



**NORTH MIAMI BOARD OF ADJUSTMENT MEETING AGENDA  
776 NORTHEAST 125 STREET, NORTH MIAMI CITY HALL, 2<sup>ND</sup> FLOOR  
WEDNESDAY, FEBRUARY 24, 2016, 6:30 PM**

**I. ASSEMBLY AND ORGANIZATION:**

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call of Board Members
- D. Announcement to Audience of the Public Hearing Process

***QUASI-JUDICIAL ITEMS: THESE ITEMS MAY EITHER BE APPROVED, DENIED, OR APPROVED WITH CONDITIONS.***

PUBLIC HEARINGS: PLEASE BE ADVISED THAT THE FOLLOWING ITEMS ON THE AGENDA ARE QUASI-JUDICIAL IN NATURE. THE APPLICANT OR DULY AUTHORIZED AGENT FOR THE APPLICANT MUST BE PRESENT. IF NO REPRESENTATIVE IS PRESENT, THE APPLICATION WILL BE TABLED TO THE NEXT BOARD OF ADJUSTMENT MEETING. WHEN THE PETITION IS ANNOUNCED, THE APPLICANT OR HIS/HER AGENT SHALL APPROACH THE MICROPHONE AND STATE HIS/HER NAME AND ADDRESS FOR THE RECORD.

ANY INTERESTED PARTY WISHING TO SPEAK ON ANY ITEM MAY APPROACH THE PODIUM AFTER THE BOARD HAS OPENED THE PUBLIC HEARING. EACH PARTY SHALL APPROACH THE MICROPHONE AND STATE HIS/HER NAME AND ADDRESS FOR THE RECORD, AND SHALL ADDRESS HIS/HER COMMENTS TO THE BOARD. EACH PARTY SHALL SPEAK FOR NOT MORE THAN 3 (THREE) MINUTES IN ORDER TO PROVIDE FOR ORDER AND TIME FOR OTHER INTERESTED PARTIES TO ADDRESS THEIR CONCERNS/COMMENTS TO THE BOARD.

- E. Quasi-Judicial Oath
- F. Amendments to the Agenda

**II. APPROVAL OF MINUTES: NOVEMBER 18, 2015 BOARD OF ADJUSTMENT MEETING**

**III. COMMUNICATIONS: BOARD MEMBER COMMUNICATIONS**

**IV. CONTINUED PETITIONS: NONE**

**V. NEW PETITIONS:**

**VARIANCE TO ARTICLE 4, DIVISION 3, SECTION 4-303 OF THE NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW AN OVERHANG TO AN EXISTING BUSINESS LOCATED AT 13290 WEST DIXIE HIGHWAY, IN THE C-1 COMMERCIAL DISTRICT, WITH A SIDE STREET SETBACK OF 4.42 FEET INSTEAD OF THE REQUIRED MINIMUM SETBACK OF 15 FEET AS SET FORTH IN THE LAND DEVELOPMENT REGULATIONS FOR DEVELOPMENTS PERMITTED IN THE C-1 DISTRICT; SAID VARIANCE TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.**

**V-2-16 5<sup>th</sup> AVENUE DEVELOPMENT, LLC – 12121 NE 5<sup>TH</sup> AVENUE & 509 NE 121<sup>ST</sup> STREET**

- 1. A VARIANCE TO ARTICLE 5, DIVISION 20, SECTION 5-2002(B) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A PROPOSED TOWNHOUSE DEVELOPMENT TO SET BACK 13’-3” AND 20’-10” FROM THE EAST AND WEST SIDE PROPERTY LINE, RESPECTIVELY, INSTEAD OF THE MINIMUM 30’-0” REQUIRED IN THE LDRS FOR TOWNHOUSE DEVELOPMENT; AND**
- 2. A VARIANCE TO ARTICLE 5, DIVISION 20, SECTION 5-2001(D) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW SAID DEVELOPMENT WITH TWO (2) TOWNHOUSE ROWS WITH A LENGTH OF EIGHT (8) UNITS AND TWELVE (12) UNITS, RESPECTIVELY, INSTEAD OF THE MAXIMUM LENGTH OF SIX (6) UNITS PER TOWNHOUSE ROW AS REQUIRED IN THE LDRS FOR TOWNHOUSE DEVELOPMENT.**

