schools, such as traffic considerations, that could limit their placement. Mr. Heid added that B-2 districts allow retail uses, such as liquor stores and bars. If a school is allowed within this district, there must be a 1500 ft. radius from these facilities. While it is possible for these businesses to seek a variance, it can be expensive and difficult, and parents of schoolchildren may object to the location.

Mr. Litowich noted that some places of public assembly, such as churches and synagogues, may have schools attached to their facilities. Mr. Heid said while day care is allowed at these facilities in B-2 districts, elementary through high schools are not permitted in B-2. Vocational training is permitted within the district.

Mr. Edwards asked to know the height and density maximums of these residential multi-family or mixed-use uses within B-2 areas. Mr. Heid said these are conditional uses and must go through a hearing. Mr. Heid said B-2 districts are allowed to have multi-family residential in accordance with RM-23; the maximum height allowed is three stories or 35 ft., although the City Council may authorize up to six stories or 65 ft.

He noted that these would be conditional uses that must come before the Board for recommendations and the City Council for approval. They would also require a future land use map amendment to the Comprehensive Plan, as virtually all B-2 districts have future land use categories of Business and do not allow Residential. The mixed-use future land use category allows this mixed use of residential and business.

Mr. Smukler asked if the 1500 ft. radius around schools in which liquor cannot be sold could be extended to a restaurant that serves liquor after hours. Mr. Heid clarified that restaurants which serve alcohol are not included in this restriction, which is specific to bars, lounges, and packaged liquor stores. He noted that a business may request a variance to waive the 1500 ft. distance separation. Ms. Kamali noted that the State-required radius is only 500 ft., and also provides an avenue for variance within municipalities.

Mr. Smukler pointed out that there is a cost associated with conditional use, and proposed that the amendment could make these uses permitted in evenings and on weekends. Mr. Heid said while he did not see a mechanism for this, it could be considered further.

Chair Piper opened the floor for public comment.

Matthew Amster, representing the owner of the Intracoastal Mall, was sworn in at this time. He advised that the owner is supportive of the changes presented before the Board at today's meeting, and hoped the Board would recommend them favorably.

Mr. Kreisberg asked if Mr. Amster could provide specific examples of any part of the amendment that would make it easier for tenants to go into the Intracoastal Mall. Mr. Amster said the owner had wanted to rent to a dog grooming service, as well as a wine bar.

Mr. Heid said the proposed amendment is part of an ongoing program by which districts are to be made more liberal regarding their list of uses in order to be more competitive with neighboring municipalities. The lessened restrictions are seen as more business-friendly.

As there were no other members of the public wishing to speak on the Item, public comment was closed.

A motion to approve Item 12-520 was made by Julian Kreisberg. Mr. Kreisberg added that the motion was made with the understanding that Mr. Heid would amend some of the Item's language as discussed by the Board, specifically as it applied to pet groomers.

Mr. Litowich seconded the motion. The motion to approve Item 12-520 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Next Meeting: Monday, July 9, 2012

Mr. Edwards requested that a presentation on changes and legislative updates at the State level be made at the next meeting. Ms. Kamali said this could be done, although she noted it may be very short, as the State does not have any control over any changes that have been made in the City. She concluded that this responsibility has been given to the City versus the State.

◆-----◆
Adjournment

A motion to adjourn was made by Julian Kreisberg and seconded by Norman Edwards. The meeting was adjourned at 7:47 p.m.

RESOLUTION NO. R2012-54

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL FOR THE CONSTRUCTION OF A ONE HUNDRED NINETY-THREE (193) SQUARE FOOT GAZEBO, AS PROPOSED; AND

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-81(A)(8) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO EXCEED BY FORTY-NINE (49) SQUARE FEET THE MAXIMUM ALLOWED FLOOR AREA FOR A GAZEBO OF ONE HUNDRED FORTY-FOUR (144) SQUARE FEET, WHERE GAZEBO FLOOR AREA OF ONE HUNDRED NINETY-THREE (193) SQUARE FEET IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS:

Lot 14, Block 12, of Eastern Shores First Addition, According to the Plat Thereof, as Recorded in Plat Book 65, Page 39, of the Public Records of Miami-Dade County, FL

**A/K/A
3323 N.E. 171 Street
North Miami Beach, Florida**

(P&Z Item No. 12-528 of June 11, 2012)

WHEREAS, the property described herein is zoned RS-1, Residential Single-Family Zoning District; and

WHEREAS, the applicant requests site plan approval and a variance in order to construct a One Hundred Ninety-Three (193) square foot gazebo at 3323 N.E. 171 Street; and

WHEREAS, the Planning and Zoning Board on June 11, 2012 recommended approval of the site plan and related variance, 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 1 of 2, by Accurate Land Surveyors, Inc., dated 5/10/2012;
 - Survey, Sheet 2 of 2, by Accurate Land Surveyors, Inc., dated 5/10/2012;
 - Site Plan, Sheet SP-1, by Luis LaRosa Architects, Inc., dated 5/18/2012;
 - Gazebo Floor Plan, Roof Plan, & Sections, Sheet A-1, by Luis LaRosa Architects, Inc., dated 5/18/2012;
 - Elevations, Sheet A-2, by Luis LaRosa Architects, Inc., dated 5/18/2012;
 - Landscape Plan, Sheet L-1, by Luis LaRosa Architects, inc., dated 5/18/2012.
2. When plans are submitted for a 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.

Section 1. Site plan approval in order to construct a One Hundred Ninety-Three (193)

square foot gazebo, on property legally described as:

**Lot 14, Block 12, of Eastern Shores First Addition, According to
the Plat Thereof, as Recorded in Plat Book 65, Page 39, of the
Public Records of Miami-Dade County, FL**

**A/K/A
3323 N.E. 171 Street
North Miami Beach, Florida**

is hereby granted subject to the following conditions:

2. Plans submitted for building permit(s) shall substantially comply with those as currently submitted, including the following:
- Survey, Sheet 1 of 2, by Accurate Land Surveyors, Inc., dated 5/10/2012;
 - Survey, Sheet 2 of 2, by Accurate Land Surveyors, Inc., dated 5/10/2012;
 - Site Plan, Sheet SP-1, by Luis LaRosa Architects, Inc., dated 5/18/2012;
 - Gazebo Floor Plan, Roof Plan, & Sections, Sheet A-1, by Luis LaRosa Architects, Inc., dated 5/18/2012;
 - Elevations, Sheet A-2, by Luis LaRosa Architects, Inc., dated 5/18/2012;
 - Landscape Plan, Sheet L-1, by Luis LaRosa Architects, inc., dated 5/18/2012.
3. When plans are submitted for a 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 24-81(A)(8) to exceed by Forty-Nine (49) square feet the maximum allowed floor area for a gazebo, where gazebo floor area of One-Hundred Ninety-Three (193) square feet is proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

Section 3. 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 4. 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 ___ **day of** _____, **2012.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM:

DARCEE S. SIEGEL
CITY ATTORNEY

SPONSORED BY: Mayor and City Council



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 Print

TO: Mayor and City Council
FROM: Lyndon L. Bonner, City Manager
DATE: Tuesday, July 17, 2012

RE: Resolution No. R2012-55 (City Planner Christopher Heid)

BACKGROUND: The applicant, Carlos M. Rivero, is requesting site plan approval and variance for the construction of a 208 square foot addition to an existing home located at 2100 NE 180 Street.

RECOMMENDATION: Approval

FISCAL IMPACT: None

CONTACT PERSON(S): Shari Kamali, Director of Public Services
Christopher Heid, City Planner

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [Planning & Zoning Board Minutes - June 11, 2012](#)
- ❑ [Resolution No. R2012-55](#)



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

CITY COUNCIL MEETING

TUESDAY, JULY 17, 2012

ITEM # 12-527	ADDITION (SINGLE-FAMILY HOUSE)
OWNER OF PROPERTY	CARLOS M. RIVERO & OMAR E. PADRÓN
ADDRESS OF PROPERTY	2100 NE 180 STREET
LEGAL DESCRIPTION	LOT 1, BLOCK 159, OF FULFORD BY THE SEA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 29, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FL
EXISTING ZONING	RS-4, RESIDENTIAL SINGLE-FAMILY ZONING DISTRICT
EXISTING LAND USE	SINGLE-FAMILY HOUSE
FUTURE LAND USE DESIGNATION	RESIDENTIAL LOW DENSITY

The applicant, Carlos M. Rivero, requests site plan approval and variance for the construction of a 208 square foot addition to an existing house located at 2100 NE 180 Street, in the RS-4, Residential Single-Family Zoning District.

Variance requested is as follows.

1. Request variance from Section 24-44 (D) (3) to waive 3' 6" of the required corner side yard setback of 15'. (Corner side yard setback of 11' 6" proposed.)

ZONING – The subject property, as well as all surrounding properties, are zoned RS-4, Residential Single-Family. (See attached Exhibit #1 for a Zoning Map of the subject property).

EXISTING LAND USE - The subject property, as well as all surrounding properties, are single-family houses. (See attached exhibit #2 for a Land Use Map of the subject property).

FUTURE LAND USE - The subject property, as well as all surrounding properties, have a Future Land Use designation of Residential Low Density. (See attached exhibit #3 for a Future Land Use Map of the subject property.)

THE SITE – The subject property is rectangular in shape measuring 75 feet wide and 112 feet deep, containing 8,174.5 square feet (0.19 acre), with frontage on NE 180 Street and NE 21 Avenue.

THE PROJECT – The project proposes a 208 square foot one-story addition to the northwest side of the existing house. The addition has large areas of glass on three sides with sliding glass doors allowing access to the garden, and a metal standing seam that matches the existing house.

COMMUNITY DEVELOPMENT DEPARTMENT ANALYSIS

The proposed family room is a complementary extension of the existing house. The requested variance only applies to a small portion of the addition, 23.4 square feet.

PLANNING & ZONING BOARD HISTORY

This item received a favorable recommendation from the Planning & Zoning Board by a vote of 6-0 at the meeting of Monday, June 11, 2012.

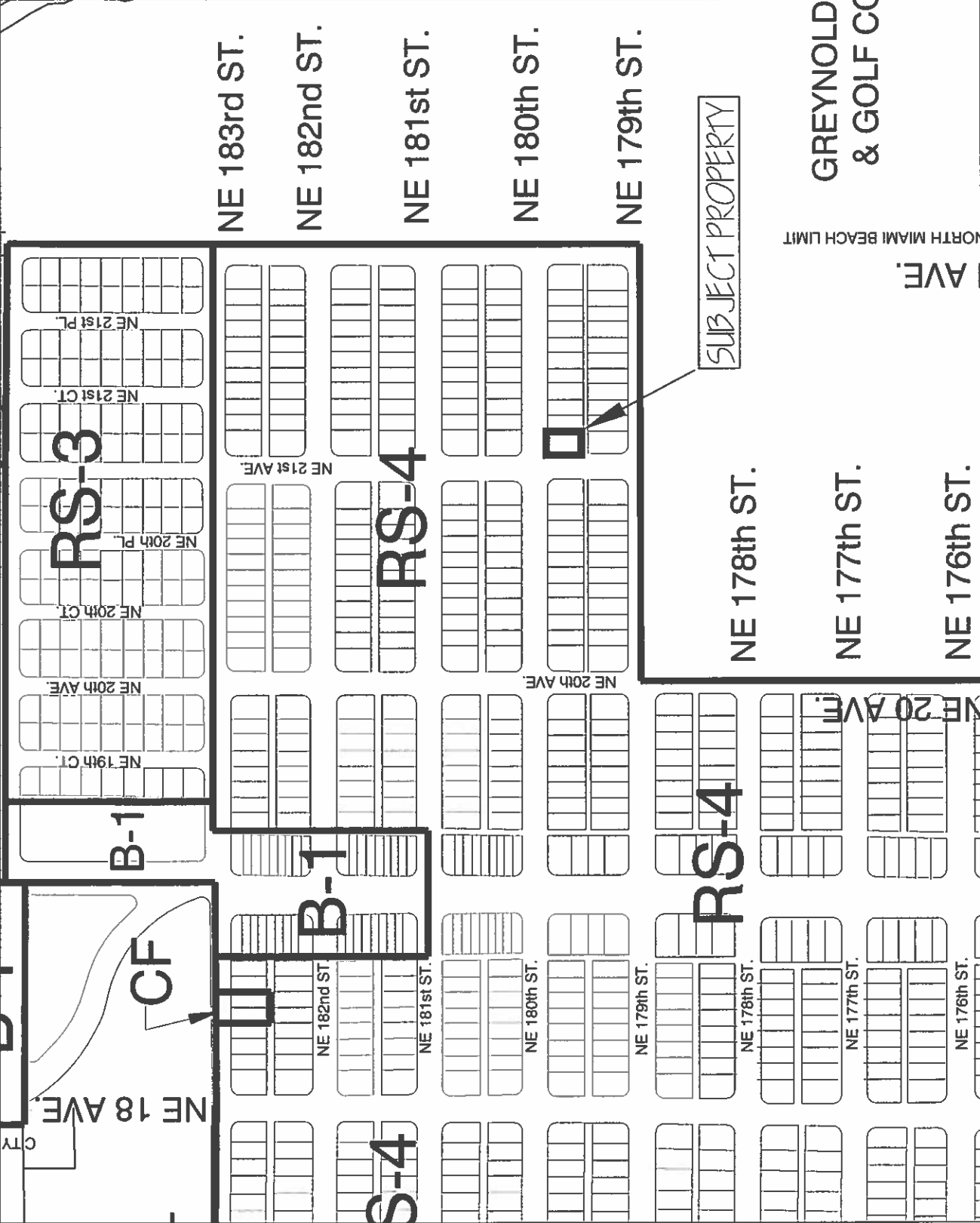
COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION

It is recommended that the request for site plan review be approved, 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 1 of 2, by AFA & Company, Inc., dated 1/27/2012;
 - Survey, Sheet 2 of 2, by AFA & Company, Inc., dated 1/27/2012;
 - Site Plan, Sheet A-1, by Lawrence Simon Architect, dated 4/22/2012, revised 5/1/2012;
 - Floor Plan, Sheet A-2, by Lawrence Simon Architect, dated 4/22/2012, revised 5/1/2012;
 - Elevations, Sheet A-3, by Lawrence Simon Architect, dated 4/22/2012, revised 5/1/2012.
2. 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.

Legend:

- RS-1 Residential Single Family (8,000 SF minimum)
- RS-2 Residential Single Family (7,000 SF minimum)
- RS-3 Residential Single Family (6,000 SF minimum)
- RS-4 Residential Single Family (5,000 SF minimum)
- RS-5 Residential Single Family (1,200 SF minimum)
- MH-1 Mobile Home Subdivision
- RD Residential Two-Family (Duplex)
- RM-19 Residential Low Rise Multifamily Medium Density-19 Units/ Acre
- RM-23 Residential Mid-Rise Multifamily High Density-23 Units/ Acre
- RM-32 Residential High-Rise Multifamily High Density-32 Units/ Acre
- RO Residential Office District
- B-1 Limited Business District
- B-2 General Business District
- B-3 Intensive Business District
- B-4 Distribution Business and Light Industrial
- B-5 Distribution Business and Medium Industrial
- CF Community Facility
- PUD Planned Unit Development



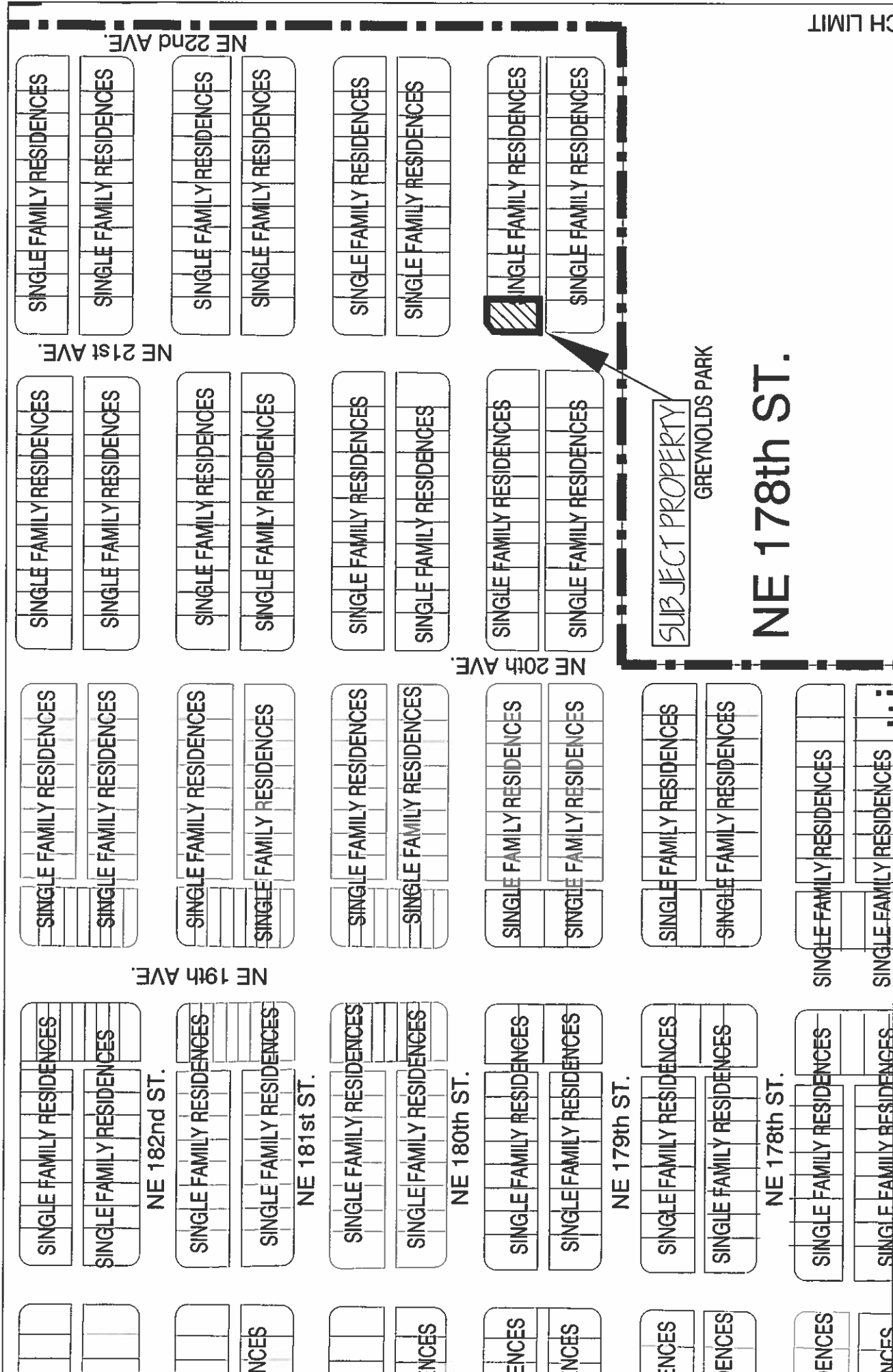
Existing Zoning Map
Exhibit No. 1
Prepared by CNMB Engineering Division



5F Addition
2100 NE 180 Street

City of North Miami Beach
17050 NE 19th Avenue
North Miami Beach, Florida 33162





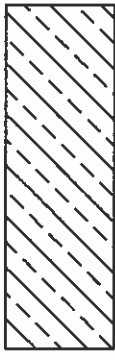
City of North Miami Beach
 17050 NE 19th Avenue
 North Miami Beach, Florida 33162

