

RESOLUTION NO. 2016-R-6

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, APPROVING A CONDITIONAL USE PERMIT, IN SUBSTANTIALLY THE ATTACHED FORM, TRANSFERRING FIVE (5) FLOATING RESIDENTIAL UNITS FROM THE NEIGHBORHOOD REDEVELOPMENT OVERLAY (NRO) DISTRICT'S SECONDARY RESIDENTIAL POOL OF NINE HUNDRED EIGHTY-NINE (989) FLOATING RESIDENTIAL UNITS TO A PROPOSED 20-UNIT TOWNHOUSE RESIDENTIAL DEVELOPMENT TO BE NAMED "EAST OF 5TH TOWNHOMES", ON THE TWO (2) PARCELS LOCATED OUTSIDE THE NRO AT 12121 NE 5TH AVENUE AND 509 NE 121ST STREET, WITH THE FOLLOWING FOLIO NUMBERS: 06-2230-031-0150 AND 06-2230-031-0160, IN ACCORDANCE WITH ARTICLE 4, DIVISION 2, SECTION 4-204 AND ARTICLE 4, DIVISION 4, SECTION 4-405 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.

WHEREAS, on December 11, 2007, the Mayor and City Council of the City of North Miami ("City"), adopted the City's Comprehensive Plan ("Comprehensive Plan"), consistent with the requirements of Chapter 163, Florida Statutes; and

WHEREAS, Policy 1.12.1 of the Comprehensive Plan established a pool of five thousand (5,000) floating residential units for development, as follows: two thousand two hundred (2,200) floating residential units for use within the Neighborhood Redevelopment Overlay ("NRO") District; One thousand Eight Hundred (1,800) floating residential units for the Central City District; and a secondary pool of one thousand (1,000) floating residential units for development outside the NRO District ("Secondary Pool"); and

WHEREAS, Section 4-204 of the City Land Development Regulations ("LDRs"), provides that requests for residential density bonuses may be granted through a Conditional Use Permit, approved by the Mayor and City Council in accordance with Section 3-401 and Section 4-405 of the LDRs; and

WHEREAS, 5th Avenue Development, LLC ("Applicant"), is the owner of a real 0.92-acre property (the "Subject Property") containing two (2) platted lots, with Miami-Dade County

folio numbers: 06-2230-031-0150 (Lot 1) and 06-2230-031-0160 (Lot 2), and located at 12121 NE 5th Avenue and 509 NE 121st Street; and

WHEREAS, the Subject Property is located outside the NRO District and has a Medium Density Residential land use category with an R-5, Multifamily zoning designation, which permits a maximum building height of seventy-five feet (75') and a density of sixteen and three tenths dwelling units per acre (16.3 du/ac); and

WHEREAS, the R-5 zoning designation allows for fifteen (15) residential units as of right, for development on the Subject Property, with seven (7) as-of-right units on Lot 1 and eight (8) as-of-right units on Lot 2; and

WHEREAS, Article 4, Division 2, Section 4-204 of the City's LDRs prohibits the granting of bonus density through conditional use approval for parcels located within the Village of Biscayne Park Transition Zone; and

WHEREAS, Lot 1, which comprises .48 acre, is entirely located outside the Village of Biscayne Park Transition Zone, and, therefore meets the requirements of Article 4, Division 2, Section 4-204 of the LDRs, for the granting of bonus units through conditional use approval; and

WHEREAS, Lot 2, which comprises .44 acre, is entirely located within the Village of Biscayne Park Transition Zone and, pursuant to the requirements of Article 4, Division 2, Section 4-204 of the LDRs, shall not be developed at a density or intensity in excess of what is authorized by the Future Land Use Element (FLUE) of the Adopted City's Comprehensive Plan in the Medium Density Residential land use designation, restricting therefore the maximum number of units permitted on said lot to eight (8); and

WHEREAS, the Applicant filed a Conditional Use Permit application with the City Community Planning & Development Department, requesting that the City transfers five (5) additional bonus residential units from the existing Secondary Pool of available units to Lot 1 in order to construct a market-rate 20-unit townhouse development on the Subject Property; and

WHEREAS, the approval and transfer of five (5) units from the Secondary Pool will reduce the pool of unassigned units from their current balance of nine hundred and eighty-nine (989) residential units to nine hundred and eighty-four (984) residential units; and