**ALL VARIANCES TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.**

**VI. OLD BUSINESS: NONE**

**VII. NEW BUSINESS: NONE**

**VIII. ADJOURNMENT:**

**NOTICE: No stenographic record by a certified court reporter will be made of the foregoing meeting. Accordingly, any person wishing to appeal the recommendations of the Board of Adjustment will need a verbatim record of the meeting's proceedings, which record includes the testimony and evidence upon which the appeal is to be based (Chapter 286.0105 F.S.)**

**In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation to participate in this proceeding should contact the Building and Zoning Department no later than four (4) days prior to the proceeding. Telephone (305) 893-6511, ext. 12139 for assistance. If hearing impaired, telephone our TDD line at (305) 893-7936 for assistance.**

**AS A COURTESY TO THE PEOPLE RECORDING THE MEETING, PLEASE PUT YOUR CELL PHONE ON SILENT.**



JOSE RICARDO PINTO Special to the Miami Herald

## A FRESH FACE FOR CAUSEWAY'S NAMESAKE

On the John F. Kennedy Causeway, the bust of the 35th U.S. president was recently reinstalled on its pedestal after being restored by original artist Jose Ricardo Pinto.

### How to Get Listed

Post at our new, interactive platform at [www.events.MiamiHerald.com](http://www.events.MiamiHerald.com) at least two weeks in advance of your event. You no longer need to register or use a password, but you must provide an email address that is not blocked. You can post an event for free and that includes adding one image (must be at least 300x200 or 200x300 pixels.) If your event does not fit the categories in the drop-down menu (most are performance-oriented and not intended for classes, meetings, conferences and the like), select Special Event. Limit your description to 240 characters (characters not words), including punctuation and spaces and your event name to three or four words. Do not use all caps, exclamation marks or unusual symbols or hype your event. All events properly posted may also be used for print calendars but we cannot guarantee print placement. Questions? Email [smullin@MiamiHerald.com](mailto:smullin@MiamiHerald.com) with "Calendar question" on the subject line or call 305-376-3430 for verbal instructions.

### Thursday, February 11

**Ascent: Black Women's Expressions Art Exhibition** This exhibit features the work of black female artists. 2/11-Feb. 12 9 a.m.-9 p.m.;

Feb. 13 9 a.m.-8 p.m.; Feb. 14 11 a.m.-9 p.m. Free Nova Southeastern University - Alvin Sherman Library 3100 Ray Ferrero Jr. Blvd., Fort Lauderdale.

### Saturday, Feb. 13

**Andy Royston Presents iPhotography** Learn tips on capturing nature photos with your camera phone and how to share them with the world in a Cell Phone Photography 101 presentation by designer and photographer Andy Royston. Feb. 13 2 p.m.-4 p.m. \$15; \$14 seniors; \$13 children 2-12 and military with ID Museum of Discovery and Science 401 S.W. Second St., Fort Lauderdale.

**No Heart Is Too Small** Join others for a Valentine's Day Healthy Heart Celebration. The event features food and drinks, Valentine crafts, sweets and treats, children's entertainment, pony rides and teddy bear clinic. Feb. 13 11 a.m.-2 p.m. Free a.pgtb.me/k1Rq9J Kendall Regional Medical Center 11750 SW 40 St., Miami.



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- I. ASSEMBLY AND ORGANIZATION:  
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B. Pledge of Allegiance  
C. Roll Call of Board Members  
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- E. Quasi-Judicial Oath  
F. Amendments to the Agenda

- II. APPROVAL OF MINUTES: NOVEMBER 18, 2015 BOARD OF ADJUSTMENT MEETING

- III. COMMUNICATIONS: BOARD MEMBER COMMUNICATIONS

- IV. CONTINUED PETITIONS: NONE

- V. NEW PETITIONS:

- V-1-16 EL KIOSKO LATIN CAFE - 13290 W. DIXIE HIGHWAY

VARIANCE TO ARTICLE 4, DIVISION 3, SECTION 4-303 OF THE NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS ("LDRS") TO ALLOW AN OVERHANG TO AN EXISTING BUSINESS LOCATED AT 13290 WEST DIXIE HIGHWAY, IN THE C-1 COMMERCIAL DISTRICT, WITH A SIDE STREET SETBACK OF 4.42 FEET INSTEAD OF THE REQUIRED MINIMUM SETBACK OF 15 FEET AS SET FORTH IN THE LAND DEVELOPMENT REGULATIONS FOR DEVELOPMENTS PERMITTED IN THE C-1 DISTRICT; SAID VARIANCE TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

- V-2-16 5<sup>TH</sup> AVENUE DEVELOPMENT, LLC - 12121 NE 5<sup>TH</sup> AVENUE & 509 NE 121<sup>ST</sup> STREET

- A VARIANCE TO ARTICLE 5, DIVISION 20, SECTION 5-2002(B) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS ("LDRS") TO ALLOW A PROPOSED TOWNHOUSE DEVELOPMENT TO SET BACK 13'-3" AND 20'-10" FROM THE EAST AND WEST SIDE PROPERTY LINE, RESPECTIVELY, INSTEAD OF THE MINIMUM 30'-0" REQUIRED IN THE LDRS FOR TOWNHOUSE DEVELOPMENT; AND
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- VI. OLD BUSINESS: NONE  
VII. NEW BUSINESS: NONE  
VIII. ADJOURNMENT:

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MINUTES  
 NORTH MIAMI BOARD OF ADJUSTMENT  
 6:30 P.M.  
 WEDNESDAY, NOVEMBER 18, 2015  
 COUNCIL CHAMBERS

The meeting was called to order at 6:47 p.m. After the pledge of allegiance, a roll call of the members was taken.

	Name	Present	Excused	Absent
1.	Roseline Philippe		X	
2.	Holly Cohen	X		
3.	Michael McDearmaid	X		
4.	Dotie Joseph		X	
5.	Danna Magloire-Fenelon	X		
6.	Pegy Boulé	X		
7.	Laura Hill		X	
8.	Mary Estimé-Irvin		X	

**Staff was represented by:**

Andrew Dixon, Zoning Administrator  
 Roland Galdos, Deputy City Attorney  
 Brittni Duria, Board Secretary

**I. Assembly and Organization – Amendments to the Agenda: None**

**II. Approval of Minutes:**

The minutes of the October board meeting was unanimously approved and a motion was made by board member McDearmaid and seconded by board member Boulé.

**III. Board Member Communications: None**

**IV. Continued Petitions: None**

**V. NEW PETITIONS:**

**V-16-15      JAMES CHRISTOPHER & REBECKAH KURZWEG – 2370 ARCH CREEK DR.**

**VARIANCE TO ARTICLE 5, DIVISION 1, SECTION 5-103 OF THE NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”), TO ALLOW A SEVENTEEN (17) FEET BY TWENTY (20) FEET CARPORT STRUCTURE (AWNING) TO AN EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 2370 ARCH CREEK DRIVE, IN THE R-1 RESIDENTIAL DISTRICT, INSTEAD OF THE MAXIMUM TWELVE (12) FEET BY TWENTY (20) FEET SET FORTH IN THE LAND DEVELOPMENT REGULATIONS FOR DEVELOPMENTS PERMITTED IN THE R-1 RESIDENTIAL DISTRICT, IN ACCORDANCE WITH THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.**

**Board Discussion:**

Mr. Dixon introduced the item, read and summarized the staff recommendation. Mr. Galdos stated that the item was properly noticed and the City heard no negative comments on the proposal. The homeowner, Mr. James Christopher Kurzweg, simply stated that he was there for any questions that the Board had for him. Board member Magloire-Fenelon asked where the restriction of twelve feet came from. Mr. Galdos stated that the request is taken care of administratively and that the City’s LDRs give a limit of twelve feet, not seventeen; it was a matter of technicality.

**Public Hearing:**

No one spoke at the public hearing.

**Vote:**

The motion for approval was made by board member McDearmaid and seconded by board member Boulé. The item passed unanimously.

— — —

The next meeting was tentatively set for January 20, 2016.

- VI.      COMMITTEE REPORTS:      None**
- VII.     OLD BUSINESS:                None**
- VIII.    NEW BUSINESS:                None**
- IX.      ADJOURNMENT:**

The meeting was adjourned at 7:03 p.m.