Single Family House Addition
 2100 NE 180 Street

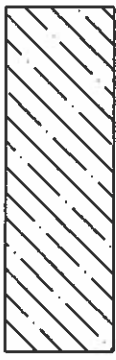


Existing Land Use Map
 Exhibit No. 2
 Prepared by CNMB Engineering Division

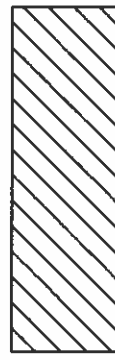
Legend:



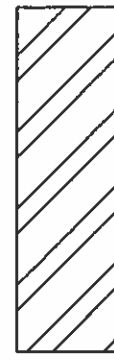
Residential Low Density



Residential Medium Density



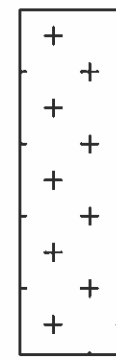
Residential High Density



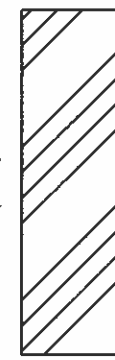
Business



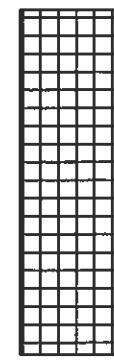
Public and Quasi - Public



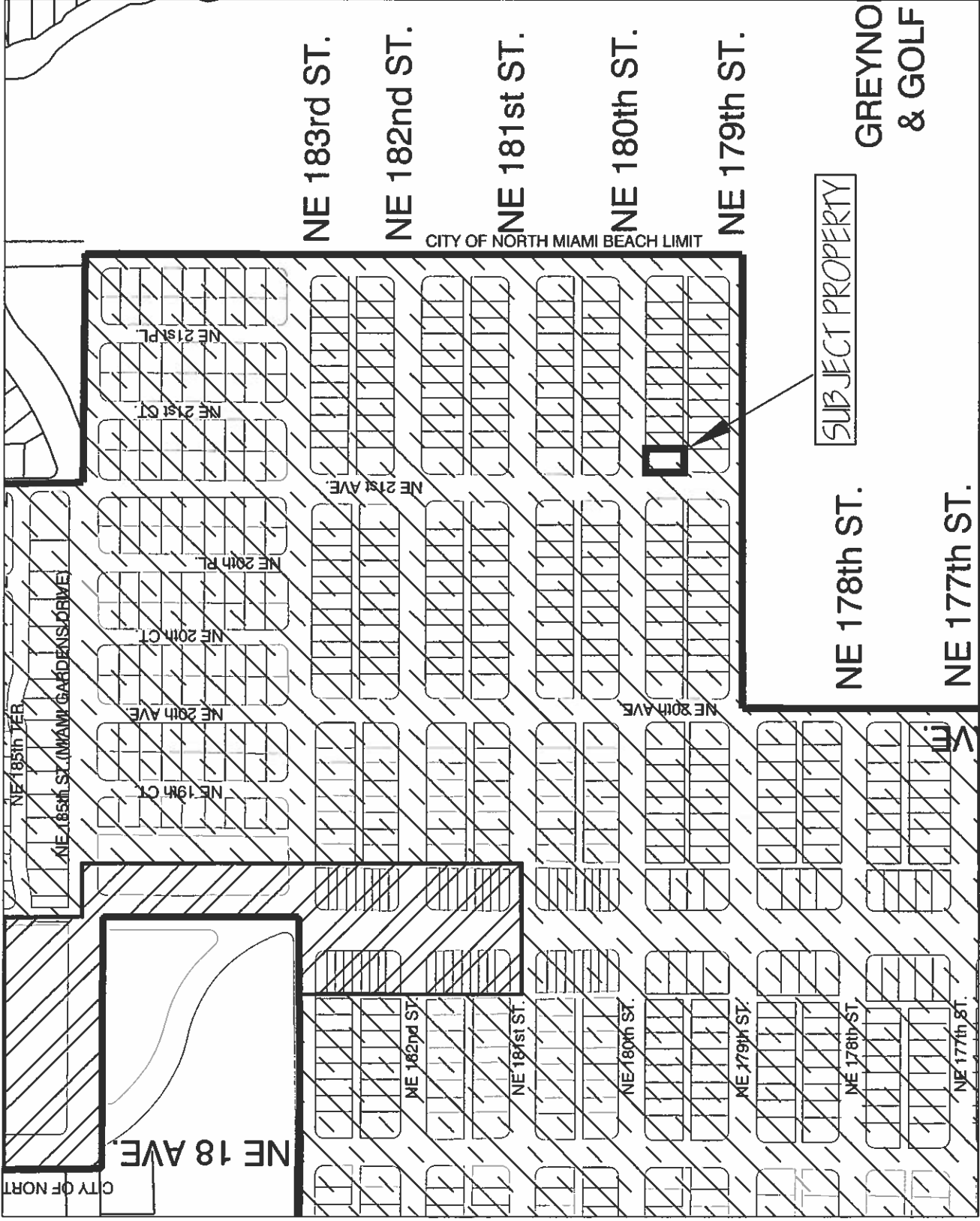
Recreation and Open Space



Industrial




Mixed Use



Future Land Use Map
Exhibit No. 3
Prepared by CNMP Engineering Division



Single Family Addition
2100 NE 180 Street



City of North Miami Beach
17050 N.E. 19th Avenue
North Miami Beach, Florida 33162



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING

MONDAY, JUNE 11, 2012

Attendees:

Members - Chairman Evan Piper

Jaime Eisen

Saul Smukler

Julian Kreisberg

Norman Edwards

Joseph Litowich

Hector Marrero – ABSENT

Staff - Shari Kamali, Director of Public Services

Christopher Heid, City Planner

Maria Santovenia, Asst. City Attorney

Steven Williams, Board Recorder

Call to Order and Pledge of Allegiance:

Chair Piper called the meeting to order at 6:06 p.m. The Pledge of Allegiance was recited and roll was called. Mr. Hector Marrero was absent.

Minutes:

A motion made by Jaime Eisen, seconded by Joseph Litowich, to approve the minutes of the April 9, 2012 meeting. In a voice vote, the motion passed unanimously.

Chair Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

OLD BUSINESS

Mr. Heid advised that Item 12-517 (LDR Text Amendment: Commercial Window Signs) was favorably recommended by the Board and approved by City Council. Item 11-511 (LDR Text Amendment: Development Review Procedures) was also favorably recommended by the Board and will be presented to the City Council in July. Item 12-518 (After-the-Fact Variance: 1687 NE 174 Street) and Item 12-522 (Minor Site Plan Modification: 1055 Miami Gardens Drive) were favorably recommended by the Board and approved by City Council. Item 11-509 (FLUM and Rezoning: 17400 West Dixie Highway) was unfavorably recommended by the Board; however, City Council approved the Future Land Use Amendment change to Business, and the Rezoning was tabled until the June 19th meeting.

NEW BUSINESS

Item #12-527: Addition (Single-Family House): 2100 NE 180 Street – Site Plan Review and Variance

Mr. Heid stated that the existing zoning for this site is RS-4, Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use designation of Residential/Low-Density. The Applicant requests approval for the construction of a 208 sq. ft. addition to an existing house. The request is for variance from Section 24-44 (D) (3), for a 3 ft. 6 in. variance from the corner side yard setback of 15 ft. The change would result in a corner side yard setback of 11 ft. 6 in. Mr. Heid noted that approximately 10% of the addition would extend into the setback; the corner lot of the house is skewed, which means the addition could not be accommodated without a variance.

Larry Simon, representing the Applicants, explained that the house was constructed in the 1950s. Because the house was skewed when constructed, the addition of a family room would extend off one side and into the setback. He pointed out that while one corner extends into the setback, another corner is much farther away. The extension is not visible from the street and does not infringe upon any neighbors.

Mr. Heid added that the greater portion of the home is set back equal to or further than the required minimum setback. The section extending into the setback is approximately 8 ft. by 3 ft.

Mr. Kreisberg asked if the family room has been constructed at this time. Mr. Simon assured the Board that it has not.

Chair Piper asked if the City routinely approves scenarios such as this one, or if it is an isolated case. Mr. Heid replied that not many such requests have come before the Board; however, in the case of a house that is skewed on a lot, he noted that the corner yard setback is at least 100 ft. away from the nearest property. The yard is heavily landscaped so the extension would not be visible. Mr. Simon confirmed that the house and lot are unique.

Mr. Kreisberg commented that in many parts of the City, the side setback is 10 ft. Mr. Heid clarified that a corner side setback is always 15 ft.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid stated that only a small portion of the room would extend into the setback, and making the room smaller would be awkward and less usable, the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant would accept the two conditions. Mr. Simon said they could.

A motion to approve Item 12-527 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-527 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆

Item #12-528: Gazebo (Single-Family House): 3323 NE 171 Street – Site Plan Review and Variance

Mr. Heid advised that the property is within an RS-1 Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use of Residential Low Density. The Applicant requests site plan approval and variance for the construction of a 193 sq. ft. gazebo. The request is for variance from Section 24-81 (A) (8), which allows a maximum of 15 x 49 sq. ft. for a gazebo of 144 sq. ft. He reminded the Board that gazebos were previously not permitted in a required yard setback, but have recently been made an allowable exception if they are 144 sq. ft. or less. The request would exceed this by 49 sq. ft.

Luis LaRosa, representing the Applicant, stated he is the architect for the project. He explained that the gazebo meets the side and rear setback requirements for accessory use; however, it lies in front of a large family room, and has been slightly elongated so its glazing matches the width of the glazing in this room. If it were shortened, it would block the view from the room. He concluded that it is a light, attractive structure that does not affect waterway visibility. The neighbor to the east of the project has submitted a letter of no objection to the structure.

Mr. Heid referred the Board to the project’s plans, noting that the columns of the gazebo do not block the view from the family room when extended. He confirmed that the water view is maintained and the structure meets side and rear setback requirements, as well as building height. The materials and roof type are similar to those of the main residence. He concluded that the only concern was with regard to the affected property owner to the east, who is supportive of the gazebo.

Mr. Smukler asked how the 144 sq. ft. gazebo was adopted as an allowable exception. Mr. Heid said the Applicant has a good reason to want a slightly larger structure, as it is proportionate to the house.

Mr. Edwards noted that the Applicant’s neighbor to the south has also been shown the plans for the gazebo and did not object to the project. He asked if there was a letter from this

neighbor. Mr. Larosa said this was an error and referred to the neighbor to the east, who would be most affected by the project.

Mr. Kriesberg observed that the letter written on May 3, 2012 also states the gazebo is located in the southeast corner of the property. It was clarified that its actual location is the northeast corner, overlooking a canal.

Mr. Kriesberg asked if construction has begun and stopped on the addition. Mr. Larosa confirmed this, explaining that construction was halted so the Applicant could go through the appropriate channels for approval of the gazebo.

Mr. Litowich asked if the gazebo's proportions are calculated from outside column to outside column, not including the overhang. Mr. La Rosa confirmed this. Mr. Heid said the overhang is not typically included in size measurements of a structure.

Chair Piper asked if there were limitations on the size of an overhang. Mr. Heid said while there was no size limit, there is a limit on how far an overhang may encroach into a setback: this is limited to one-third of the required setback, or 3 ft., whichever is less. The gazebo in question has a 1 ft. overhang.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the two conditions. Mr. LaRosa said they could.

A motion to approve Item 12-528 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-528 passed with a vote of 6-0.

Mr. Heid advised that the Board's approval is only a recommendation: if members of the public would like to speak on any Items presented at tonight's meeting, they should do so at the appropriate City Council meeting, which will be advertised in the newspaper. Signage will also be posted on the properties and within 500 ft. of the properties' boundaries.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-525: IHOP: 1101 North Miami Beach Boulevard – Site Plan Review and Variance

Mr. Heid stated that this property is located in a B-2 General Business Zoning District, with an existing land use of Restaurant and a future land use designation of Business. The Applicant requests site plan approval and variances for construction of a 575 sq. ft. canopy over an existing wooden deck. The variances would be from Section 24-81 (2), which would waive 4 ft. of the minimum required corner side yard setback of 15 ft. for a canopy; a second variance would be from Section 24-81 (2), which would waive 11 ft. of the minimum required rear yard setback of 15 ft. for canopies.

Andreas Poschl, representing the Applicant, explained that he is Director of Construction and Development for Sunshine Restaurant Partners. The IHOP restaurant in question was built 52 years ago. The intent is to construct a canopy over an existing deck, which was built 42 years ago, in order to create outside dining for the restaurant. The canopy would match the restaurant's blue roof.

Mr. Litowich asked if the canopy overhang would extend farther than the existing deck. Mr. Poschl said it would overhang the perimeter of the deck by 1 ft. on three sides. It will abut the gable end of the structure.

Mr. Kreisberg asked if diners typically eat outside at the restaurant. Mr. Poschl said this occurs at times during the winter months; however, during the summer this is very difficult. The addition of a canopy would be an attempt to accommodate outside dining on a year-round basis. The deck itself will be redone, landscaping will be added, and repairs will be made to the parking lot in order to update the building.

Mr. Edwards asked if all restaurants may establish outside dining, or if special approval is required. Mr. Heid replied that a building permit is necessary, and some restaurants are difficult to retrofit for this purpose; in this case, however, there would be no impact on the landscaping or parking.

Mr. Smukler asked if the 11 ft. setback already existed with the deck. Mr. Heid confirmed this, explaining that the variance request is for the canopy, not the deck. There is no required setback for a deck. Mr. Smukler asked if electricity will be required for the outdoor dining area. Mr. Poschl said permits will be pulled to include fans and lighting, both of which are allowed beneath a canopy.

Mr. Litowich asked if the canopy will be made of canvas. Mr. Poschl said it will be a fireproof canvas-like material, which is recommended over plastic or vinyl. There will be plastic side curtains to exclude rain as well.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City’s recommendation. Mr. Heid said the City recommends favorably, with the seven conditions as listed in the Staff Report.

Mr. Edwards asked if there could be a condition requiring the canopy to remain open on the sides except in the event of rain. Mr. Heid said this condition could be added, bringing the number of conditions to eight.

A motion to approve Item 12-525 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-525 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-526: Addition (Fire Station): 17050 NE 19 Avenue – Site Plan and Variance Re-approval

Mr. Heid stated that this is a City-owned property located in a CF Community Facility Zoning District, with an existing land use of Fire Rescue Station and Offices and a future land use of Public. The request is for approval to construct a 2324 sq. ft. one-storey addition to an existing two-storey Fire and Rescue Station. An existing 1002 sq. ft. one-storey portion of the building will be demolished to accommodate the proposed addition.

The variances requested are as follows: variance from Section 24-55 (B) (3), which would waive 4 ft. of the minimum required front yard setback of 30 ft., reducing it to 26 ft.; and variance from Section 24-55 (B) (3), to waive 11 ft. of the minimum required corner side yard setback of 25 ft., reducing this setback to 14 ft.

Mr. Heid pointed out that the Staff Report states this project was previously approved and favorably recommended by the Board and the City Council; however, the permit for the project has expired, which requires the Applicant to come back to the Board and regain approval. He concluded that Staff continues to support this project.

Mr. Heid explained that because the City is the property owner, the Applicant is Miami-Dade County Fire and Rescue. Angel Lamera, Facilities Division Manager for the project, was sworn in at this time. Mr. Lamera stated again that the project had been previously approved by the Board, but the permit had expired.

Mr. Smukler noted that p.5, Item 9 of the Staff Report discusses revising plans related to the curbing of the easternmost median. He requested clarification of this. Mr. Heid said this island is not currently curbed, and advised that these improvements are reflected in the building plans.

Mr. Kreisberg requested a brief description of the improvements to be made. Mr. Lamera said the north side of the building would be demolished and replaced with a new rescue side of the station. In addition, the entire station will be remodeled and repainted. Utilities will be segregated from the administration building, and will no longer be included under a single meter. This is expected to result in a slight decrease in the utility bill.

Mr. Heid stated that once the demolition is complete and the new addition has replaced it, there will be a new area of roughly 39 sq. ft.

Mr. Smukler noted that the corner side setback is 25 ft., on which the proposed addition will encroach by 11 ft. Mr. Heid confirmed this, advising that this will leave sufficient room for landscaping. It was also clarified that the building will always be owned by the City.

Mr. Edwards asked if the project would raise a legal question regarding unjust enrichment. Ms. Santovenia said she was not certain of the structure of the situation, so she could not answer this question. Mr. Lamera said once the funds have been spent to make the improvements, it would be even less likely that the Fire Station would leave the facility.

Mr. Edwards observed that the only issue would be if the City decided to take back the Fire Station. Chair Piper said it would be within the Board's purview to remind the City's Legal Department to ensure the contractual arrangement with Fire and Rescue does not have any unforeseen issues.

Ms. Santovenia asked if Mr. Edwards' question was whether there would be unjust enrichment to the City. Mr. Edwards confirmed this, and asked if the City would need to repay Fire and Rescue for these improvements if they took the property over from the tenant. Ms. Santovenia said leases are typically drafted so any improvements made by tenants will stay behind if the tenant leaves. Mr. Heid added that a permit would be necessary in order to physically remove any structures from the property, and as the property owner, the City would need to sign a permit allowing this removal.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the ten conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the ten conditions. Mr. Lamela said they could. He also noted that the variance is limited to six months, and asked if it would be possible to extend

this time period to one year, as it was not certain the improvements could be made within this time frame.

Ms. Kamali said the City is in the process of changing the six month time frame, although the change had not yet gone before the City Council. She asked that the Applicant ensure the request is made to renew the variance before the first six months have passed.

Mr. Heid said if this was part of the Code, it would require a variance to waive this requirement, and such a variance has been neither requested nor advertised. He did not feel this would be possible. However, he noted that the requirement was for six months to pull a permit or one year to submit it. The City Administration is also willing to write a letter on behalf of the Applicant to extend the time frame for six months. He felt this would be sufficient until the Code is changed.

A motion to approve Item 12-526 was made by Julian Kreisberg and seconded by Norman Edwards. The motion to approve Item 12-526 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-519: Fence Height – LDR Text Amendment

Mr. Heid stated that this Item was originally brought before the Board in April 2012, but was tabled because it was thought to be confusing. Upon further review, Staff felt the original amendment was complicated and difficult to understand. Portions of the original amendment, including hedge height and some fence specifications, have been omitted from the current draft. Hedges may now be the same height as fences, as long as the hedge is maintained. The height proposed for a corner side yard was originally 4 ft.; it has now been raised to 6 ft., as there are often requests from homeowners to make this change.

He continued that fences may remain 4 ft. in the front of a property and 6 ft. in the rear, corner, and side yards, which is commonly requested in the City.

Chair Piper asked if Mr. Heid recalled any of the details of the discussion about fence height. Mr. Heid said there had been significant resistance from homeowners with regard to limiting the size of hedges. He also clarified that rear yard fences are the side fences between buildings rather than a fence on the rear of the property. The limitation of a solid fence to 3 ft. in height will not be changed.

Mr. Kreisberg asked how this would affect hedges that encroach on a setback. Mr. Heid said this would not be an issue on private property, as the depth of rights-of-way should ensure sufficient room. If the fence extends beyond the property line, however, it may be cited. If a hedge results in complaints from neighbors, it may also trigger a citation.