WHEREAS, the City administration reviewed the proposed request and found that it is

consistent with Policy 1.12.1 of the Comprehensive Plan and satisfies the requirements of Article 4, Division 4, Section 4-405 of the LDRs; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on December 1st, 2015, reviewed the proposed request and found it to be in harmony with the goals, objectives and policies of the Comprehensive Plan, and recommended approval of the Conditional Use Permit to the Mayor and City Council; and

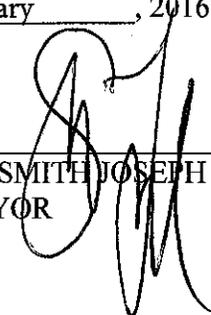
WHEREAS, the Mayor and City Council of the City of North Miami have determined that the proposed request is in the best interest of the City and does not adversely affect the health, safety, and welfare of residents and thereby, approve the Conditional Use Permit allocating the requested number of units from the Secondary Pool.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. **Approval of Conditional Use Permit.** The Mayor and City Council of the City of North Miami, Florida, hereby, approve the Conditional Use Permit, in substantially the attached form, transferring five (5) floating residential units from the Neighborhood Redevelopment Overlay (NRO) District's secondary residential pool of nine hundred eighty-nine (989) floating residential units to a proposed 20-unit townhouse residential development to be named "east of 5th townhomes", on the two (2) parcels located outside the NRO at 12121 NE 5th Avenue and 509 NE 121st street, with the following folio numbers: 06-2230-031-0150 and 06-2230-031-0160, in accordance with Article 4, Division 2, Section 4-204 and Article 4, Division 4, Section 4-405 of the City of North Miami Code of Ordinances, Land Development Regulations

Section 2. **Effective Date.** This resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, this 12th day of January, 2016.



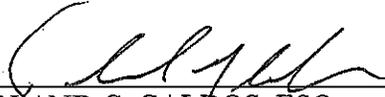
DR. SMITH JOSEPH
MAYOR

ATTEST:



MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



ROLAND C. GALDOS, ESQ.
INTERIM CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Councilman Galvin

Seconded by: Councilman Bien-Aime

Vote:

Mayor Smith Joseph, D.O., Pharm. D.
Vice Mayor Carol Keys, Esq.
Councilman Scott Galvin
Councilman Philippe Bien-Aime
Councilman Alix Desulme

<u> X </u>	(Yes)	<u> </u>	(No)
<u> X </u>	(Yes)	<u> </u>	(No)
<u> X </u>	(Yes)	<u> </u>	(No)
<u> X </u>	(Yes)	<u> </u>	(No)
<u> x </u>	(Yes)	<u> </u>	(No)

EXHIBIT I

CONDITIONAL USE PERMIT FOR 5TH AVENUE DEVELOPMENT, LLC.

WHEREAS, 5th Avenue Development, LLC (the "Applicant") is the owner of the parcels identified by Miami-Dade County folio numbers: 06-2230-031-0150 and 06-2230-031-0160, comprising .92 acre and described in attached Exhibit "A", Survey Drawing of Property (the "Subject Property"); and

WHEREAS, the Property is zoned R-6 and allows for fifteen (15) residential units as of right; and

WHEREAS, in accordance with Section 4-204 of the City's Land Development Regulations (LDRs), which governs density bonus requests in areas outside the Neighborhood Redevelopment Overlay (NRO) district, the Applicant requests that, in addition to the eleven (11) units permitted as of right, the Mayor and City Council approves this Conditional Use Approval (CUP) to transfer **five (5) floating units** from the NRO secondary pool of floating residential units of **nine hundred and eighty-nine (989) residential floating units** to create a 20-unit townhouse residential development on the subject property; and

WHEREAS, staff has reviewed the requested CUP and finds that it complies with the requirements of Section 3-405 of the LDRs; and

WHEREAS, on December 1st, 2015, the Planning Commission voted to recommend that the Mayor and City Council grant Conditional Use Approval for the transfer of **five (5) residential floating units** from the NRO secondary residential pool of **nine hundred and eighty-nine (989) residential floating units**; and

WHEREAS, said transfer of **five (5) residential floating units** from the NRO secondary residential pool of **nine hundred and eighty-nine (989) residential floating units** would reduce the primary pool of units to **nine hundred and eighty-four (984) residential floating units**; and

WHEREAS, on January 12th, 2016, the Mayor and City Council reviewed the requested CUP and determined that it is consistent with the goals, objectives and policies of the City's Comprehensive Plan, and is also in keeping with the purpose and intent of the City's LDRs.