Respectfully submitted:

Attest:

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Roseline Philippe, Chairperson  
Board of Adjustment

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Andrew Dixon, Zoning Administrator  
Community Planning & Development

Prepared by:

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Brittini Duria, Board Secretary  
Community Planning & Development



776 Northeast 125<sup>th</sup> Street, P.O. Box 610850, North Miami, Florida 33161-0850 (305) 893-6511

**To: Honorable Board of Adjustment Members**

**From: Andrew Dixon  
Zoning Administrator  
Community Planning & Development Department**

**Date: February 24, 2016**

**V-1-16 EL KIOSKO LATIN CAFE – 13290 W. DIXIE HIGHWAY**

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**Application Summary**

**Applicant/Agent: EL KIOSKO LATIN CAFE – 13290 W. DIXIE HIGHWAY**  
**Location: 13290 W. DIXIE HIGHWAY**  
**Land Area: 6,489 SQ FT**  
**Folio Number: 06-2229-049-0530**  
**Petition: VARIANCE TO ARTICLE 5, DIVISION 8, SECTION 5-804 (E) OF THE NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW AN EXISTING BUSINESS TO CONSTRUCT AN OVERHANG IN THE REAR WITH A SIDE STREET SETBACK OF 4.42 FEET INSTEAD OF THE REQUIRED MINIMUM SETBACK OF 15 FEET AS SET FORTH IN THE LAND DEVELOPMENT REGULATIONS FOR DEVELOPMENTS PERMITTED IN THE C-1 DISTRICT; SAID VARIANCE TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.**