Mr. Heid added that pedestrian and vehicular gates may be 1 ft. higher than the fence to which they are attached. This would allow for a less uniform and more decorative appearance.

Mr. Kreisberg noted that the measurement from the minimum finished floor elevations had also been changed, which could affect fence height if a home is at a higher elevation on one side. Mr. Heid said this occurs on occasion if a house is elevated. He noted, however, that most individuals do not object to fencing or landscaping.

A motion to approve Item 12-519 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-519 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-520: B-2 (Modification of Use) LDR Text Amendments

Mr. Heid advised that the Board has seen these amendments for the B-2 General Business Zoning District before, and recalled that they had expressed concern that pet stores would become permitted uses. This suggestion has been left as a conditional use for the sale of live pets, and pet groomers and sale of pet supplies will be permitted uses.

Other changes include repetition of some uses that are also allowed in the B-1 District; because these are clearly permitted uses in B-1, they were removed from the B-2 listing. These include health and exercise studios, coin laundries, convenience stores, and delis. Antiquated uses, such as dry goods stores and telegram offices, were also removed from the B-2 amendments. Code includes a clause that may allow for these uses if they are sufficiently similar in nature to other uses.

He continued that while it may sound easier to classify a use as conditional in order to retain better control over it, making some uses conditional will effectively mean they will not be allowed, particularly in the case of small local businesses, as they are less well-funded and may

not be able to afford the approval process. The result in many cases is that these businesses will simply relocate. Therefore, the suggestion is that many of these uses become permitted uses.

Mr. Heid said fast food restaurants are defined as those restaurants in which customers order from an overhead board, at a counter, and take their items. He explained that this term could apply to a small coffee shop that serves pastries. Two additional uses, museums and vintage/collectible goods, were introduced as well.

Chair Piper asked if this would not qualify as a standard retail use. Mr. Heid replied that there are specific regulations prohibiting secondhand sales, which are restricted to the warehouse district. The amendment would address this issue and allow the use in B-2 districts. He also clarified that standard fast food restaurants with a drive-through window will remain a conditional use, as these require more control.

Restrictions are also decreased for check cashing businesses, as they are currently very restricted. Mr. Heid said this restriction places a burden on individuals who rely on this service. He pointed out that many other businesses, such as grocery and convenience stores, will cash checks, which created an inequality between businesses. Lifting the restrictions would allow the market to determine whether or not this is an appropriate use.

Mr. Kriesberg asked why delicatessens were removed from the amendment. Mr. Heid explained they are permitted in B-1 Districts, and were removed to lessen confusion. Because it is allowed in B-1, it is not necessary to allow it in B-2.

Mr. Kriesberg asked why tanning salons were non-conditional rather than conditional uses. Mr. Heid said there are several national companies that manage tanning salons, and felt this use would be lost if subjected to the process for a conditional use.

Chair Piper requested clarification of the language regarding check cashing facilities. Mr. Heid said language would be clarified to show that this is now a permitted use.

Mr. Litowich asked how the Code differentiates between vintage and collectible goods and vintage or secondhand clothing. Mr. Heid said the difference in this case is in the eye of the beholder, as there is no defined difference. He observed that it can be "difficult to legislate quality," and reiterated that it is hoped the market will take care of any issues. He noted that there is no logical way to enforce distinctions between these categories: they must either be accepted as a class or not.

Mr. Heid continued that secondhand sales are a permitted use in B-4 Districts, and advised that a judgment call could be made based upon several factors to determine whether or not these sales qualify as vintage or collectible. Consignment stores, for example, are included under vintage/collectible use.

Mr. Smukler asked if the requirement that check cashing businesses would prevent them from being less than 200 ft. from a residential area. Mr. Heid said it would be recommended that this requirement be stricken from the amendment; while it may be associated with “unsavory” elements, this was not always accurate. He pointed out that this restriction represented more of a moral stance than zoning equality.

Mr. Smukler asked if the restriction preventing these businesses from being established within 200 ft. of a residential area would have limited the potential locations open to them. Mr. Heid said they are not allowed in some locations at all. He added that this was preferable to attaching so many restrictions that a location became prohibitive.

Chair Piper noted that the owners of some shopping centers would not want these businesses to be part of the centers. He commented that any problems could be controlled by a police presence or “No Trespassing” signs. Mr. Heid said this was an example of the issue being market-driven: landlords who have the long-term interests of their properties at heart would not want to rent to low-end establishments.

Mr. Edwards asked if the language moving pet grooming to a permitted use should also contain the conditions that it must take place in an air-conditioned, soundproof building no less than 300 ft. from a residential area. Mr. Heid said this was a good point, but noted that businesses selling pet supplies but not offering grooming services would not need the air-conditioned and soundproofed requirements. He suggested that there may need to be a separate category for pet groomers, or additional language attached to discussion of this business.

Mr. Edwards asked if places of public assembly would remain a permitted use. Mr. Heid said this use is currently permitted and no change was suggested. Mr. Edwards asked if this category would include schools and churches. Mr. Heid said they would include churches, but not schools. Ms. Kamali said schools are allowed in CF and RM-23 districts, but not B-2.

Mr. Edwards asked why schools were not allowed within B-2 districts if churches were allowed. He suggested that smaller schools, such as schools without playgrounds or tutoring facilities, might be permissible in this district. Chair Piper pointed out that there are several requirements that accompany schools, such as traffic considerations, that could limit their placement. Mr. Heid added that B-2 districts allow retail uses, such as liquor stores and bars. If a school is allowed within this district, there must be a 1500 ft. radius from these facilities. While it is possible for these businesses to seek a variance, it can be expensive and difficult, and parents of schoolchildren may object to the location.

Mr. Litowich noted that some places of public assembly, such as churches and synagogues, may have schools attached to their facilities. Mr. Heid said while day care is allowed at these facilities in B-2 districts, elementary through high schools are not permitted in B-2. Vocational training is permitted within the district.

Mr. Edwards asked to know the height and density maximums of these residential multi-family or mixed-use uses within B-2 areas. Mr. Heid said these are conditional uses and must go through a hearing. Mr. Heid said B-2 districts are allowed to have multi-family residential in accordance with RM-23; the maximum height allowed is three stories or 35 ft., although the City Council may authorize up to six stories or 65 ft.

He noted that these would be conditional uses that must come before the Board for recommendations and the City Council for approval. They would also require a future land use map amendment to the Comprehensive Plan, as virtually all B-2 districts have future land use categories of Business and do not allow Residential. The mixed-use future land use category allows this mixed use of residential and business.

Mr. Smukler asked if the 1500 ft. radius around schools in which liquor cannot be sold could be extended to a restaurant that serves liquor after hours. Mr. Heid clarified that restaurants which serve alcohol are not included in this restriction, which is specific to bars, lounges, and packaged liquor stores. He noted that a business may request a variance to waive the 1500 ft. distance separation. Ms. Kamali noted that the State-required radius is only 500 ft., and also provides an avenue for variance within municipalities.

Mr. Smukler pointed out that there is a cost associated with conditional use, and proposed that the amendment could make these uses permitted in evenings and on weekends. Mr. Heid said while he did not see a mechanism for this, it could be considered further.

Chair Piper opened the floor for public comment.

Matthew Amster, representing the owner of the Intracoastal Mall, was sworn in at this time. He advised that the owner is supportive of the changes presented before the Board at today's meeting, and hoped the Board would recommend them favorably.

Mr. Kreisberg asked if Mr. Amster could provide specific examples of any part of the amendment that would make it easier for tenants to go into the Intracoastal Mall. Mr. Amster said the owner had wanted to rent to a dog grooming service, as well as a wine bar.

Mr. Heid said the proposed amendment is part of an ongoing program by which districts are to be made more liberal regarding their list of uses in order to be more competitive with neighboring municipalities. The lessened restrictions are seen as more business-friendly.

As there were no other members of the public wishing to speak on the Item, public comment was closed.

A motion to approve Item 12-520 was made by Julian Kreisberg. Mr. Kreisberg added that the motion was made with the understanding that Mr. Heid would amend some of the Item's language as discussed by the Board, specifically as it applied to pet groomers.

Mr. Litowich seconded the motion. The motion to approve Item 12-520 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Next Meeting: Monday, July 9, 2012

Mr. Edwards requested that a presentation on changes and legislative updates at the State level be made at the next meeting. Ms. Kamali said this could be done, although she noted it may be very short, as the State does not have any control over any changes that have been made in the City. She concluded that this responsibility has been given to the City versus the State.

◆-----◆
Adjournment

A motion to adjourn was made by Julian Kreisberg and seconded by Norman Edwards. The meeting was adjourned at 7:47 p.m.

RESOLUTION NO. R2012-55

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 TWO HUNDRED AND EIGHT (208) SQUARE FOOT ADDITION TO AN EXISTING SINGLE-FAMILY HOME, AS PROPOSED; AND

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-44(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THREE (3) FEET SIX (6) INCHES OF THE REQUIRED CORNER SIDE YARD SETBACK OF FIFTEEN (15) FEET, WHERE CORNER SIDE YARD SETBACK OF ELEVEN (11) FEET SIX (6) INCHES IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS:

Lot 1, Block 159, of Fulford by the Sea, According to the Plat thereof, as Recorded in Plat Book 10, Page 29, of the Public Records of Miami-Dade County, FL.

**A/K/A
2100 N.E. 180 Street
North Miami Beach, Florida**

(P&Z Item No. 12-527 of June 11, 2012)

WHEREAS, the property described herein is zoned RS-4, Residential Single-Family Zoning District; and

WHEREAS, the applicant requests site plan approval and a variance in order to construct a Two Hundred and Eight (208) foot addition to an existing house located at 2100 NE 180 Street; and

WHEREAS, the Planning and Zoning Board on June 11, 2012 recommended approval of the site plan and related variance, 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 1 of 2, by AFA & Company, Inc., dated 1/27/2012;
 - Survey, Sheet 2 of 2, by AFA & Company, Inc., dated 1/27/2012;

- Site Plan, Sheet A-1, by Lawrence Simon Architect, dated 4/22/2012, revised 5/1/2012;
 - Floor Plan, Sheet A-2, by Lawrence Simon Architect, dated 4/22/2012, revised 5/1/2012;
 - Elevations, Sheet A-3, by Lawrence Simon Architect, dated 4/22/2012, revised 5/1/2012.
2. When plans are submitted for a 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.

Section 1. Site plan approval in order to construct a Two Hundred and Eight (208) square foot addition to an existing house, on property legally described as:

Lot 1, Block 159, of Fulford by the Sea, According to the Plat thereof, as Recorded in Plat Book 10, Page 29, of the Public Records of Miami-Dade County, FL.

**A/K/A
2100 N.E. 180 Street
North Miami Beach, Florida**

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 1 of 2, by AFA & Company, Inc., dated 1/27/2012;
 - Survey, Sheet 2 of 2, by AFA & Company, Inc., dated 1/27/2012;
 - Site Plan, Sheet A-1, by Lawrence Simon Architect, dated 4/22/2012, revised 5/1/2012;
 - Floor Plan, Sheet A-2, by Lawrence Simon Architect, dated 4/22/2012, revised 5/1/2012;
 - Elevations, Sheet A-3, by Lawrence Simon Architect, dated 4/22/2012, revised 5/1/2012.
2. When plans are submitted for a 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 24-44(D)(3) to waive Three (3) feet Six (6) inches of the required corner side yard setback of Fifteen (15) feet, where corner side yard setback of Eleven (11) feet Six (6) inches is proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

Section 3. 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 4. 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 ___ **day of** _____, **2012.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM:

DARCEE S. SIEGEL
CITY ATTORNEY

SPONSORED BY: Mayor and City Council



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Lyndon L. Bonner, City Manager
DATE: Tuesday, July 17, 2012

RE: Resolution No. R2012-56 (City Planner Christopher Heid)

BACKGROUND: The applicant, Andreas Poschl, is requesting site plan approval and variances for the construction of a 575 square foot canopy over an existing wood deck located at 1101 North Miami Beach Boulevard.

RECOMMENDATION: Approval

FISCAL IMPACT: None

CONTACT PERSON(S): Shari Kamali, Director of Public services
Christopher Heid, City Planner

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [Planning & Zoning Board Minutes - June 11, 2012](#)
- ❑ [Resolution No. R2012-56](#)



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

CITY COUNCIL MEETING

TUESDAY, JULY 17, 2012

ITEM #12-525

I-HOP (CANOPY)

OWNER OF PROPERTY

NATHAN & JACQUELINE FINKEL

ADDRESS OF PROPERTY

1101 NORTH MIAMI BEACH BOULEVARD

LEGAL DESCRIPTION

LOT 14 & 15 IN BLOCK 11, "UNIT 1, MONTICELLO PARK", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 40, AT PAGE 65, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

EXISTING ZONING

B-2, GENERAL BUSINESS

EXISTING LAND USE

RESTAURANT

FUTURE LAND USE DESIGNATION

BUSINESS

THE REQUEST - The applicant, Andreas Poschl of Sunshine Restaurants, requests site plan approval and variances in order to construct a 575 square foot canopy over an existing wood deck located at 1101 North Miami Beach Boulevard, in the B-2, General Business Zoning District.

Variances requested are as follows:

- 1. Requests variance from Section 24-81(2) to waive 4' of the minimum required corner side yard setback for a canopy of 15'. (Corner side yard canopy setback of 11' proposed.)**
- 2. Requests variance from Section 24-81(2) to waive 11' of the minimum required rear yard setback for a canopy of 15'. (Rear yard canopy setback of 4' proposed.)**

ZONING – The subject property, as well as the properties to the north, east, and south, are zoned B-2, General Business. The property to the west is zoned CF, Community Facility. (See attached Exhibit #1 for a Zoning Map of the subject property).

EXISTING LAND USE – The subject property is a restaurant. The properties to the north, east, and south are retail and office establishments. The property to the west is a elementary school. (See attached exhibit #2 for a Land Use Map of the subject property).

FUTURE LAND USE – The subject property, as well as the properties to the north, east, and south have a Future Land Use designation of Business. The property to the west has a Future Land Use designation of Public and Quasi-Public. (See attached exhibit #3 for a Future Land Use Map of the subject property.)

THE SITE – The subject property is 15,720 square feet (0.36 Acre). The site measures 97 feet deep, with approximately 180 feet of frontage on North Miami Beach Boulevard and 43 feet of frontage on NE 11 Avenue. The currently contains a restaurant, which will remain.

THE PROJECT – The project proposes the construction of a 575 square foot canopy over an existing wood deck to facilitate outdoor dining, as well as renovations to the existing deck and upgrades to the parking lot. Parking lot improvements include the addition of curbing, a reconfigured layout, and the addition of landscaping.

REVIEW BY OTHER CITY DEPARTMENTS -

Engineering

A. General

1. Parking must be curbed with Type “D” and shown on the plan.
2. Does the property have cross access parking agreement with adjacent property?
3. The maximum number of parking spaces in a row must be 8 spaces only. In excess of 8 spaces, the row must be separated by a 5-foot wide curbed & landscaped island.
4. Handicap parking space must conform to ADA requirements and must be as close to the main entrance as possible. The plan must include ADA compliant handicap parking details that must show at least but not limited to the proposed slope, ramp, signs, access aisle and pavement markings. The handicap space detailed drawing must be consistent with the location and grading of the site.
5. The parking stalls must be a minimum of 9 feet wide and 18 feet long.
6. Wheel stops must be replaced with curb, therefore with the curb serving as wheel stops the dimension from the front of curb to the rear of parking stall must be minimum 16 feet. The dimension from the front of the curb to the front of the parking stall must be minimum 2 feet. This 2-foot area will be designated as the parking overhang and must be free of any encroachment or obstruction from trees, signs, shrubs, etc.
7. Plan must be dimensioned to show the length and width of ingress and egress, parking stalls, parking aisles, islands, etc.
8. Engineer must certify that the existing drainage will be sufficient and will not be adversely affected by the proposed curbing.
9. Paving and additional drainage system if needed must be designed by a State certified engineer.
10. Listed below are requirements for required at permitting.

B. Engineering (Paving & Drainage) Permit Approval Requirements:

1. Submit two (2) sets of Engineering Plans (Paving, Grading and Drainage). Plans must be signed and sealed by a State of Florida certified Engineer and must be **D.E.R.M.** and **FDOT**. Plans must show at least, but not limited to the following:
 - Existing and proposed elevations around the property and adjacent public right-of-way, rim elevations, to indicate that the storm water run-off will be kept within the property and not allowed into the public right-of-way and adjacent properties.
 - Tributary areas for each catch basins or indicate flow of run-off to catch basins.
 - Profile and standard detail drawings of drainage facilities, cross-section showing elevations and dimensions per design calculations.
 - Profile and standard detailed drawings of proposed pavement, curbing, ADA compliant handicap parking stalls, ramps, sidewalk and driveway constructions.
 - Dimensions of sidewalks, driveways, parking stalls, parking aisles, medians, islands, setbacks per City of North Miami Beach standard specifications.
 - Traffic signs and pavement markings.
 - Locations and points of discharge of rain leaders or connection to catch basins.
2. Submit two (2) sets of Drainage Calculations, signed and sealed by an Engineer. Drainage Calculations must specify design criteria and must include all maps, charts, tables, and sources to support parameters used in calculations. Drainage calculations must be based on minimum of 5-year Storm, 10 minutes time of concentration (Intensity = 6.20 inches/hr.).
3. Submit one (1) original set of S.F.W.M.D Usual-Open-Hole Percolation Test, signed and sealed from an approved testing laboratory, 15' deep test hole at location of proposed exfiltration trench. Percolation rate from this test must be used for the drainage design. This will only be required if an exfiltration trench will be used.
4. Minimum exfiltration trench must be 15' deep, 3 feet wide and 25 feet in length.
5. Submit an Erosion and Sediment Control Plan that shows protection and maintenance of all existing stormwater systems during construction. CGP/NOI permits from DEP may be required (for projects 1 acre and above).

COMMUNITY DEVELOPMENT DEPARTMENT ANALYSIS

The requested variances are minimal and the canopy is a welcomed addition to the existing restaurant providing desired shade for the existing outdoor dining. Significant upgrades to the parking lot will be provided, including better traffic flow and upgraded landscape.

PLANNING & ZONING BOARD HISTORY

This item received a favorable recommendation from the Planning & Zoning Board by a vote of 6-0 at the meeting of Monday, June 11, 2012.