NOW, THEREFORE, the Mayor and City Council approves this CUP along with the following findings and conditions:

- 1. Unity of Title:** Within forty-five (45) days of the adoption of the resolution approving the requested CUP by the Mayor and City Council, the Applicant shall consolidate the two (2) parcels into one parcel by virtue of a unity of title; said instrument to meet with the approval of the City Attorney's Office prior to be recorded with the Miami-Dade County Clerk of Court;

2. **Density Bonuses:** That five (5) floating residential units be transferred from the NRO secondary pool to the proposed development based on the following calculations:

Mandatory Elements	Density Bonus Earned
LEED Designation (Certified)	7.5 du/ac
5 of 8 TOD Standards	10 du/ac
Total Overall Density Bonuses Earned	17.5 du/ac *
Density Bonuses Applied	10.97 du/ac*

*This density bonus only applies to Lot 1, which is located outside the Transition Zone.

3. **DRC Approval:** Prior to the submittal of an application for a building permit, a precise plan, which shall be substantially in compliance with the initial development order approved by the Mayor and City Council, shall be submitted and meet with the approval of the Development Review Committee (DRC) in accordance with the procedures adopted by the DRC and any procedures applicable to the application for development approval. Failure to file said precise plan within one (1) year of the City Council approval shall result in the revocation of the CUP;
4. **Green Building & Sustainability:** Prior to the submittal of an application for a building permit, the proposed development shall at a minimum incorporate the following green building principles, as listed in Section 5-803(J):
- a. Energy Star rated equipment and or appliances;
 - b. lighting and compact fluorescent bulbs must be used and reported to the City's Community Planning and Development Department by completing the Energy Star pledge;
 - c. Utilization of water re-use for irrigation; and/or rain sensors on irrigation system;
 - d. Utilization of plant materials for landscaping of the Florida Friendly Plant List;\
 - e. Maximize water use efficiency in buildings to obtain reductions in water usage through the utilization of high-efficiency fixtures (water faucets, water closets, urinals, showerheads, etc.);
 - f. Design the building/project to maximize energy performance through compliance with the mandatory and prescriptive requirements of ASHRAE/IESNA 90.1;
 - g. Limit disruption of natural water flows by managing stormwater runoff through the implementation of a stormwater management plan that reduces impervious cover, promotes infiltration, and captures and treats stormwater runoff using acceptable best management practices (BMPs);
 - h. Reduce heat-island effect by using, for a minimum of seventy-five (75) percent of the roof, surface roofing materials having a solar reflectants index (SRI) equal to or greater than:

Roof-type	Slope	SRI
Low-sloped roof	Less than or equal to 2:12	78
Steep sloped roof	Greater than 2:12	29

- i. Utilize two (2) of the following low-emitting materials:
 1. Adhesives;
 2. Sealants;
 3. Paints and coatings;
 4. Carpet;
 5. Composite wood;
 6. Agri-fiber products.

5. **Stormwater Management:** All stormwater shall be retained on-site utilizing properly designed seepage or infiltration drainage structures. Drainage shall be provided for the 5-year storm event with full on-site retention of the 25-year/3-day storm. Pollution Control devices shall be required at all drainage inlet structures. All off-site drainage improvements shall meet design requirements as applicable to the corridor type;

6. **Building Permits:** That the Applicant apply for a building permit within eighteen (18) months of approval of the precise plan by the DRC members. Failure to do so will result in the expiration of the precise plan;

7. **Miscellaneous:** That the CUP comply with all applicable requirements of the City's Public Works Department, Police Department, and all other County and State agencies;

8. **Certificate of Occupancy:** That a Certificate of Occupancy (CO) from the Building and Minimum Housing Department be only issued to the Applicant upon compliance with all other terms and conditions of this approval, and the verification by the City that the development has incorporated the green building principles addressed in Section 4 above, pursuant to Section 5-803(J); the same subject to cancellation upon violation of any of the conditions herein listed; and

9. **Certificate of Use:** That a Certificate of Use (CU) from the Community Planning & Development Department be only issued to the Applicant upon compliance with all terms and conditions of this CUP approval; the same subject to cancellation upon violation of any of the conditions herein listed.