**Staff Recommendation**

Approval

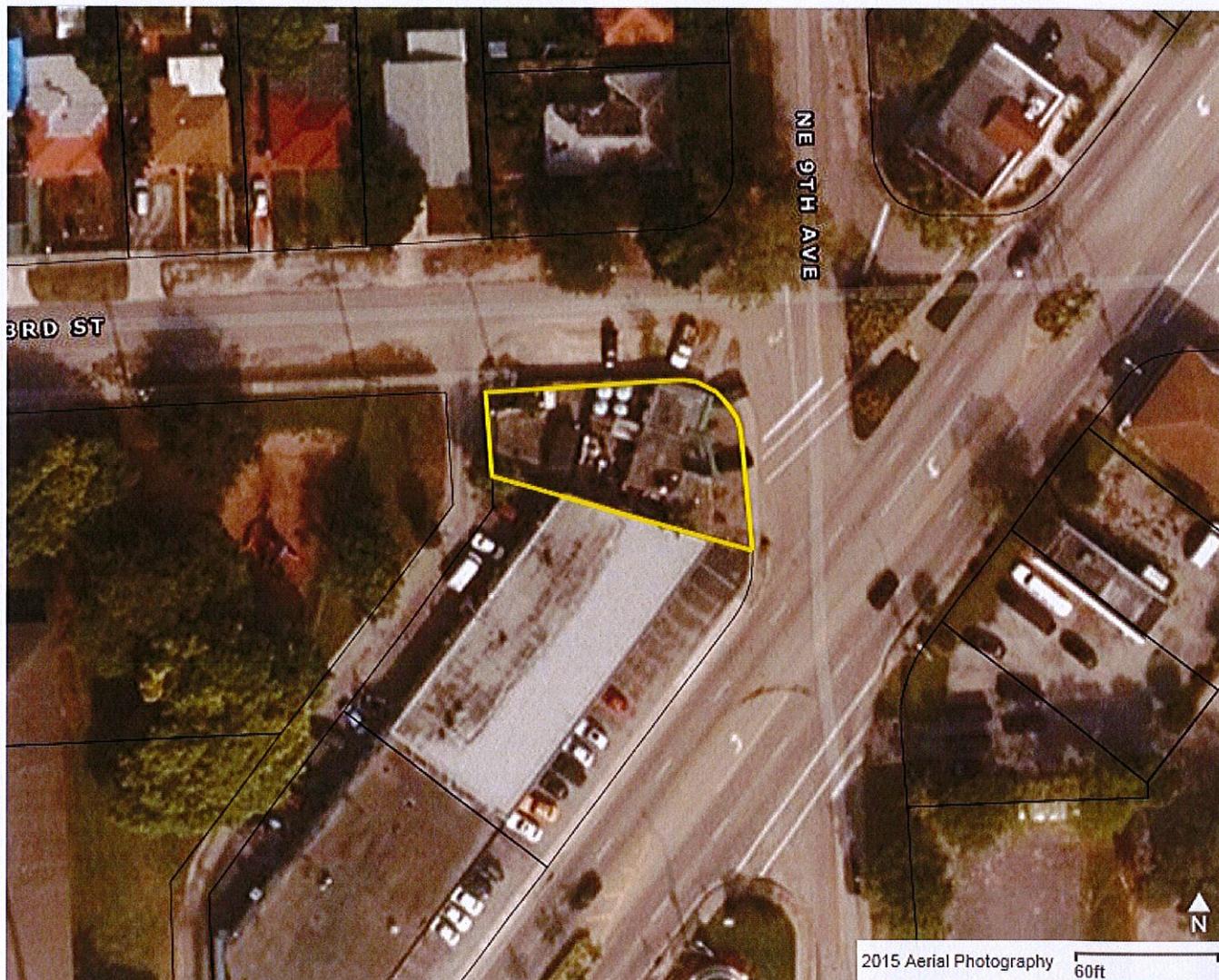
**Project Summary**

The subject property is located at 13290 W. Dixie Highway. The lot size is approximately 6,489 square feet (0.14 acre). Applicant is requesting a variance to allow an existing business to construct an overhang in the rear with a side street setback of 4.42 feet instead of the required minimum setback of 15 feet as set forth in the Land Development Regulations (LDRs) for an existing restaurant in the C-1 district. The applicant’s request to construct this overhang will enable him to provide outside dining for his customers, which will not result in the diminution of the value of any adjacent property.

**Neighborhood Land Use Characteristics**

Property	Future Land Use	Existing Zoning	Existing Use/Subdivision
Site	Commercial / Office	C-1, Commercial	Commercial
North	Commercial / Office	C-1, Commercial	Commercial
South	Community Facility	PU, Planned Unit	Community Facility
East	Commercial / Office	C-1, Commercial	Commercial
West	Low Medium Density Residential	R-2, Single Family	Single-Family

The subject property is located at 13290 W. Dixie Highway. The surrounding properties are all single-family homes. The following aerial pictures depict the location of the proposed site.



**Consistency with the City of North Miami Comprehensive Land Use Plan**

The subject property is designated Commercial/Office on the City’s adopted Future Land Use Map (FLUM). In accordance with Policy 1.13.2 of Objective 1.13 of the Future Land Use Element (FLUE) of the City’s Comprehensive Plan, this land use category is intended to provide land area for business, office, retail, services and other commercial enterprises including commercial facilities such as schools,

museums, place of worship, child and adult day care centers, nursing homes, government administration, police and fire protection facilities. This new addition to the rear of the property is consistent with the City of North Miami Comprehensive Land Use Plan and will enhance pedestrian related activity at the street level while creating an enjoyable pedestrian experience.

**Compliance with the City of North Miami Land Development Regulations**

The subject property is zoned C-1, Commercial on the City’s Adopted Zoning Map. The purpose of this zoning district is to provide the citizens of the City with convenient access to goods and services without adversely impacting the integrity of residential neighborhoods. The applicant proposal to construct an overhang within the side street setback of 4.42 feet instead of the required minimum setback of 15 feet as set forth in Article 5, Division 8, Section 5–804 (E) of the LDR and is in compliance with the City of North Miami Land Development Regulations.

**Criteria for granting variances:** Article 3, Division 6, Section 3-606 of the City’s LDRs provides authority to the BOA to hear and grant or deny applications for variances from the terms of these LDRs. In evaluating an application for variances, the BOA shall find that the applicant demonstrates compliance with four of the six items as listed below:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.
3. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the neighborhood.
4. The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.
5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure, or building.
6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

**Analysis**

As per Article 5, Division 8, Section 5–804 (E) of the LDR, requires that all structures in a commercial zoned area shall maintain 15 feet setback from the public street as set forth in North Miami Code of Ordinance however the proposed overhang falls within the rear side yard setback which ultimately triggered this variance. The structure meets both rear yard and front setbacks on the property. Upon reviewing this variance request, it is found to meet at least 5 of the 6 criteria set forth in Article 3, Division 6, Section 3-606, as demonstrated below.