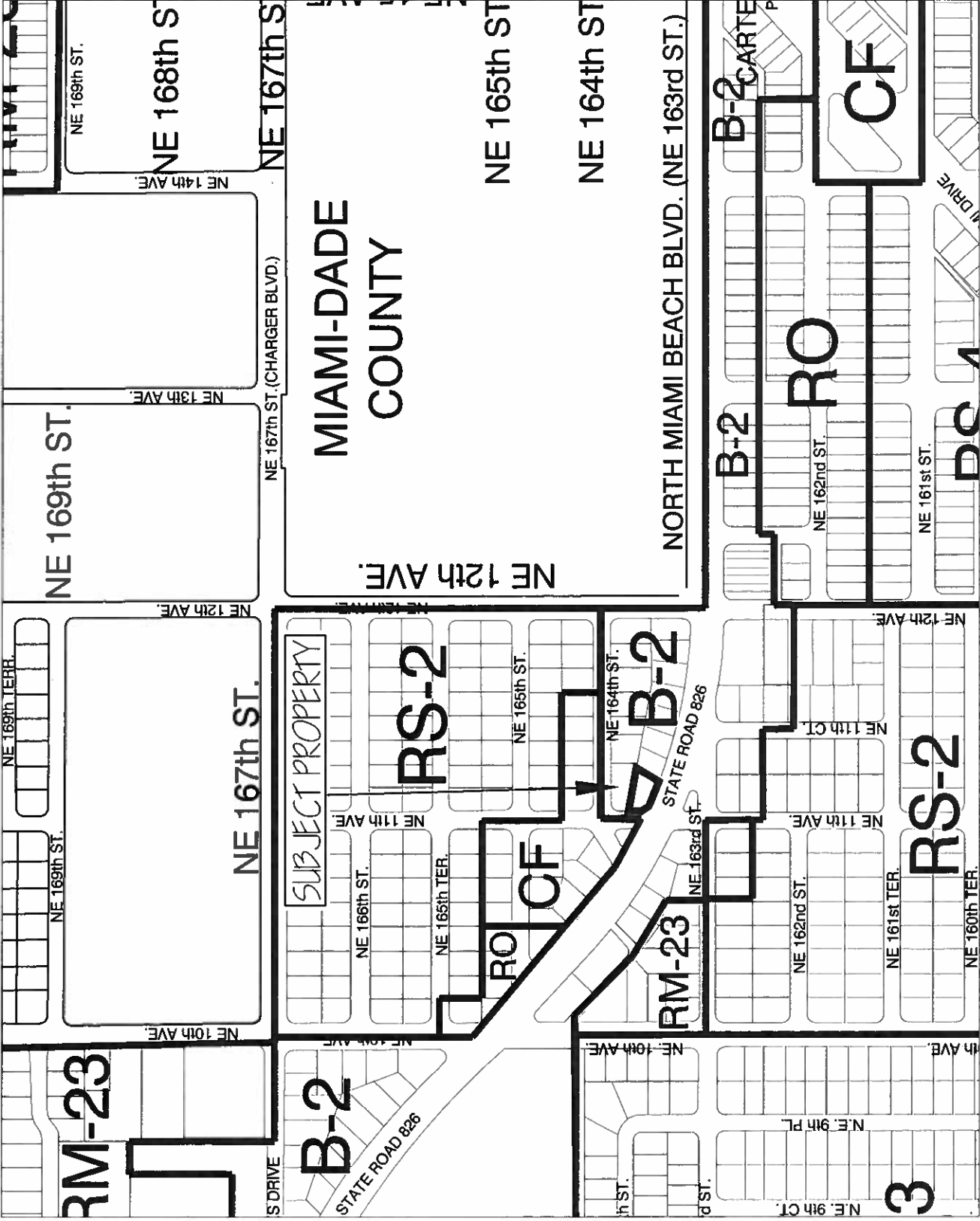
COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION

It is recommended that the request for site plan review be approved, 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 1 of 1, by Level-Tech Surveyors, LLC., dated 4/02/2012;
 - Site Plan, Sheet SP1.1, by Architectonics Studio, dated 4/2/2012;
 - Landscape Plan, Sheet LP1.1, by Architectonics Studio, dated 4/2/2012;
 - Floor Plan, Sheet A1.1, by Architectonics Studio, dated 4/2/2012;
 - Elevations, Sheet A2.1, by Architectonics Studio, dated 4/2/2012.
2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.
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 Director of Public Services prior to the issuance of a building permit for this project.
5. The, design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles, entry paving materials, and street furniture must be submitted to and approved by the Director of Public Services.
6. A revised landscape plan shall be submitted prior to the issuance of building permit for this project.
7. The sides of the awning must remain open. Clear plastic curtains may be used during inclement weather.
8. 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

Legend:

- RS-1 Residential Single Family (8,000 SF minimum)
- RS-2 Residential Single Family (7,000 SF minimum)
- RS-3 Residential Single Family (6,000 SF minimum)
- RS-4 Residential Single Family (5,000 SF minimum)
- RS-5 Residential Single Family (1,200 SF minimum)
- MH-1 Mobile Home Subdivision
- RD Residential Two-Family (Duplex)
- RM-19 Residential Low Rise Multifamily Medium Density-19 Units / Acre
- RM-23 Residential Mid Rise Multifamily High Density-23 Units / Acre
- RM-32 Residential High-Rise Multifamily High Density-32 Units / Acre
- RO Residential Office District
- B-1 Limited Business District
- B-2 General Business District
- B-3 Intensive Business District
- B-4 Distribution Business and Light Industrial
- B-5 Distribution Business and Medium Industrial
- CF Community Facility
- PUD Planned Unit Development



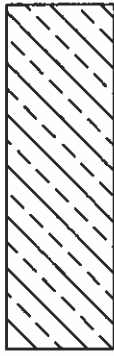
City of North Miami Beach
17050 NE 19th Avenue
North Miami Beach, Florida 33162

IHOP
1101 NMB Boulevard

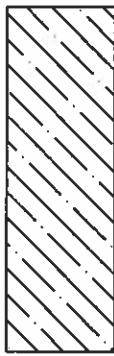
Existing Zoning Map
Exhibit No. 1

Prepared by CNMP Engineering Division

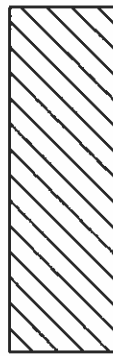
Legend:



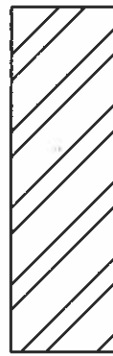
Residential Low Density



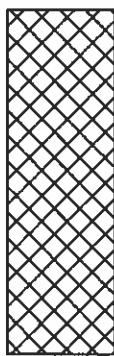
Residential Medium Density



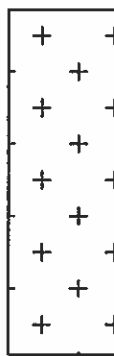
Residential High Density



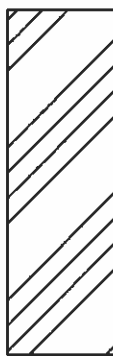
Business



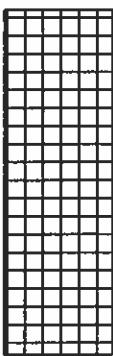
Public and Quasi - Public



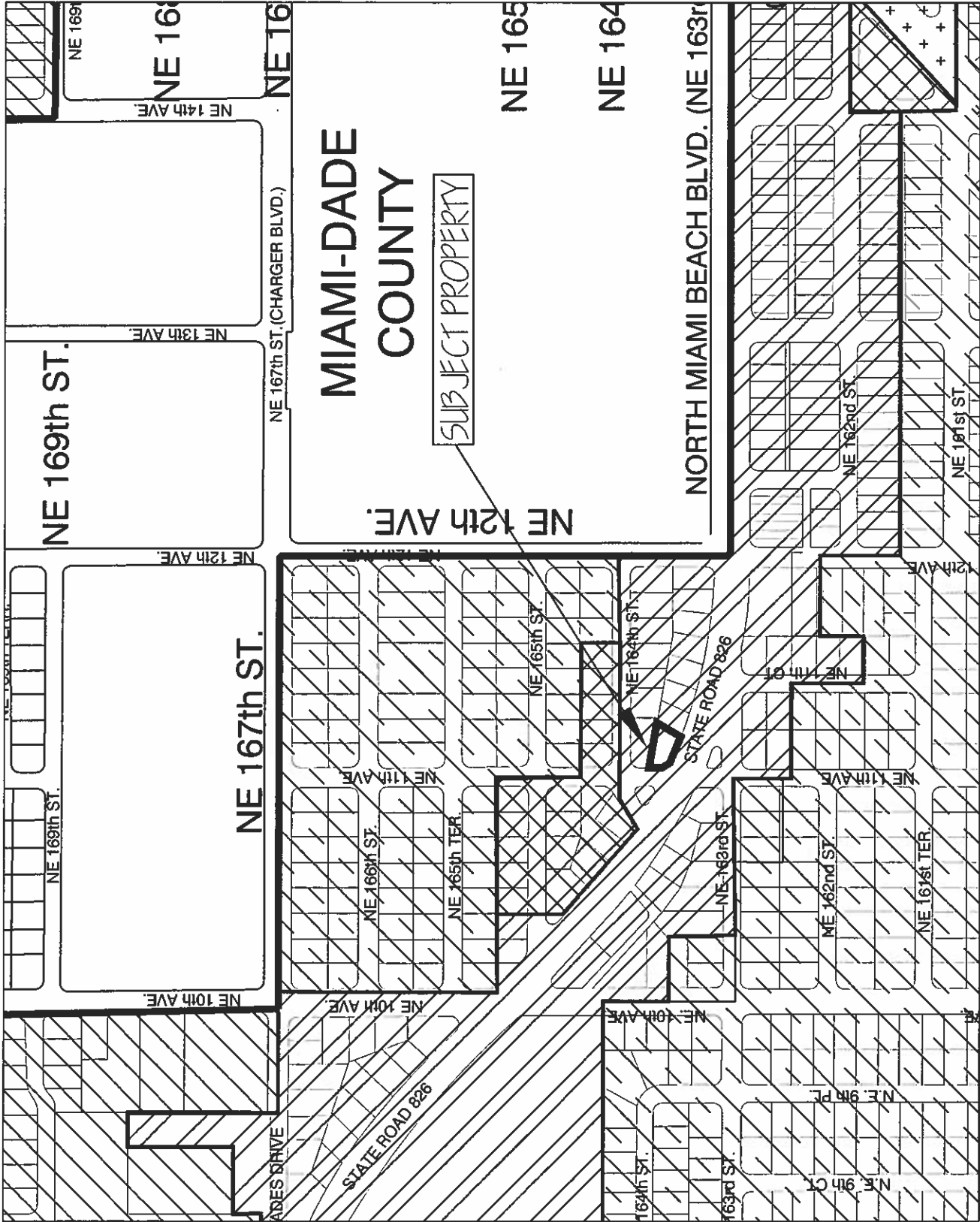
Recreation and Open Space



Industrial



Mixed Use



City of North Miami Beach
17050 N.E. 19th Avenue
North Miami Beach, Florida 33162

1-Hop
1101 North Miami Beach Boulevard



Future Land Use Map
Exhibit No. 3

Prepared by CNMB Engineering Division



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING

MONDAY, JUNE 11, 2012

Attendees:

Members - Chairman Evan Piper

Jaime Eisen

Saul Smukler

Julian Kreisberg

Norman Edwards

Joseph Litowich

Hector Marrero – ABSENT

Staff - Shari Kamali, Director of Public Services

Christopher Heid, City Planner

Maria Santovenia, Asst. City Attorney

Steven Williams, Board Recorder

Call to Order and Pledge of Allegiance:

Chair Piper called the meeting to order at 6:06 p.m. The Pledge of Allegiance was recited and roll was called. Mr. Hector Marrero was absent.

Minutes:

A motion made by Jaime Eisen, seconded by Joseph Litowich, to approve the minutes of the April 9, 2012 meeting. In a voice vote, the motion passed unanimously.

Chair Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

OLD BUSINESS

Mr. Heid advised that Item 12-517 (LDR Text Amendment: Commercial Window Signs) was favorably recommended by the Board and approved by City Council. Item 11-511 (LDR Text Amendment: Development Review Procedures) was also favorably recommended by the Board and will be presented to the City Council in July. Item 12-518 (After-the-Fact Variance: 1687 NE 174 Street) and Item 12-522 (Minor Site Plan Modification: 1055 Miami Gardens Drive) were favorably recommended by the Board and approved by City Council. Item 11-509 (FLUM and Rezoning: 17400 West Dixie Highway) was unfavorably recommended by the Board; however, City Council approved the Future Land Use Amendment change to Business, and the Rezoning was tabled until the June 19th meeting.

NEW BUSINESS

Item #12-527: Addition (Single-Family House): 2100 NE 180 Street – Site Plan Review and Variance

Mr. Heid stated that the existing zoning for this site is RS-4, Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use designation of Residential/Low-Density. The Applicant requests approval for the construction of a 208 sq. ft. addition to an existing house. The request is for variance from Section 24-44 (D) (3), for a 3 ft. 6 in. variance from the corner side yard setback of 15 ft. The change would result in a corner side yard setback of 11 ft. 6 in. Mr. Heid noted that approximately 10% of the addition would extend into the setback; the corner lot of the house is skewed, which means the addition could not be accommodated without a variance.

Larry Simon, representing the Applicants, explained that the house was constructed in the 1950s. Because the house was skewed when constructed, the addition of a family room would extend off one side and into the setback. He pointed out that while one corner extends into the setback, another corner is much farther away. The extension is not visible from the street and does not infringe upon any neighbors.

Mr. Heid added that the greater portion of the home is set back equal to or further than the required minimum setback. The section extending into the setback is approximately 8 ft. by 3 ft.

Mr. Kreisberg asked if the family room has been constructed at this time. Mr. Simon assured the Board that it has not.

Chair Piper asked if the City routinely approves scenarios such as this one, or if it is an isolated case. Mr. Heid replied that not many such requests have come before the Board; however, in the case of a house that is skewed on a lot, he noted that the corner yard setback is at least 100 ft. away from the nearest property. The yard is heavily landscaped so the extension would not be visible. Mr. Simon confirmed that the house and lot are unique.

Mr. Kreisberg commented that in many parts of the City, the side setback is 10 ft. Mr. Heid clarified that a corner side setback is always 15 ft.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid stated that only a small portion of the room would extend into the setback, and making the room smaller would be awkward and less usable, the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant would accept the two conditions. Mr. Simon said they could.

A motion to approve Item 12-527 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-527 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆

Item #12-528: Gazebo (Single-Family House): 3323 NE 171 Street – Site Plan Review and Variance

Mr. Heid advised that the property is within an RS-1 Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use of Residential Low Density. The Applicant requests site plan approval and variance for the construction of a 193 sq. ft. gazebo. The request is for variance from Section 24-81 (A) (8), which allows a maximum of 15 x 49 sq. ft. for a gazebo of 144 sq. ft. He reminded the Board that gazebos were previously not permitted in a required yard setback, but have recently been made an allowable exception if they are 144 sq. ft. or less. The request would exceed this by 49 sq. ft.

Luis LaRosa, representing the Applicant, stated he is the architect for the project. He explained that the gazebo meets the side and rear setback requirements for accessory use; however, it lies in front of a large family room, and has been slightly elongated so its glazing matches the width of the glazing in this room. If it were shortened, it would block the view from the room. He concluded that it is a light, attractive structure that does not affect waterway visibility. The neighbor to the east of the project has submitted a letter of no objection to the structure.

Mr. Heid referred the Board to the project’s plans, noting that the columns of the gazebo do not block the view from the family room when extended. He confirmed that the water view is maintained and the structure meets side and rear setback requirements, as well as building height. The materials and roof type are similar to those of the main residence. He concluded that the only concern was with regard to the affected property owner to the east, who is supportive of the gazebo.

Mr. Smukler asked how the 144 sq. ft. gazebo was adopted as an allowable exception. Mr. Heid said the Applicant has a good reason to want a slightly larger structure, as it is proportionate to the house.

Mr. Edwards noted that the Applicant’s neighbor to the south has also been shown the plans for the gazebo and did not object to the project. He asked if there was a letter from this

neighbor. Mr. Larosa said this was an error and referred to the neighbor to the east, who would be most affected by the project.

Mr. Kriesberg observed that the letter written on May 3, 2012 also states the gazebo is located in the southeast corner of the property. It was clarified that its actual location is the northeast corner, overlooking a canal.

Mr. Kriesberg asked if construction has begun and stopped on the addition. Mr. Larosa confirmed this, explaining that construction was halted so the Applicant could go through the appropriate channels for approval of the gazebo.

Mr. Litowich asked if the gazebo's proportions are calculated from outside column to outside column, not including the overhang. Mr. La Rosa confirmed this. Mr. Heid said the overhang is not typically included in size measurements of a structure.

Chair Piper asked if there were limitations on the size of an overhang. Mr. Heid said while there was no size limit, there is a limit on how far an overhang may encroach into a setback: this is limited to one-third of the required setback, or 3 ft., whichever is less. The gazebo in question has a 1 ft. overhang.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the two conditions. Mr. LaRosa said they could.

A motion to approve Item 12-528 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-528 passed with a vote of 6-0.

Mr. Heid advised that the Board's approval is only a recommendation: if members of the public would like to speak on any Items presented at tonight's meeting, they should do so at the appropriate City Council meeting, which will be advertised in the newspaper. Signage will also be posted on the properties and within 500 ft. of the properties' boundaries.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-525: IHOP: 1101 North Miami Beach Boulevard – Site Plan Review and Variance

Mr. Heid stated that this property is located in a B-2 General Business Zoning District, with an existing land use of Restaurant and a future land use designation of Business. The Applicant requests site plan approval and variances for construction of a 575 sq. ft. canopy over an existing wooden deck. The variances would be from Section 24-81 (2), which would waive 4 ft. of the minimum required corner side yard setback of 15 ft. for a canopy; a second variance would be from Section 24-81 (2), which would waive 11 ft. of the minimum required rear yard setback of 15 ft. for canopies.

Andreas Poschl, representing the Applicant, explained that he is Director of Construction and Development for Sunshine Restaurant Partners. The IHOP restaurant in question was built 52 years ago. The intent is to construct a canopy over an existing deck, which was built 42 years ago, in order to create outside dining for the restaurant. The canopy would match the restaurant's blue roof.

Mr. Litowich asked if the canopy overhang would extend farther than the existing deck. Mr. Poschl said it would overhang the perimeter of the deck by 1 ft. on three sides. It will abut the gable end of the structure.

Mr. Kreisberg asked if diners typically eat outside at the restaurant. Mr. Poschl said this occurs at times during the winter months; however, during the summer this is very difficult. The addition of a canopy would be an attempt to accommodate outside dining on a year-round basis. The deck itself will be redone, landscaping will be added, and repairs will be made to the parking lot in order to update the building.

Mr. Edwards asked if all restaurants may establish outside dining, or if special approval is required. Mr. Heid replied that a building permit is necessary, and some restaurants are difficult to retrofit for this purpose; in this case, however, there would be no impact on the landscaping or parking.

Mr. Smukler asked if the 11 ft. setback already existed with the deck. Mr. Heid confirmed this, explaining that the variance request is for the canopy, not the deck. There is no required setback for a deck. Mr. Smukler asked if electricity will be required for the outdoor dining area. Mr. Poschl said permits will be pulled to include fans and lighting, both of which are allowed beneath a canopy.

Mr. Litowich asked if the canopy will be made of canvas. Mr. Poschl said it will be a fireproof canvas-like material, which is recommended over plastic or vinyl. There will be plastic side curtains to exclude rain as well.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City’s recommendation. Mr. Heid said the City recommends favorably, with the seven conditions as listed in the Staff Report.

Mr. Edwards asked if there could be a condition requiring the canopy to remain open on the sides except in the event of rain. Mr. Heid said this condition could be added, bringing the number of conditions to eight.

A motion to approve Item 12-525 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-525 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-526: Addition (Fire Station): 17050 NE 19 Avenue – Site Plan and Variance Re-approval

Mr. Heid stated that this is a City-owned property located in a CF Community Facility Zoning District, with an existing land use of Fire Rescue Station and Offices and a future land use of Public. The request is for approval to construct a 2324 sq. ft. one-storey addition to an existing two-storey Fire and Rescue Station. An existing 1002 sq. ft. one-storey portion of the building will be demolished to accommodate the proposed addition.

The variances requested are as follows: variance from Section 24-55 (B) (3), which would waive 4 ft. of the minimum required front yard setback of 30 ft., reducing it to 26 ft.; and variance from Section 24-55 (B) (3), to waive 11 ft. of the minimum required corner side yard setback of 25 ft., reducing this setback to 14 ft.

Mr. Heid pointed out that the Staff Report states this project was previously approved and favorably recommended by the Board and the City Council; however, the permit for the project has expired, which requires the Applicant to come back to the Board and regain approval. He concluded that Staff continues to support this project.

Mr. Heid explained that because the City is the property owner, the Applicant is Miami-Dade County Fire and Rescue. Angel Lamera, Facilities Division Manager for the project, was sworn in at this time. Mr. Lamera stated again that the project had been previously approved by the Board, but the permit had expired.

Mr. Smukler noted that p.5, Item 9 of the Staff Report discusses revising plans related to the curbing of the easternmost median. He requested clarification of this. Mr. Heid said this island is not currently curbed, and advised that these improvements are reflected in the building plans.

Mr. Kreisberg requested a brief description of the improvements to be made. Mr. Lamera said the north side of the building would be demolished and replaced with a new rescue side of the station. In addition, the entire station will be remodeled and repainted. Utilities will be segregated from the administration building, and will no longer be included under a single meter. This is expected to result in a slight decrease in the utility bill.

Mr. Heid stated that once the demolition is complete and the new addition has replaced it, there will be a new area of roughly 39 sq. ft.

Mr. Smukler noted that the corner side setback is 25 ft., on which the proposed addition will encroach by 11 ft. Mr. Heid confirmed this, advising that this will leave sufficient room for landscaping. It was also clarified that the building will always be owned by the City.

Mr. Edwards asked if the project would raise a legal question regarding unjust enrichment. Ms. Santovenia said she was not certain of the structure of the situation, so she could not answer this question. Mr. Lamera said once the funds have been spent to make the improvements, it would be even less likely that the Fire Station would leave the facility.

Mr. Edwards observed that the only issue would be if the City decided to take back the Fire Station. Chair Piper said it would be within the Board's purview to remind the City's Legal Department to ensure the contractual arrangement with Fire and Rescue does not have any unforeseen issues.

Ms. Santovenia asked if Mr. Edwards' question was whether there would be unjust enrichment to the City. Mr. Edwards confirmed this, and asked if the City would need to repay Fire and Rescue for these improvements if they took the property over from the tenant. Ms. Santovenia said leases are typically drafted so any improvements made by tenants will stay behind if the tenant leaves. Mr. Heid added that a permit would be necessary in order to physically remove any structures from the property, and as the property owner, the City would need to sign a permit allowing this removal.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the ten conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the ten conditions. Mr. Lamela said they could. He also noted that the variance is limited to six months, and asked if it would be possible to extend

this time period to one year, as it was not certain the improvements could be made within this time frame.

Ms. Kamali said the City is in the process of changing the six month time frame, although the change had not yet gone before the City Council. She asked that the Applicant ensure the request is made to renew the variance before the first six months have passed.

Mr. Heid said if this was part of the Code, it would require a variance to waive this requirement, and such a variance has been neither requested nor advertised. He did not feel this would be possible. However, he noted that the requirement was for six months to pull a permit or one year to submit it. The City Administration is also willing to write a letter on behalf of the Applicant to extend the time frame for six months. He felt this would be sufficient until the Code is changed.

A motion to approve Item 12-526 was made by Julian Kreisberg and seconded by Norman Edwards. The motion to approve Item 12-526 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-519: Fence Height – LDR Text Amendment

Mr. Heid stated that this Item was originally brought before the Board in April 2012, but was tabled because it was thought to be confusing. Upon further review, Staff felt the original amendment was complicated and difficult to understand. Portions of the original amendment, including hedge height and some fence specifications, have been omitted from the current draft. Hedges may now be the same height as fences, as long as the hedge is maintained. The height proposed for a corner side yard was originally 4 ft.; it has now been raised to 6 ft., as there are often requests from homeowners to make this change.

He continued that fences may remain 4 ft. in the front of a property and 6 ft. in the rear, corner, and side yards, which is commonly requested in the City.

Chair Piper asked if Mr. Heid recalled any of the details of the discussion about fence height. Mr. Heid said there had been significant resistance from homeowners with regard to limiting the size of hedges. He also clarified that rear yard fences are the side fences between buildings rather than a fence on the rear of the property. The limitation of a solid fence to 3 ft. in height will not be changed.

Mr. Kreisberg asked how this would affect hedges that encroach on a setback. Mr. Heid said this would not be an issue on private property, as the depth of rights-of-way should ensure sufficient room. If the fence extends beyond the property line, however, it may be cited. If a hedge results in complaints from neighbors, it may also trigger a citation.

Mr. Heid added that pedestrian and vehicular gates may be 1 ft. higher than the fence to which they are attached. This would allow for a less uniform and more decorative appearance.

Mr. Kreisberg noted that the measurement from the minimum finished floor elevations had also been changed, which could affect fence height if a home is at a higher elevation on one side. Mr. Heid said this occurs on occasion if a house is elevated. He noted, however, that most individuals do not object to fencing or landscaping.

A motion to approve Item 12-519 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-519 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-520: B-2 (Modification of Use) LDR Text Amendments

Mr. Heid advised that the Board has seen these amendments for the B-2 General Business Zoning District before, and recalled that they had expressed concern that pet stores would become permitted uses. This suggestion has been left as a conditional use for the sale of live pets, and pet groomers and sale of pet supplies will be permitted uses.

Other changes include repetition of some uses that are also allowed in the B-1 District; because these are clearly permitted uses in B-1, they were removed from the B-2 listing. These include health and exercise studios, coin laundries, convenience stores, and delis. Antiquated uses, such as dry goods stores and telegram offices, were also removed from the B-2 amendments. Code includes a clause that may allow for these uses if they are sufficiently similar in nature to other uses.

He continued that while it may sound easier to classify a use as conditional in order to retain better control over it, making some uses conditional will effectively mean they will not be allowed, particularly in the case of small local businesses, as they are less well-funded and may

not be able to afford the approval process. The result in many cases is that these businesses will simply relocate. Therefore, the suggestion is that many of these uses become permitted uses.

Mr. Heid said fast food restaurants are defined as those restaurants in which customers order from an overhead board, at a counter, and take their items. He explained that this term could apply to a small coffee shop that serves pastries. Two additional uses, museums and vintage/collectible goods, were introduced as well.

Chair Piper asked if this would not qualify as a standard retail use. Mr. Heid replied that there are specific regulations prohibiting secondhand sales, which are restricted to the warehouse district. The amendment would address this issue and allow the use in B-2 districts. He also clarified that standard fast food restaurants with a drive-through window will remain a conditional use, as these require more control.

Restrictions are also decreased for check cashing businesses, as they are currently very restricted. Mr. Heid said this restriction places a burden on individuals who rely on this service. He pointed out that many other businesses, such as grocery and convenience stores, will cash checks, which created an inequality between businesses. Lifting the restrictions would allow the market to determine whether or not this is an appropriate use.

Mr. Kriesberg asked why delicatessens were removed from the amendment. Mr. Heid explained they are permitted in B-1 Districts, and were removed to lessen confusion. Because it is allowed in B-1, it is not necessary to allow it in B-2.

Mr. Kriesberg asked why tanning salons were non-conditional rather than conditional uses. Mr. Heid said there are several national companies that manage tanning salons, and felt this use would be lost if subjected to the process for a conditional use.

Chair Piper requested clarification of the language regarding check cashing facilities. Mr. Heid said language would be clarified to show that this is now a permitted use.

Mr. Litowich asked how the Code differentiates between vintage and collectible goods and vintage or secondhand clothing. Mr. Heid said the difference in this case is in the eye of the beholder, as there is no defined difference. He observed that it can be "difficult to legislate quality," and reiterated that it is hoped the market will take care of any issues. He noted that there is no logical way to enforce distinctions between these categories: they must either be accepted as a class or not.

Mr. Heid continued that secondhand sales are a permitted use in B-4 Districts, and advised that a judgment call could be made based upon several factors to determine whether or not these sales qualify as vintage or collectible. Consignment stores, for example, are included under vintage/collectible use.

Mr. Smukler asked if the requirement that check cashing businesses would prevent them from being less than 200 ft. from a residential area. Mr. Heid said it would be recommended that this requirement be stricken from the amendment; while it may be associated with “unsavory” elements, this was not always accurate. He pointed out that this restriction represented more of a moral stance than zoning equality.

Mr. Smukler asked if the restriction preventing these businesses from being established within 200 ft. of a residential area would have limited the potential locations open to them. Mr. Heid said they are not allowed in some locations at all. He added that this was preferable to attaching so many restrictions that a location became prohibitive.

Chair Piper noted that the owners of some shopping centers would not want these businesses to be part of the centers. He commented that any problems could be controlled by a police presence or “No Trespassing” signs. Mr. Heid said this was an example of the issue being market-driven: landlords who have the long-term interests of their properties at heart would not want to rent to low-end establishments.

Mr. Edwards asked if the language moving pet grooming to a permitted use should also contain the conditions that it must take place in an air-conditioned, soundproof building no less than 300 ft. from a residential area. Mr. Heid said this was a good point, but noted that businesses selling pet supplies but not offering grooming services would not need the air-conditioned and soundproofed requirements. He suggested that there may need to be a separate category for pet groomers, or additional language attached to discussion of this business.

Mr. Edwards asked if places of public assembly would remain a permitted use. Mr. Heid said this use is currently permitted and no change was suggested. Mr. Edwards asked if this category would include schools and churches. Mr. Heid said they would include churches, but not schools. Ms. Kamali said schools are allowed in CF and RM-23 districts, but not B-2.

Mr. Edwards asked why schools were not allowed within B-2 districts if churches were allowed. He suggested that smaller schools, such as schools without playgrounds or tutoring facilities, might be permissible in this district. Chair Piper pointed out that there are several requirements that accompany schools, such as traffic considerations, that could limit their placement. Mr. Heid added that B-2 districts allow retail uses, such as liquor stores and bars. If a school is allowed within this district, there must be a 1500 ft. radius from these facilities. While it is possible for these businesses to seek a variance, it can be expensive and difficult, and parents of schoolchildren may object to the location.

Mr. Litowich noted that some places of public assembly, such as churches and synagogues, may have schools attached to their facilities. Mr. Heid said while day care is allowed at these facilities in B-2 districts, elementary through high schools are not permitted in B-2. Vocational training is permitted within the district.

Mr. Edwards asked to know the height and density maximums of these residential multi-family or mixed-use uses within B-2 areas. Mr. Heid said these are conditional uses and must go through a hearing. Mr. Heid said B-2 districts are allowed to have multi-family residential in accordance with RM-23; the maximum height allowed is three stories or 35 ft., although the City Council may authorize up to six stories or 65 ft.

He noted that these would be conditional uses that must come before the Board for recommendations and the City Council for approval. They would also require a future land use map amendment to the Comprehensive Plan, as virtually all B-2 districts have future land use categories of Business and do not allow Residential. The mixed-use future land use category allows this mixed use of residential and business.

Mr. Smukler asked if the 1500 ft. radius around schools in which liquor cannot be sold could be extended to a restaurant that serves liquor after hours. Mr. Heid clarified that restaurants which serve alcohol are not included in this restriction, which is specific to bars, lounges, and packaged liquor stores. He noted that a business may request a variance to waive the 1500 ft. distance separation. Ms. Kamali noted that the State-required radius is only 500 ft., and also provides an avenue for variance within municipalities.

Mr. Smukler pointed out that there is a cost associated with conditional use, and proposed that the amendment could make these uses permitted in evenings and on weekends. Mr. Heid said while he did not see a mechanism for this, it could be considered further.

Chair Piper opened the floor for public comment.

Matthew Amster, representing the owner of the Intracoastal Mall, was sworn in at this time. He advised that the owner is supportive of the changes presented before the Board at today's meeting, and hoped the Board would recommend them favorably.

Mr. Kreisberg asked if Mr. Amster could provide specific examples of any part of the amendment that would make it easier for tenants to go into the Intracoastal Mall. Mr. Amster said the owner had wanted to rent to a dog grooming service, as well as a wine bar.

Mr. Heid said the proposed amendment is part of an ongoing program by which districts are to be made more liberal regarding their list of uses in order to be more competitive with neighboring municipalities. The lessened restrictions are seen as more business-friendly.

As there were no other members of the public wishing to speak on the Item, public comment was closed.

A motion to approve Item 12-520 was made by Julian Kreisberg. Mr. Kreisberg added that the motion was made with the understanding that Mr. Heid would amend some of the Item's language as discussed by the Board, specifically as it applied to pet groomers.

Mr. Litowich seconded the motion. The motion to approve Item 12-520 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Next Meeting: Monday, July 9, 2012

Mr. Edwards requested that a presentation on changes and legislative updates at the State level be made at the next meeting. Ms. Kamali said this could be done, although she noted it may be very short, as the State does not have any control over any changes that have been made in the City. She concluded that this responsibility has been given to the City versus the State.

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Adjournment

A motion to adjourn was made by Julian Kreisberg and seconded by Norman Edwards. The meeting was adjourned at 7:47 p.m.

RESOLUTION NO. R2012-56

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 575 SQUARE FOOT CANOPY OVER AN EXISTING WOOD DECK, AS PROPOSED; AND

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-81(2) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE FOUR (4) FEET OF THE MINIMUM REQUIRED CORNER SIDE YARD SETBACK FOR A FIFTEEN (15) FEET CANOPY, WHERE CORNER SIDE YARD CANOPY SETBACK OF ELEVEN (11) FEET IS PROPOSED; AND

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-81(2) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE ELEVEN (11) FEET OF THE MINIMUM REQUIRED REAR YARD SETBACK FOR A FIFTEEN (15) FEET CANOPY, WHERE YARD CANOPY SETBACK OF FOUR (4) FEET IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS:

Lot 14 & 15 in Block 11, "Unit 1, Monticello Park", According to the Plat Thereof, as Recorded in Plat book 40, at Page 65, of the Public Records of Miami-Dade County, Florida.

A/K/A

**1101 North Miami Beach Boulevard
North Miami Beach, Florida**

(P&Z Item No. 12-525 of June 11, 2012)

WHEREAS, the property described herein is zoned B-2, General Business District; and

WHEREAS, the applicant requests site plan approval and variances in order to construct a 575 square foot canopy over an existing wood deck located at 1101 North Miami Beach Boulevard; and

WHEREAS, the Planning and Zoning Board on June 11, 2012 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 1 of 1, by Level-Tech Surveyors, LLC., dated 4/02/2012;
 - Site Plan, Sheet SP1.1, by Architectonics Studio, dated 4/2/2012;
 - Landscape Plan, Sheet LP1.1, by Architectonics Studio, dated 4/2/2012;
 - Floor Plan, Sheet A1.1, by Architectonics Studio, dated 4/2/2012;
 - Elevations, Sheet A2.1, by Architectonics Studio, dated 4/2/2012.
2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.
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 Director of Public Services prior to the issuance of a building permit for this project.
5. The, design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles, entry paving materials, and street furniture must be submitted to and approved by the Director of Public Services.
6. A revised landscape plan shall be submitted prior to the issuance of a building permit for this project.
7. The sides of the awning must remain open. Clear plastic curtains may be used during inclement weather.
8. 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.

Section 1. Site plan approval in order to construct a 575 square foot canopy over an existing wood deck, on property legally described as:

Lot 14 & 15 in Block 11, "Unit 1, Monticello Park", According to the Plat Thereof, as Recorded in Plat book 40, at Page 65, of the Public Records of Miami-Dade County, Florida.

**A/K/A
1101 North Miami Beach Boulevard
North Miami Beach, Florida**

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 1 of 1, by Level-Tech Surveyors, LLC., dated 4/02/2012;
 - Site Plan, Sheet SP1.1, by Architectonics Studio, dated 4/2/2012;
 - Landscape Plan, Sheet LP1.1, by Architectonics Studio, dated 4/2/2012;
 - Floor Plan, Sheet A1.1, by Architectonics Studio, dated 4/2/2012;
 - Elevations, Sheet A2.1, by Architectonics Studio, dated 4/2/2012.
2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.
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 Director of Public Services prior to the issuance of a building permit for this project.
5. The, design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles, entry paving materials, and street furniture must be submitted to and approved by the Director of Public Services.

6. A revised landscape plan shall be submitted prior to the issuance of a building permit for this project.
7. The sides of the awning must remain open. Clear plastic curtains may be used during inclement weather.
8. 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 24-81(2) to waive four (4) feet of the minimum required corner side yard setback for a fifteen (15) feet canopy, where corner side canopy setback of eleven (11) feet is proposed, on property legally described as aforesaid, is hereby granted subject to the aforementioned conditions.

Section 3. A variance from Section 24-81(2) to waive eleven (11) feet of the minimum required rear yard setback for a fifteen (15) feet canopy, where rear yard setback of four (4) feet is proposed, on property legally described as aforesaid, is hereby granted subject to the aforementioned conditions.

Section 6. 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 7. 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 ____ **day of** _____, **2012**.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM:

DARCEE S. SIEGEL
CITY ATTORNEY

SPONSORED BY: Mayor and City Council



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 Print

TO: Mayor and City Council
FROM: Lyndon L. Bonner, City Manager
DATE: Tuesday, July 17, 2012

RE: Resolution No. R2012-57 (City Planner Christopher Heid)

BACKGROUND: The applicant, Miami-Dade Fire Rescue Department, is requesting site plan approval and variances for the construction of a 2,324 square foot one-story addition to an existing two-story fire rescue station located at 17050 NE 19 Avenue.

RECOMMENDATION: Approval

FISCAL IMPACT: None

CONTACT PERSON(S): Shari Kamali, Director of Public Services
Christopher Heid, City Planner

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [Planning & Zoning Board Minutes - June11, 2012](#)
- ❑ [Resolution No. R2012-57](#)



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

CITY COUNCIL MEETING

TUESDAY, JULY 17, 2012

ITEM #12-526

FIRE-RESCUE STATION #31

OWNER OF PROPERTY

CITY OF NORTH MIAMI BEACH

ADDRESS OF PROPERTY

17050 NE 19 AVENUE

LEGAL DESCRIPTION

LOTS 17 THROUGH 28, LOTS A, B, C & D, AND THE 20 FOOT ALLEYS ADJACENT TO SAID LOTS, BLOCK 41 AS SHOWN ON THE PLAT OF "FULFORD BY THE SEA SECTION "D"", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8 AT PAGE 58, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

EXISTING ZONING

CF, COMMUNITY FACILITY

EXISTING LAND USE

FIRE-RESCUE STATION/OFFICES

FUTURE LAND USE DESIGNATION

PUBLIC QUASI PUBLIC

THE REQUEST - The applicant, Miami-Dade Fire Rescue Department, requests site plan approval and variances in order to construct a 2,324 square foot one-story addition to an existing two-story fire rescue station located at 17050 NE 19 Avenue, in the CF, Community Facility Zoning District. (An existing 1,002 square foot one-story portion of the building will be demolished to accommodate the proposed addition.)