- ✓ Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

*Not Applicable*

- ✓ The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.

*The setback requirements set forth for commercial properties is a condition that is present in most commercial zoning districts and hinders restaurants from providing outdoor dining thus creating an unusual circumstance that are present in the neighborhood and are not unique to the property.*

- ✓ That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the neighborhood.

*The requested variance is to construct an overhang in order to provide seating for future customers. This variance request will provide the citizens of the city with convenient access and services without adversely impacting the integrity of adjacent properties and will not have any negative impact on the aesthetic quality of the surrounding residences. Therefore, the variance maintains the basic intent and purpose of the LDRs.*

- ✓ The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.

*The requested variance is to construct an overhang in order to provide seating for future customers. The side street setback for commercial properties set forth in Article 5, Division 8, Section 5 – 804 Subsections (E) prohibits this use which is commonly enjoyed by other restaurants in this zoning district. This variance will allow the applicant's customers to enjoy outdoor dining and will encourage pedestrian related activities at the street level.*

- ✓ The variance requested is the minimum variance that will make possible the reasonable use of the land, structure, or building.

*The requested variance is indeed the minimum variance that will allow the applicant to provide covered outdoor seating for his customers which will provide protection from the elements of weather making it a reasonable use of land*

- ✓ The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

*The variance request will allow the existing business to construct an overhang in the rear with a side street setback of 4.42 feet instead of the required minimum setback of 15 feet which shall enable them to provide adequate outdoor seating and at the same time, protecting them from the elements of weather. The request will not change the use of the property as a commercial use, It will be in harmony with the general appearance and character of the neighborhood, and will not result in the diminution of the value of any adjacent property.*

## **Conclusion**

Given the foregoing, the applicant's request conforms to the goals, objectives and policies of the City's Comprehensive Plan, as it will neither alter the use of the property as a commercial use, nor affect the neighborhood character. In fact, it is in keeping with the intent and purpose of the City's LDRs, as it will not be detrimental to the public and will provide the citizens of the City with convenient access and

services without adversely impacting the integrity of adjacent properties. Therefore, recommendation is made to approve the requested variance.

**Public Notification/Comments**

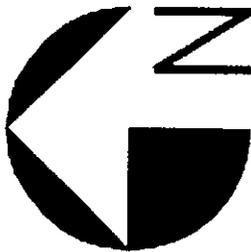
In accordance with Subsections (A), (B) and (C) of Article 3, Division 3, Section 3-302 of the City's LDRs, notification of the applicant's request was published in the Miami Herald, posted on the property, and mailed to property owners within a 500-foot radius of the subject property to give them an opportunity to comment on the application if they so desire. No comments were received from any of the neighboring property owners within the aforementioned radius.