Variances requested are as follows.

- 1. Request variance from Section 24-55(D)(3) to waive 4' of the minimum required front yard setback of 30'. (Front yard setback of 26' proposed.)**
- 2. Request variance from Section 24-55(D)(3) to waive 11' of the minimum required corner side yard setback of 25'. (North corner side yard setback of 14' proposed.)**

ZONING – The subject property is zoned CF, Community Facility Zoning District, as is the property to the east, on the east side of NE 19 Avenue. To the north and northeast are properties zoned RO, Residential Office. To the north and west are properties zoned RS-4, Residential Single-Family. To the west and southwest are properties zoned RM-23, Residential Multi-Family. To the south is property zoned FCC, Fulford City Center. (See attached Exhibit #1 for a Zoning Map of the subject property).

EXISTING LAND USE – The subject property is utilized as a City office building (Public Services Administration Building) and a Miami-Dade County Fire Rescue Station. To the east is the City Hall complex, including the Police Department Building, Performing Arts Theater, and Leisure Services Administration Building. To the north are professional office buildings along NE 19 Avenue. To the north and west are single-family homes. To the south and west are multi-family apartment buildings. To the south is retail and offices. (See attached exhibit #2 for a Land Use Map of the subject property).

FUTURE LAND USE – The subject property is designated as Public and Quasi Public on the City's Future Land Use Map. To the east is property designated Recreation and Open Space. To the north and east is property designated Business. To the south and west is property designated Residential High Density. To the south is property designated as MU/TC, Mixed Use Town Center. (See attached exhibit #3 for a Future Land Use Map of the subject property.)

THE SITE – The subject property is roughly square, measuring approximately 284 feet wide and 270 feet long, totaling 76,680 square feet, or 1.76 acres. It is located on NE 19 Avenue between NE 170 Street and NE 171 Street, with frontage on all three streets.

THE PROJECT – The project proposes the demolition of a 1,002 square foot one-story portion of the existing Public Services Administration Building, and the construction of a new 2,324 square foot one-story addition. The new addition will include a new front entrance and lobby/watch office facing Ne 19 Avenue, offices, bathrooms, and dorm rooms.

In addition, the existing two-story portion of the Fire Rescue Station will be substantially renovated, with a work room, storage and exercise room on the first floor, and new bathroom, additional dorm rooms and kitchen on the second floor.

The building is designed in a pleasing contemporary style, appropriately tying in to the existing building, and new landscaping will be installed around the new addition as well as along NE 171 Street.

The Fire Rescue station will remain fully operational during the construction of this project.

REVIEW BY OTHER CITY DEPARTMENTS -

Engineering

1. Water meter to be installed as part of this project for fire Dept, to segregate billing. Similarly Electric and cable TV is to be segregated. I think this is already addressed in building plans.
2. Fireflow Demand Charge Fee is being debated by DCFire. They are saying they are exempt from paying any impact fees. But to date they have only produced documents that state they are exempt from roadway, Police and fire impact fees in a very informal format. Not resolutions or such. I requested more supporting/convincing documentation before I present this to our legal.
3. If handicap space is needed, it shall be relocated from right of way (NE 171st Street) as shown in the plan to the northwest corner of property next to existing handicap space for the Chamber of Commerce building and install ADA walkway from parking stall to City sidewalk.

City Forester

1. This project was reviewed once before in 2007 with the following comments:
 - I would like to see the mitigation calculations as to how the loss of canopy from nine fairly large trees is being made up. Silver Buttonwood is indeed a very nice small tree, but they can never provide the canopy that a large shade tree does, so I would like to see some shade trees (perhaps 10) added in the general vicinity, such as the 171 Street medians.
 - I (still) think this project should include the curbing of the median directly across the street from it.
2. At the time, the mitigation calculations demonstrated that in addition to the proposed on-site landscape, this project would need to donate and plant ten (10) Live Oaks at 14'-16'. The permit set showed this donation in the form of a note, but I cannot find the note in this set.
3. The permit set also showed the curbing of the median across from the station with type F curb; this set is also missing that.

HISTORY

This project, under Resolution No. 2007-51 (P&Z Item No. 07-420), originally received the favorable recommendation of the Planning & Zoning Board at the meeting of September 10, 2007 by a vote of 7-0 and was approved by the City Council at the meeting of October 16, 2007.

Because the applicant did not submit the final building plans within 6 months of the date of the resolution, pursuant to Section 24-172(I) of the City's Land Development Regulations, the resolution have been deemed null and void. The applicant is now required to complete the public hearing process in order to regain plan approval and variances.

COMMUNITY DEVELOPMENT DEPARTMENT ANALYSIS

The proposed project is highly favorable, as it converts a cramped and outdated facility into a modern and functional one. The architecture of is attractive and correctly plays off the design of the existing building. In addition, this project adds a more formal front entrance to the Station. Landscaping is well done and will further enhance the facility and the building in general.

PLANNING & ZONING BOARD HISTORY

This item received a favorable recommendation from the Planning & Zoning Board by a vote of 6-0 at the meeting of Monday, June 11, 2012.

COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION

It is recommended that the request for site plan review be approved, subject to the following conditions:

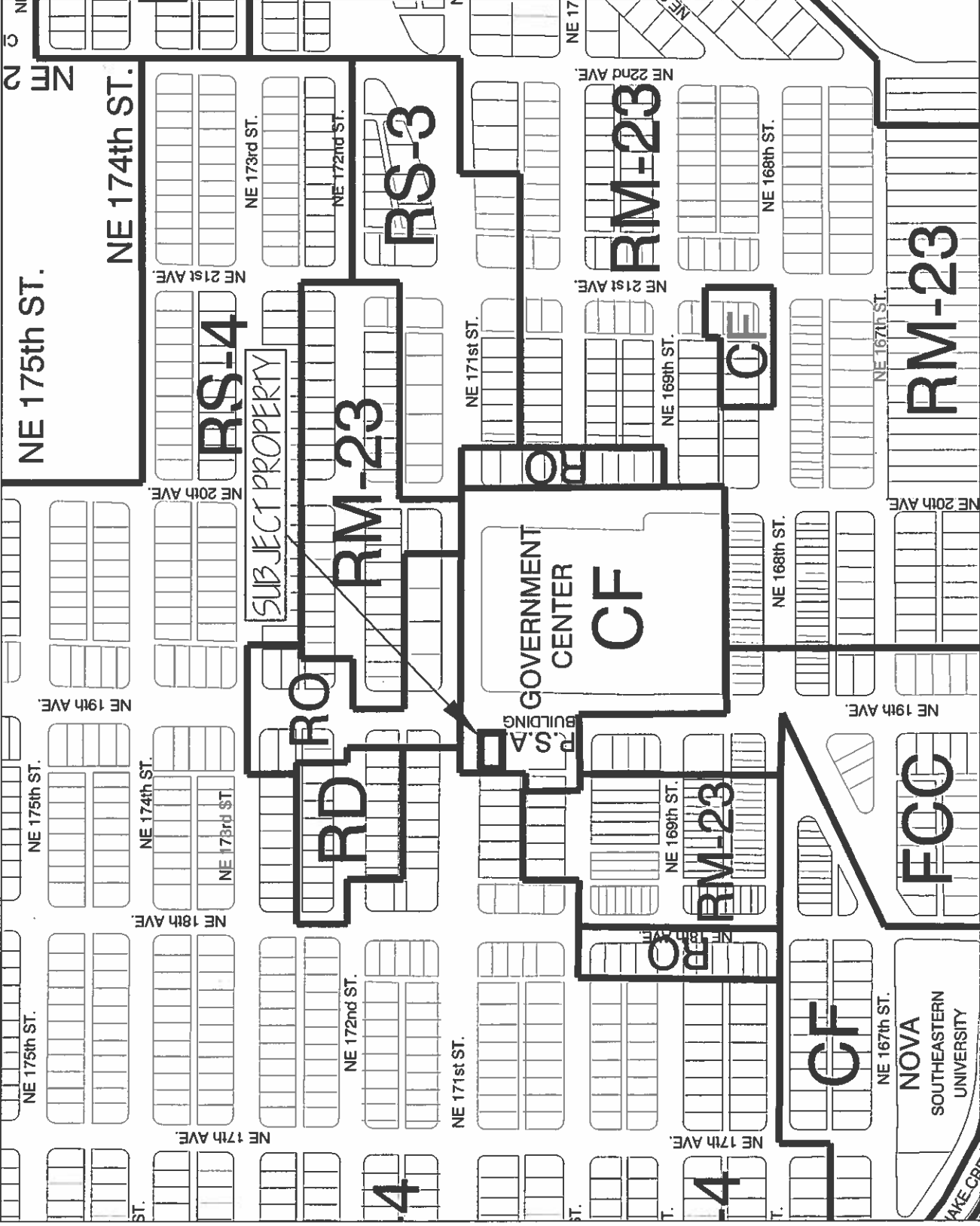
1. Plans submitted for building permit(s) shall substantially comply with those as currently submitted, including the following:

- Survey, Sheets 1 of 1, J. Bonfill & Associates, Inc., dated 5/23/2007;
- Tree Protection Plan, Sheet L-100, by Neville/Steffens LLP, dated 4/23/2009;
- Planning Plan. Sheet L-102, by Neville/Steffens LLP, dated 4/23/2009;
- Site Plan Demolition, Sheet D-100, by Neville/Steffens LLP, dated 4/23/2009;
- First Floor Demolition Plan, Sheet D-101, by Neville/Steffens LLP, dated 4/23/2009;
- Existing Second Floor Plan, Sheet D-102, by Neville/Steffens LLP, dated 4/23/2009;
- Exterior Elevation/Elevation Demolition Plan, Sheet D-103, By Neville/Steffens LLP, dated 4/23/2009;
- Site Plan, Sheet A-100, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Life Safety Plans, Sheet A-101, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Construction Phasing, Sheet A-102, by Neville/Steffens LLP, dated 4/23/2009;
- First Floor Plan, Sheet A-300, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Partial First Floor Plan, Sheet A-301, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Second Floor Plan, Sheet A-302, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Roof Plan, Sheet A-303, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Partial First Floor Reflected Ceiling Plan, Sheet A-304, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Exterior Elevations, Sheet A-500, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011.

2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.
3. 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 Director of Public Services. 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.
5. The proposed handicapped parking space located on NE 171 Street must be removed from the plans when submitted for permit. If it is determined that additional handicapped parking spaces are needed they must be located within the parking lot.
6. Building materials and color samples must be submitted to, and approved by, the Director of Public Services prior to the issuance of a building permit for this project.
7. All wall signage must be of an individual, pin-mounted metal letter type only, the number and size of which may not exceed that as permitted in the City's Land Development Regulations.
8. The design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles, entry paving materials, and street furniture must be submitted to and approved by the Director of Public Services.
9. A revised landscape plan shall be submitted prior to the issuance of building permit for this project. This plan shall include the curbing of the eastern-most median island in NE 171 Street immediately west of NE 19 Avenue. In addition, the plan shall mitigate the proposed tree removals by providing for additional trees to be used in the balance of the parking lot or along the NE 171 Street medians in the general vicinity of the subject fire station.
10. All utilities including, but not limited to, water, electric, cable television, and telephone service must be on separate meters and billed directly to the Miami-Dade Fire Rescue Department.
11. 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

Legend:

- RS-1 Residential Single Family (8,000 SF minimum)
- RS-2 Residential Single Family (7,000 SF minimum)
- RS-3 Residential Single Family (6,000 SF minimum)
- RS-4 Residential Single Family (5,000 SF minimum)
- RS-5 Residential Single Family (1,200 SF minimum)
- MH-1 Mobile Home Subdivision
- RD Residential Two-Family (Duplex)
- RM-19 Residential Low Rise Multifamily Medium Density-19 Units/ Acre
- RM-23 Residential Mid-Rise Multifamily High Density-23 Units/ Acre
- RM-32 Residential High-Rise Multifamily High Density-32 Units/ Acre
- RO Residential Office District
- B-1 Limited Business District
- B-2 General Business District
- B-3 Intensive Business District
- B-4 Distribution Business and Light Industrial
- B-5 Distribution Business and Medium Industrial
- CF Community Facility
- PUD Planned Unit Development



Existing Zoning Map
Exhibit No. 1

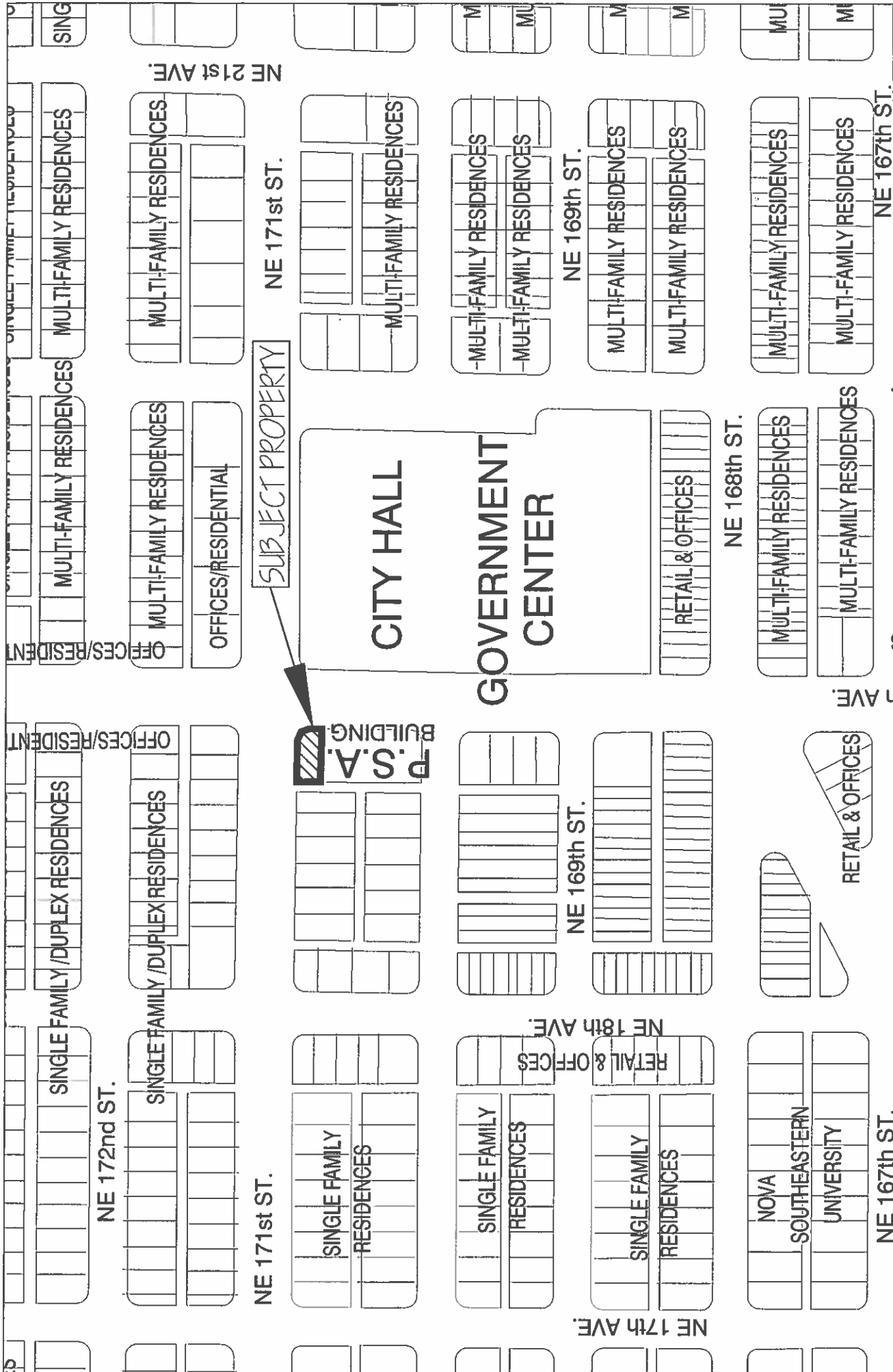
Prepared by CNMB Engineering Division



Fire Station
17050 NE 19 Avenue

City of North Miami Beach
17050 N.E. 19th Avenue
North Miami Beach, Florida 33162





Existing Land Use Map
 Exhibit No. 2
 Prepared by CNMB Engineering Division

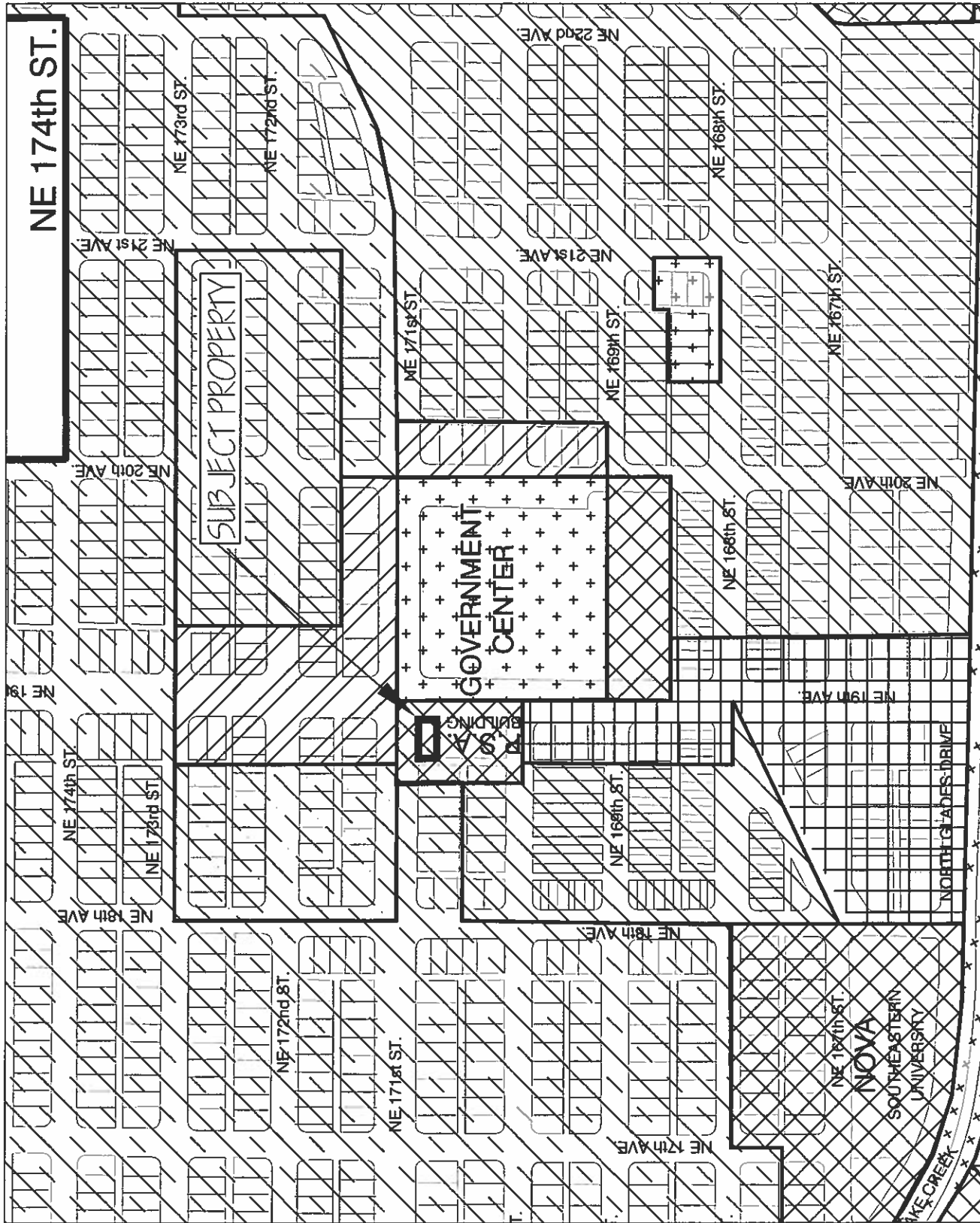
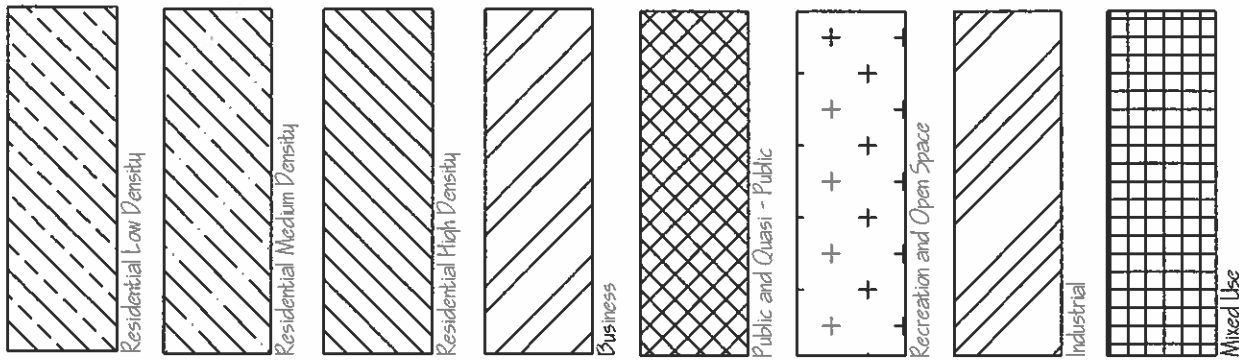


Fire Station
 17050 NE 19 Avenue

City of North Miami Beach
 17050 N.E. 19th Avenue
 North Miami Beach, Florida 33162



Legend:



City of North Miami Beach
 17050 N.E. 19th Avenue
 North Miami Beach, Florida 33162

Fire Station
 17050 NE 19 Avenue



Future Land Use Map
 Exhibit No. 3
 Prepared by CNMB Engineering Division



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING

MONDAY, JUNE 11, 2012

Attendees:

Members - Chairman Evan Piper

Jaime Eisen

Saul Smukler

Julian Kreisberg

Norman Edwards

Joseph Litowich

Hector Marrero – ABSENT

Staff - Shari Kamali, Director of Public Services

Christopher Heid, City Planner

Maria Santovenia, Asst. City Attorney

Steven Williams, Board Recorder

Call to Order and Pledge of Allegiance:

Chair Piper called the meeting to order at 6:06 p.m. The Pledge of Allegiance was recited and roll was called. Mr. Hector Marrero was absent.

Minutes:

A motion made by Jaime Eisen, seconded by Joseph Litowich, to approve the minutes of the April 9, 2012 meeting. In a voice vote, the motion passed unanimously.

Chair Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

OLD BUSINESS

Mr. Heid advised that Item 12-517 (LDR Text Amendment: Commercial Window Signs) was favorably recommended by the Board and approved by City Council. Item 11-511 (LDR Text Amendment: Development Review Procedures) was also favorably recommended by the Board and will be presented to the City Council in July. Item 12-518 (After-the-Fact Variance: 1687 NE 174 Street) and Item 12-522 (Minor Site Plan Modification: 1055 Miami Gardens Drive) were favorably recommended by the Board and approved by City Council. Item 11-509 (FLUM and Rezoning: 17400 West Dixie Highway) was unfavorably recommended by the Board; however, City Council approved the Future Land Use Amendment change to Business, and the Rezoning was tabled until the June 19th meeting.

NEW BUSINESS

Item #12-527: Addition (Single-Family House): 2100 NE 180 Street – Site Plan Review and Variance

Mr. Heid stated that the existing zoning for this site is RS-4, Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use designation of Residential/Low-Density. The Applicant requests approval for the construction of a 208 sq. ft. addition to an existing house. The request is for variance from Section 24-44 (D) (3), for a 3 ft. 6 in. variance from the corner side yard setback of 15 ft. The change would result in a corner side yard setback of 11 ft. 6 in. Mr. Heid noted that approximately 10% of the addition would extend into the setback; the corner lot of the house is skewed, which means the addition could not be accommodated without a variance.

Larry Simon, representing the Applicants, explained that the house was constructed in the 1950s. Because the house was skewed when constructed, the addition of a family room would extend off one side and into the setback. He pointed out that while one corner extends into the setback, another corner is much farther away. The extension is not visible from the street and does not infringe upon any neighbors.

Mr. Heid added that the greater portion of the home is set back equal to or further than the required minimum setback. The section extending into the setback is approximately 8 ft. by 3 ft.

Mr. Kreisberg asked if the family room has been constructed at this time. Mr. Simon assured the Board that it has not.

Chair Piper asked if the City routinely approves scenarios such as this one, or if it is an isolated case. Mr. Heid replied that not many such requests have come before the Board; however, in the case of a house that is skewed on a lot, he noted that the corner yard setback is at least 100 ft. away from the nearest property. The yard is heavily landscaped so the extension would not be visible. Mr. Simon confirmed that the house and lot are unique.

Mr. Kreisberg commented that in many parts of the City, the side setback is 10 ft. Mr. Heid clarified that a corner side setback is always 15 ft.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid stated that only a small portion of the room would extend into the setback, and making the room smaller would be awkward and less usable, the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant would accept the two conditions. Mr. Simon said they could.

A motion to approve Item 12-527 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-527 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆

Item #12-528: Gazebo (Single-Family House): 3323 NE 171 Street – Site Plan Review and Variance

Mr. Heid advised that the property is within an RS-1 Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use of Residential Low Density. The Applicant requests site plan approval and variance for the construction of a 193 sq. ft. gazebo. The request is for variance from Section 24-81 (A) (8), which allows a maximum of 15 x 49 sq. ft. for a gazebo of 144 sq. ft. He reminded the Board that gazebos were previously not permitted in a required yard setback, but have recently been made an allowable exception if they are 144 sq. ft. or less. The request would exceed this by 49 sq. ft.

Luis LaRosa, representing the Applicant, stated he is the architect for the project. He explained that the gazebo meets the side and rear setback requirements for accessory use; however, it lies in front of a large family room, and has been slightly elongated so its glazing matches the width of the glazing in this room. If it were shortened, it would block the view from the room. He concluded that it is a light, attractive structure that does not affect waterway visibility. The neighbor to the east of the project has submitted a letter of no objection to the structure.

Mr. Heid referred the Board to the project’s plans, noting that the columns of the gazebo do not block the view from the family room when extended. He confirmed that the water view is maintained and the structure meets side and rear setback requirements, as well as building height. The materials and roof type are similar to those of the main residence. He concluded that the only concern was with regard to the affected property owner to the east, who is supportive of the gazebo.

Mr. Smukler asked how the 144 sq. ft. gazebo was adopted as an allowable exception. Mr. Heid said the Applicant has a good reason to want a slightly larger structure, as it is proportionate to the house.

Mr. Edwards noted that the Applicant’s neighbor to the south has also been shown the plans for the gazebo and did not object to the project. He asked if there was a letter from this

neighbor. Mr. Larosa said this was an error and referred to the neighbor to the east, who would be most affected by the project.

Mr. Kriesberg observed that the letter written on May 3, 2012 also states the gazebo is located in the southeast corner of the property. It was clarified that its actual location is the northeast corner, overlooking a canal.

Mr. Kriesberg asked if construction has begun and stopped on the addition. Mr. Larosa confirmed this, explaining that construction was halted so the Applicant could go through the appropriate channels for approval of the gazebo.

Mr. Litowich asked if the gazebo's proportions are calculated from outside column to outside column, not including the overhang. Mr. La Rosa confirmed this. Mr. Heid said the overhang is not typically included in size measurements of a structure.

Chair Piper asked if there were limitations on the size of an overhang. Mr. Heid said while there was no size limit, there is a limit on how far an overhang may encroach into a setback: this is limited to one-third of the required setback, or 3 ft., whichever is less. The gazebo in question has a 1 ft. overhang.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the two conditions. Mr. LaRosa said they could.

A motion to approve Item 12-528 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-528 passed with a vote of 6-0.

Mr. Heid advised that the Board's approval is only a recommendation: if members of the public would like to speak on any Items presented at tonight's meeting, they should do so at the appropriate City Council meeting, which will be advertised in the newspaper. Signage will also be posted on the properties and within 500 ft. of the properties' boundaries.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-525: IHOP: 1101 North Miami Beach Boulevard – Site Plan Review and Variance

Mr. Heid stated that this property is located in a B-2 General Business Zoning District, with an existing land use of Restaurant and a future land use designation of Business. The Applicant requests site plan approval and variances for construction of a 575 sq. ft. canopy over an existing wooden deck. The variances would be from Section 24-81 (2), which would waive 4 ft. of the minimum required corner side yard setback of 15 ft. for a canopy; a second variance would be from Section 24-81 (2), which would waive 11 ft. of the minimum required rear yard setback of 15 ft. for canopies.

Andreas Poschl, representing the Applicant, explained that he is Director of Construction and Development for Sunshine Restaurant Partners. The IHOP restaurant in question was built 52 years ago. The intent is to construct a canopy over an existing deck, which was built 42 years ago, in order to create outside dining for the restaurant. The canopy would match the restaurant's blue roof.

Mr. Litowich asked if the canopy overhang would extend farther than the existing deck. Mr. Poschl said it would overhang the perimeter of the deck by 1 ft. on three sides. It will abut the gable end of the structure.

Mr. Kreisberg asked if diners typically eat outside at the restaurant. Mr. Poschl said this occurs at times during the winter months; however, during the summer this is very difficult. The addition of a canopy would be an attempt to accommodate outside dining on a year-round basis. The deck itself will be redone, landscaping will be added, and repairs will be made to the parking lot in order to update the building.

Mr. Edwards asked if all restaurants may establish outside dining, or if special approval is required. Mr. Heid replied that a building permit is necessary, and some restaurants are difficult to retrofit for this purpose; in this case, however, there would be no impact on the landscaping or parking.

Mr. Smukler asked if the 11 ft. setback already existed with the deck. Mr. Heid confirmed this, explaining that the variance request is for the canopy, not the deck. There is no required setback for a deck. Mr. Smukler asked if electricity will be required for the outdoor dining area. Mr. Poschl said permits will be pulled to include fans and lighting, both of which are allowed beneath a canopy.

Mr. Litowich asked if the canopy will be made of canvas. Mr. Poschl said it will be a fireproof canvas-like material, which is recommended over plastic or vinyl. There will be plastic side curtains to exclude rain as well.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City’s recommendation. Mr. Heid said the City recommends favorably, with the seven conditions as listed in the Staff Report.

Mr. Edwards asked if there could be a condition requiring the canopy to remain open on the sides except in the event of rain. Mr. Heid said this condition could be added, bringing the number of conditions to eight.

A motion to approve Item 12-525 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-525 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-526: Addition (Fire Station): 17050 NE 19 Avenue – Site Plan and Variance Re-approval

Mr. Heid stated that this is a City-owned property located in a CF Community Facility Zoning District, with an existing land use of Fire Rescue Station and Offices and a future land use of Public. The request is for approval to construct a 2324 sq. ft. one-storey addition to an existing two-storey Fire and Rescue Station. An existing 1002 sq. ft. one-storey portion of the building will be demolished to accommodate the proposed addition.

The variances requested are as follows: variance from Section 24-55 (B) (3), which would waive 4 ft. of the minimum required front yard setback of 30 ft., reducing it to 26 ft.; and variance from Section 24-55 (B) (3), to waive 11 ft. of the minimum required corner side yard setback of 25 ft., reducing this setback to 14 ft.

Mr. Heid pointed out that the Staff Report states this project was previously approved and favorably recommended by the Board and the City Council; however, the permit for the project has expired, which requires the Applicant to come back to the Board and regain approval. He concluded that Staff continues to support this project.

Mr. Heid explained that because the City is the property owner, the Applicant is Miami-Dade County Fire and Rescue. Angel Lamera, Facilities Division Manager for the project, was sworn in at this time. Mr. Lamera stated again that the project had been previously approved by the Board, but the permit had expired.

Mr. Smukler noted that p.5, Item 9 of the Staff Report discusses revising plans related to the curbing of the easternmost median. He requested clarification of this. Mr. Heid said this island is not currently curbed, and advised that these improvements are reflected in the building plans.

Mr. Kreisberg requested a brief description of the improvements to be made. Mr. Lamera said the north side of the building would be demolished and replaced with a new rescue side of the station. In addition, the entire station will be remodeled and repainted. Utilities will be segregated from the administration building, and will no longer be included under a single meter. This is expected to result in a slight decrease in the utility bill.

Mr. Heid stated that once the demolition is complete and the new addition has replaced it, there will be a new area of roughly 39 sq. ft.

Mr. Smukler noted that the corner side setback is 25 ft., on which the proposed addition will encroach by 11 ft. Mr. Heid confirmed this, advising that this will leave sufficient room for landscaping. It was also clarified that the building will always be owned by the City.

Mr. Edwards asked if the project would raise a legal question regarding unjust enrichment. Ms. Santovenia said she was not certain of the structure of the situation, so she could not answer this question. Mr. Lamera said once the funds have been spent to make the improvements, it would be even less likely that the Fire Station would leave the facility.

Mr. Edwards observed that the only issue would be if the City decided to take back the Fire Station. Chair Piper said it would be within the Board's purview to remind the City's Legal Department to ensure the contractual arrangement with Fire and Rescue does not have any unforeseen issues.

Ms. Santovenia asked if Mr. Edwards' question was whether there would be unjust enrichment to the City. Mr. Edwards confirmed this, and asked if the City would need to repay Fire and Rescue for these improvements if they took the property over from the tenant. Ms. Santovenia said leases are typically drafted so any improvements made by tenants will stay behind if the tenant leaves. Mr. Heid added that a permit would be necessary in order to physically remove any structures from the property, and as the property owner, the City would need to sign a permit allowing this removal.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the ten conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the ten conditions. Mr. Lamela said they could. He also noted that the variance is limited to six months, and asked if it would be possible to extend

this time period to one year, as it was not certain the improvements could be made within this time frame.

Ms. Kamali said the City is in the process of changing the six month time frame, although the change had not yet gone before the City Council. She asked that the Applicant ensure the request is made to renew the variance before the first six months have passed.

Mr. Heid said if this was part of the Code, it would require a variance to waive this requirement, and such a variance has been neither requested nor advertised. He did not feel this would be possible. However, he noted that the requirement was for six months to pull a permit or one year to submit it. The City Administration is also willing to write a letter on behalf of the Applicant to extend the time frame for six months. He felt this would be sufficient until the Code is changed.

A motion to approve Item 12-526 was made by Julian Kreisberg and seconded by Norman Edwards. The motion to approve Item 12-526 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-519: Fence Height – LDR Text Amendment

Mr. Heid stated that this Item was originally brought before the Board in April 2012, but was tabled because it was thought to be confusing. Upon further review, Staff felt the original amendment was complicated and difficult to understand. Portions of the original amendment, including hedge height and some fence specifications, have been omitted from the current draft. Hedges may now be the same height as fences, as long as the hedge is maintained. The height proposed for a corner side yard was originally 4 ft.; it has now been raised to 6 ft., as there are often requests from homeowners to make this change.

He continued that fences may remain 4 ft. in the front of a property and 6 ft. in the rear, corner, and side yards, which is commonly requested in the City.

Chair Piper asked if Mr. Heid recalled any of the details of the discussion about fence height. Mr. Heid said there had been significant resistance from homeowners with regard to limiting the size of hedges. He also clarified that rear yard fences are the side fences between buildings rather than a fence on the rear of the property. The limitation of a solid fence to 3 ft. in height will not be changed.

Mr. Kreisberg asked how this would affect hedges that encroach on a setback. Mr. Heid said this would not be an issue on private property, as the depth of rights-of-way should ensure sufficient room. If the fence extends beyond the property line, however, it may be cited. If a hedge results in complaints from neighbors, it may also trigger a citation.

Mr. Heid added that pedestrian and vehicular gates may be 1 ft. higher than the fence to which they are attached. This would allow for a less uniform and more decorative appearance.

Mr. Kreisberg noted that the measurement from the minimum finished floor elevations had also been changed, which could affect fence height if a home is at a higher elevation on one side. Mr. Heid said this occurs on occasion if a house is elevated. He noted, however, that most individuals do not object to fencing or landscaping.

A motion to approve Item 12-519 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-519 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-520: B-2 (Modification of Use) LDR Text Amendments

Mr. Heid advised that the Board has seen these amendments for the B-2 General Business Zoning District before, and recalled that they had expressed concern that pet stores would become permitted uses. This suggestion has been left as a conditional use for the sale of live pets, and pet groomers and sale of pet supplies will be permitted uses.

Other changes include repetition of some uses that are also allowed in the B-1 District; because these are clearly permitted uses in B-1, they were removed from the B-2 listing. These include health and exercise studios, coin laundries, convenience stores, and delis. Antiquated uses, such as dry goods stores and telegram offices, were also removed from the B-2 amendments. Code includes a clause that may allow for these uses if they are sufficiently similar in nature to other uses.

He continued that while it may sound easier to classify a use as conditional in order to retain better control over it, making some uses conditional will effectively mean they will not be allowed, particularly in the case of small local businesses, as they are less well-funded and may

not be able to afford the approval process. The result in many cases is that these businesses will simply relocate. Therefore, the suggestion is that many of these uses become permitted uses.

Mr. Heid said fast food restaurants are defined as those restaurants in which customers order from an overhead board, at a counter, and take their items. He explained that this term could apply to a small coffee shop that serves pastries. Two additional uses, museums and vintage/collectible goods, were introduced as well.

Chair Piper asked if this would not qualify as a standard retail use. Mr. Heid replied that there are specific regulations prohibiting secondhand sales, which are restricted to the warehouse district. The amendment would address this issue and allow the use in B-2 districts. He also clarified that standard fast food restaurants with a drive-through window will remain a conditional use, as these require more control.

Restrictions are also decreased for check cashing businesses, as they are currently very restricted. Mr. Heid said this restriction places a burden on individuals who rely on this service. He pointed out that many other businesses, such as grocery and convenience stores, will cash checks, which created an inequality between businesses. Lifting the restrictions would allow the market to determine whether or not this is an appropriate use.

Mr. Kriesberg asked why delicatessens were removed from the amendment. Mr. Heid explained they are permitted in B-1 Districts, and were removed to lessen confusion. Because it is allowed in B-1, it is not necessary to allow it in B-2.

Mr. Kriesberg asked why tanning salons were non-conditional rather than conditional uses. Mr. Heid said there are several national companies that manage tanning salons, and felt this use would be lost if subjected to the process for a conditional use.

Chair Piper requested clarification of the language regarding check cashing facilities. Mr. Heid said language would be clarified to show that this is now a permitted use.

Mr. Litowich asked how the Code differentiates between vintage and collectible goods and vintage or secondhand clothing. Mr. Heid said the difference in this case is in the eye of the beholder, as there is no defined difference. He observed that it can be "difficult to legislate quality," and reiterated that it is hoped the market will take care of any issues. He noted that there is no logical way to enforce distinctions between these categories: they must either be accepted as a class or not.

Mr. Heid continued that secondhand sales are a permitted use in B-4 Districts, and advised that a judgment call could be made based upon several factors to determine whether or not these sales qualify as vintage or collectible. Consignment stores, for example, are included under vintage/collectible use.

Mr. Smukler asked if the requirement that check cashing businesses would prevent them from being less than 200 ft. from a residential area. Mr. Heid said it would be recommended that this requirement be stricken from the amendment; while it may be associated with “unsavory” elements, this was not always accurate. He pointed out that this restriction represented more of a moral stance than zoning equality.

Mr. Smukler asked if the restriction preventing these businesses from being established within 200 ft. of a residential area would have limited the potential locations open to them. Mr. Heid said they are not allowed in some locations at all. He added that this was preferable to attaching so many restrictions that a location became prohibitive.

Chair Piper noted that the owners of some shopping centers would not want these businesses to be part of the centers. He commented that any problems could be controlled by a police presence or “No Trespassing” signs. Mr. Heid said this was an example of the issue being market-driven: landlords who have the long-term interests of their properties at heart would not want to rent to low-end establishments.

Mr. Edwards asked if the language moving pet grooming to a permitted use should also contain the conditions that it must take place in an air-conditioned, soundproof building no less than 300 ft. from a residential area. Mr. Heid said this was a good point, but noted that businesses selling pet supplies but not offering grooming services would not need the air-conditioned and soundproofed requirements. He suggested that there may need to be a separate category for pet groomers, or additional language attached to discussion of this business.

Mr. Edwards asked if places of public assembly would remain a permitted use. Mr. Heid said this use is currently permitted and no change was suggested. Mr. Edwards asked if this category would include schools and churches. Mr. Heid said they would include churches, but not schools. Ms. Kamali said schools are allowed in CF and RM-23 districts, but not B-2.

Mr. Edwards asked why schools were not allowed within B-2 districts if churches were allowed. He suggested that smaller schools, such as schools without playgrounds or tutoring facilities, might be permissible in this district. Chair Piper pointed out that there are several requirements that accompany schools, such as traffic considerations, that could limit their placement. Mr. Heid added that B-2 districts allow retail uses, such as liquor stores and bars. If a school is allowed within this district, there must be a 1500 ft. radius from these facilities. While it is possible for these businesses to seek a variance, it can be expensive and difficult, and parents of schoolchildren may object to the location.

Mr. Litowich noted that some places of public assembly, such as churches and synagogues, may have schools attached to their facilities. Mr. Heid said while day care is allowed at these facilities in B-2 districts, elementary through high schools are not permitted in B-2. Vocational training is permitted within the district.

Mr. Edwards asked to know the height and density maximums of these residential multi-family or mixed-use uses within B-2 areas. Mr. Heid said these are conditional uses and must go through a hearing. Mr. Heid said B-2 districts are allowed to have multi-family residential in accordance with RM-23; the maximum height allowed is three stories or 35 ft., although the City Council may authorize up to six stories or 65 ft.

He noted that these would be conditional uses that must come before the Board for recommendations and the City Council for approval. They would also require a future land use map amendment to the Comprehensive Plan, as virtually all B-2 districts have future land use categories of Business and do not allow Residential. The mixed-use future land use category allows this mixed use of residential and business.

Mr. Smukler asked if the 1500 ft. radius around schools in which liquor cannot be sold could be extended to a restaurant that serves liquor after hours. Mr. Heid clarified that restaurants which serve alcohol are not included in this restriction, which is specific to bars, lounges, and packaged liquor stores. He noted that a business may request a variance to waive the 1500 ft. distance separation. Ms. Kamali noted that the State-required radius is only 500 ft., and also provides an avenue for variance within municipalities.

Mr. Smukler pointed out that there is a cost associated with conditional use, and proposed that the amendment could make these uses permitted in evenings and on weekends. Mr. Heid said while he did not see a mechanism for this, it could be considered further.

Chair Piper opened the floor for public comment.

Matthew Amster, representing the owner of the Intracoastal Mall, was sworn in at this time. He advised that the owner is supportive of the changes presented before the Board at today's meeting, and hoped the Board would recommend them favorably.

Mr. Kreisberg asked if Mr. Amster could provide specific examples of any part of the amendment that would make it easier for tenants to go into the Intracoastal Mall. Mr. Amster said the owner had wanted to rent to a dog grooming service, as well as a wine bar.

Mr. Heid said the proposed amendment is part of an ongoing program by which districts are to be made more liberal regarding their list of uses in order to be more competitive with neighboring municipalities. The lessened restrictions are seen as more business-friendly.

As there were no other members of the public wishing to speak on the Item, public comment was closed.

A motion to approve Item 12-520 was made by Julian Kreisberg. Mr. Kreisberg added that the motion was made with the understanding that Mr. Heid would amend some of the Item's language as discussed by the Board, specifically as it applied to pet groomers.

Mr. Litowich seconded the motion. The motion to approve Item 12-520 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Next Meeting: Monday, July 9, 2012

Mr. Edwards requested that a presentation on changes and legislative updates at the State level be made at the next meeting. Ms. Kamali said this could be done, although she noted it may be very short, as the State does not have any control over any changes that have been made in the City. She concluded that this responsibility has been given to the City versus the State.

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Adjournment

A motion to adjourn was made by Julian Kreisberg and seconded by Norman Edwards. The meeting was adjourned at 7:47 p.m.

RESOLUTION NO. R2012-57

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 2,324 SQUARE FOOT ONE-STORY ADDITION TO AN EXISTING TWO-STORY FIRE RESCUE STATION, WHERE AN EXISTING 1,002 SQUARE FOOT ONE-STORY PORTION OF THE BUILDING WILL BE DEMOLISHED TO ACCOMMODATE THE PROPOSED ADDITION; 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 FOUR (4) FEET OF THE MINIMUM REQUIRED FRONT YARD SETBACK OF THIRTY (30) FEET, WHERE FRONT YARD SETBACK OF TWENTY-SIX (26) FEET 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)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE ELEVEN (11) FEET OF THE MINIMUM REQUIRED (NORTH) CORNER SIDE YARD SETBACK OF TWENTY-FIVE (25) FEET, WHERE (NORTH) CORNER SIDE YARD SETBACK OF FOURTEEN (14) FEET IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS:

Lots 17 through 28, Lots A, B, C & D, and the 20 foot Alleys adjacent to said Lots, Block 41 as shown on the Plat of "Fulford by the Sea Section "D", According to the Plat Thereof, as Recorded in Plat Book 8 at Page 58, of the Public Records of Miami-Dade County, Florida.

**A/K/A
17050 N.E. 19th Avenue
North Miami Beach, Florida**

(P&Z Item No. 12-526 of June 11, 2012)

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

WHEREAS, the applicant requests site plan approval and variances in order to construct a 2,324 square foot one-story addition to an existing two-story fire rescue station located at 17050 NE 19th Avenue, where an existing 1,002 square foot one-story portion of the building will be demolished to accommodate the proposed addition; and

WHEREAS, the Planning and Zoning Board on June 11, 2012 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, Sheets 1 of 1, J. Bonfill & Associates, Inc., dated 5/23/2007;
- Tree Protection Plan, Sheet L-100, by Neville/Steffens LLP, dated 4/23/2009;
- Planning Plan, Sheet L-102, by Neville/Steffens LLP, dated 4/23/2009;
- Site Plan Demolition, Sheet D-100, by Neville/Steffens LLP, dated 4/23/2009;
- First Floor Demolition Plan, Sheet D-101, by Neville/Steffens LLP, dated 4/23/2009;
- Existing Second Floor Plan, Sheet D-102, by Neville/Steffens LLP, dated 4/23/2009;
- Exterior Elevation/Elevation Demolition Plan, Sheet D-103, By Neville/Steffens LLP, dated 4/23/2009;
- Site Plan, Sheet A-100, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Life Safety Plans, Sheet A-101, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Construction Phasing, Sheet A-102, by Neville/Steffens LLP, dated 4/23/2009;
- First Floor Plan, Sheet A-300, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Partial First Floor Plan, Sheet A-301, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Second Floor Plan, Sheet A-302, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Roof Plan, Sheet A-303, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
- Partial First Floor Reflected Ceiling Plan, Sheet A-304, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;

- Exterior Elevations, Sheet A-500, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011.
2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.
 3. 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 Director of Public Services. 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.
 5. The proposed handicapped parking space located on NE 171 Street must be removed from the plans when submitted for permit. If it is determined that additional handicapped parking spaces are needed, they must be located within the parking lot.
 6. Building materials and color samples must be submitted to, and approved by, the Director of Public Services prior to the issuance of a building permit for this project.
 7. All wall signage must be of an individual, pin-mounted metal letter type only, the number and size of which may not exceed that as permitted in the City's Land Development Regulations.
 8. The design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles, entry paving materials, and street furniture must be submitted to and approved by the Director of Public Services.
 9. A revised landscape plan shall be submitted prior to the issuance of building permit for this project. This plan shall include the curbing of the eastern-most median island in NE 171 Street immediately west of NE 19 Avenue. In addition, the plan shall mitigate the proposed tree removals by providing for additional trees to be used in the balance of the parking lot or along the NE 171 Street medians in the general vicinity of the subject fire station.
 10. All utilities including, but not limited to, water, electric, cable television, and telephone service must be on separate meters and billed directly to the Miami-Dade Fire Rescue Department.
 11. When plans are submitted for a 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.

Section 1. Site plan approval in order to construct a 2,324 square foot one-story addition to an existing two-story fire rescue station, where an existing 1,002 square foot one-story portion of the building will be demolished to accommodate the proposed addition, on property legally described as:

Lots 17 through 28, Lots A, B, C & D, and the 20 foot Alleys adjacent to said Lots, Block 41 as shown on the Plat of "Fulford by the Sea Section "D", According to the Plat Thereof, as Recorded in Plat Book 8 at Page 58, of the Public Records of Miami-Dade County, Florida.

**A/K/A
17050 N.E. 19th Avenue
North Miami Beach, Florida**

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, Sheets 1 of 1, J. Bonfill & Associates, Inc., dated 5/23/2007;
 - Tree Protection Plan, Sheet L-100, by Neville/Steffens LLP, dated 4/23/2009;
 - Planning Plan. Sheet L-102, by Neville/Steffens LLP, dated 4/23/2009;
 - Site Plan Demolition, Sheet D-100, by Neville/Steffens LLP, dated 4/23/2009;
 - First Floor Demolition Plan, Sheet D-101, by Neville/Steffens LLP, dated 4/23/2009;
 - Existing Second Floor Plan, Sheet D-102, by Neville/Steffens LLP, dated 4/23/2009;
 - Exterior Elevation/Elevation Demolition Plan, Sheet D-103, By Neville/Steffens LLP, dated 4/23/2009;
 - Site Plan, Sheet A-100, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
 - Life Safety Plans, Sheet A-101, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
 - Construction Phasing, Sheet A-102, by Neville/Steffens LLP, dated 4/23/2009;
 - First Floor Plan, Sheet A-300, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;

- Partial First Floor Plan, Sheet A-301, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
 - Second Floor Plan, Sheet A-302, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
 - Roof Plan, Sheet A-303, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
 - Partial First Floor Reflected Ceiling Plan, Sheet A-304, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011;
 - Exterior Elevations, Sheet A-500, by Neville/Steffens LLP, dated 2/21/2011, revised 4/27/2011.
2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.
 3. 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 Director of Public Services. 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.
 5. The proposed handicapped parking space located on NE 171 Street must be removed from the plans when submitted for permit. If it is determined that additional handicapped parking spaces are needed, they must be located within the parking lot.
 6. Building materials and color samples must be submitted to, and approved by, the Director of Public Services prior to the issuance of a building permit for this project.
 7. All wall signage must be of an individual, pin-mounted metal letter type only, the number and size of which may not exceed that as permitted in the City's Land Development Regulations.
 8. The design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles, entry paving materials, and street furniture must be submitted to and approved by the Director of Public Services.
 9. A revised landscape plan shall be submitted prior to the issuance of a building permit for this project. This plan shall include the curbing of the eastern-most median island in NE 171 Street immediately west of NE 19 Avenue. In addition, the plan shall mitigate the proposed tree removals by providing for additional trees to be used in the balance of the parking lot or along the NE 171 Street medians in the general vicinity of the subject fire station.

10. All utilities including, but not limited to, water, electric, cable television, and telephone service must be on separate meters and billed directly to the Miami-Dade Fire Rescue Department.
11. When plans are submitted for a 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 Four (4) feet of the minimum required front yard setback of Thirty (30) feet, where front yard setback of Twenty-Six feet 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)(3) to waive Eleven (11) feet of the minimum required (north) corner side yard setback of Twenty-Five (25) feet, where provision of a (north) corner side yard setback of Fourteen (14) feet is proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

Section 4. 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 5. 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 ___ **day of** _____, **2012**.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM:

DARCEE S. SIEGEL
CITY ATTORNEY

SPONSORED BY: Mayor and City Council



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Lyndon L. Bonner, City Manager
DATE: Tuesday, July 17, 2012

RE: Ordinance No. 2012-14 - First Reading by Title Only (City Attorney Darcee S. Siegel)

BACKGROUND: This Ordinance will prohibit campaign contributions in City elections by City vendors and lobbyists. This Ordinance is being created to ensure fair City elections, to avoid an appearance of impropriety and to alleviate an unlevel playing field amongst City candidates. This Ordinance allows for a waiver of this prohibition by a majority of the City Council at a public meeting. This Ordinance outlines the penalties proscribed to the City candidate and to the City vendor/lobbyist if a violation occurs. This Ordinance will be applied only prospectively to campaign contributions made after the adoption on second and final reading.

RECOMMENDATION: Approval.

FISCAL IMPACT: N/A

CONTACT PERSON(S): Darcee S. Siegel, City Attorney
Brian K. O'Connor, Chief Procurement Officer

ATTACHMENTS:

- ▣ [Ordinance No. 2012-14 \(First Reading\)](#)

ORDINANCE NO. 2012-14

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, CREATING AND ADOPTING AN ORDINANCE PROHIBITING CAMPAIGN CONTRIBUTIONS IN CITY ELECTIONS BY CITY VENDORS AND LOBBYISTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR A WAIVER OF THE PROHIBITION BY CITY COUNCIL; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in order to ensure fair City elections, the Mayor and City Council believe that a prohibition of campaign contributions in City elections by City vendors and lobbyists is warranted; and

WHEREAS, campaign finance is a controversial issue, weighing free speech concerns against potential corruption issues; and

WHEREAS, avoidance of an appearance of impropriety and an unlevelled playing field can be achieved by prohibiting campaign contributions in City elections by City vendors and lobbyists; and

WHEREAS, often times candidates for City elections feel uncomfortable approaching and accepting campaign contributions from City vendors and registered lobbyists; and

WHEREAS, the Mayor and City Council believe that the enactment of an ordinance clearly outlining the prohibition of campaign contributions in City elections by City vendors and lobbyists will eliminate any concerns about undue influence of the City's elected officials.

NOW, THEREFORE,

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

ORDINANCE NO. 2012-14

Section 1. The foregoing recitals are true and correct.

Section 2. The Code of Ordinances of the City of North Miami Beach, Florida, entitled "Prohibition of Campaign Contribution by City Vendors and Lobbyists", shall be created to read as follows:

A. Prohibition of Campaign Contribution by City Vendors and Lobbyists

1. No person who is a vendor or registered lobbyist to the City or a relative of that vendor or registered lobbyist; employee of that vendor or registered lobbyist with the City shall give a campaign contribution directly or indirectly or through any other person to a candidate or to the campaign committee of a candidate for City election.

2. No candidate or campaign committee of a candidate for City election shall solicit or receive any campaign contribution from a person who is a City vendor, a City vendor's employee, relative or through any person on behalf of the City vendor or is a registered lobbyist with the City.

B. Definitions.

The following words, terms, and phrases, when used in this Section shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning; words not defined in this Section shall be defined in accordance with state and federal law or otherwise shall be given their common and ordinary meaning, unless the context clearly provides otherwise.

1. Campaign contribution shall have the meaning which is ascribed to the term "contributions" pursuant to Section 106.011, Florida Statutes, as amended and shall include:

(a) A gift subscription, conveyance, deposit, loan, payment or distribution, money or anything of value, including items or services in-kind having an attributable monetary value.

(b) The payment for the personal services of another person which are rendered to a candidate without charge for such services.

2. Candidate shall have the meaning given to such term in Florida Statutes Chapter 106, as amended from time to time.

3. Lobbyist. An individual, corporation, partnership or other legal entity employed or retained, whether paid or not, by a principal who seeks to encourage the approval, disapproval, adoption, repeal, passage, defeat or modifications (1) any ordinance, resolution, action or decision of any elected official or City Council; (2) any action, decision, recommendation, of any City board or committee, including but not limited to Quasi-Judicial, Advisory Board, Trust Authority, Council or Commission.

4. Vendor. A person and/or entity who has been selected by the City as the successful bidder on a present or pending bid to provide to the City goods, equipment or services, or has been approved by the City on a present or pending award to provide to the City goods, equipment or services prior to, upon or following execution of a contract or purchase order. Vendor shall also include an individual or company doing business with the City at the time of the contribution or at any time thereafter for a period of two (2) years from the time of swearing in of the candidate who has or campaign which has received a contribution.

C. Waiver of Prohibition by City Council Only.

1. Criteria for Waiver. The requirements of this Section may be waived by a majority of the City Council at a duly advertised public hearing upon the finding that:

(a) The goods, equipment or services to be involved in the proposed transaction are unique and the City cannot avail itself of such goods, equipment or services without entering into a transaction which would violate this section, but for a waiver of its requirements;

or

(b) The business entity involved in the proposed transaction is the sole source of supply.

2. Any grant of a waiver by the City Council shall be fully disclosed of the subject campaign contribution.

D. Penalty.

1. As to the candidate, the Miami-Dade County Ethics Commission shall have primary jurisdiction for enforcement of this Section. A finding by the Ethics Commission that a candidate violated this Section shall subject such person to a fine of \$250.00 for the first such violation and a fine of \$500.00 for each subsequent violation. Furthermore, all contributions deposited into a candidate's campaign account in violation of this Section shall be forfeited to the City's general revenue fund.

2. As to the vendor, any present or pending vendor who directly or indirectly makes a campaign contribution to a candidate who is elected to City office shall be disqualified and disbarred from doing any business with the City or acting as a lobbyist for a period of two (2) years following the swearing in of the subject elected official. Additionally, any action by a present or pending vendor directly or indirectly making a campaign contribution to a City candidate shall constitute prima facie evidence of a breach of the contract with the City.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 5. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

Section 6. Upon adoption on second reading, this Ordinance shall be applied only prospectively to campaign contributions which are made after the date of adoption of this Ordinance.

APPROVED BY TITLE ONLY on first reading this ___ day of _____, 2012.

APPROVED AND ADOPTED on second reading this ___ day of _____, 2012.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Councilwoman Barbara Kramer
Mayor and City Council