**Applicable Ordinances**

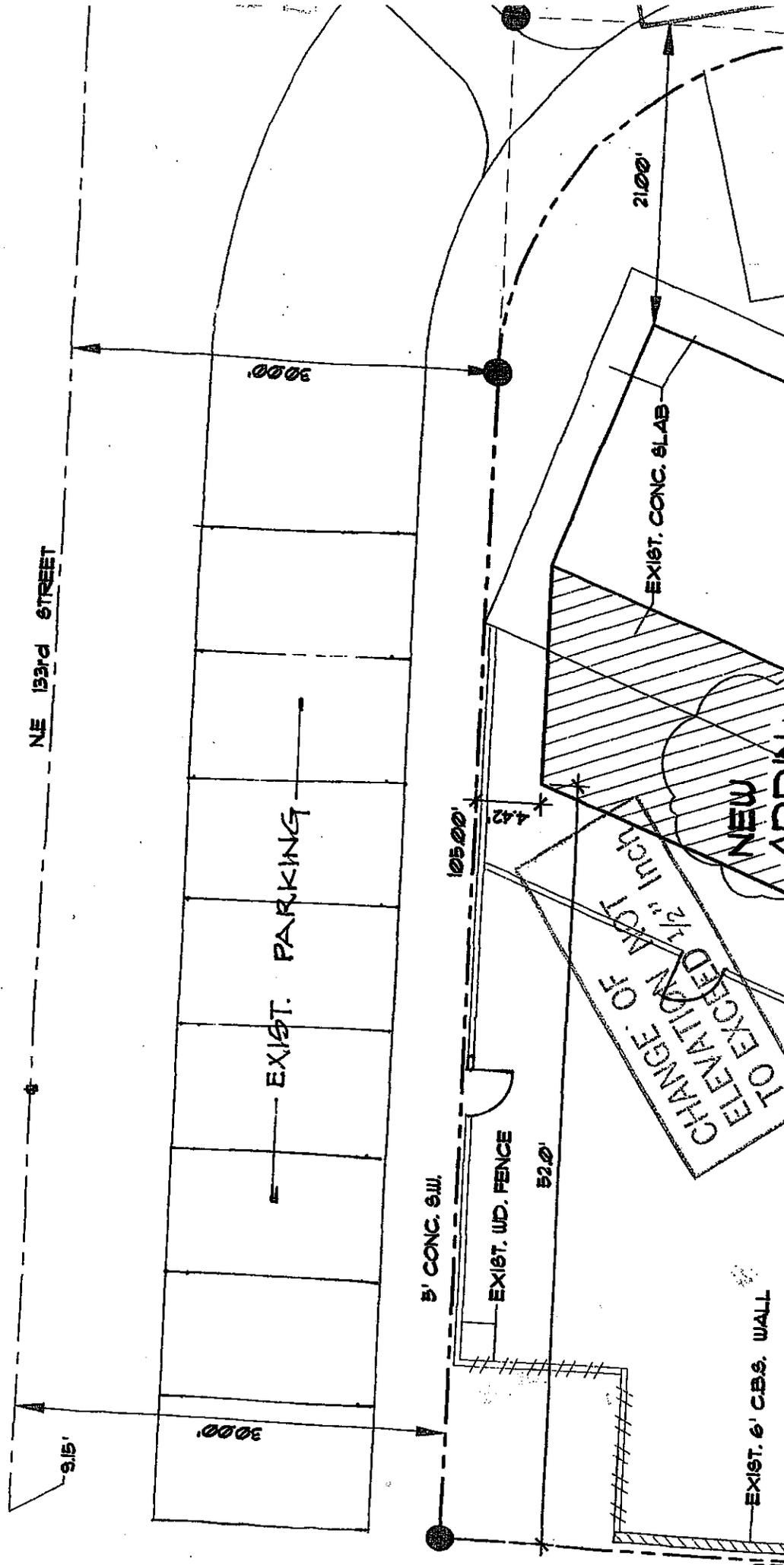
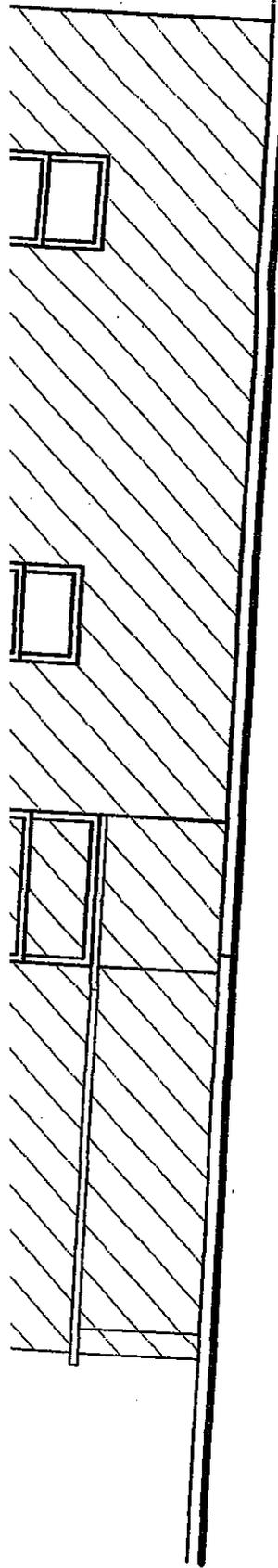
Article 3, Division 3, Section 3-302 Subsections (A), (B) and (C).  
Article 3, Division 6, Section 3-606;  
Article 5, Division 8, Section 5-804 Subsections (E)

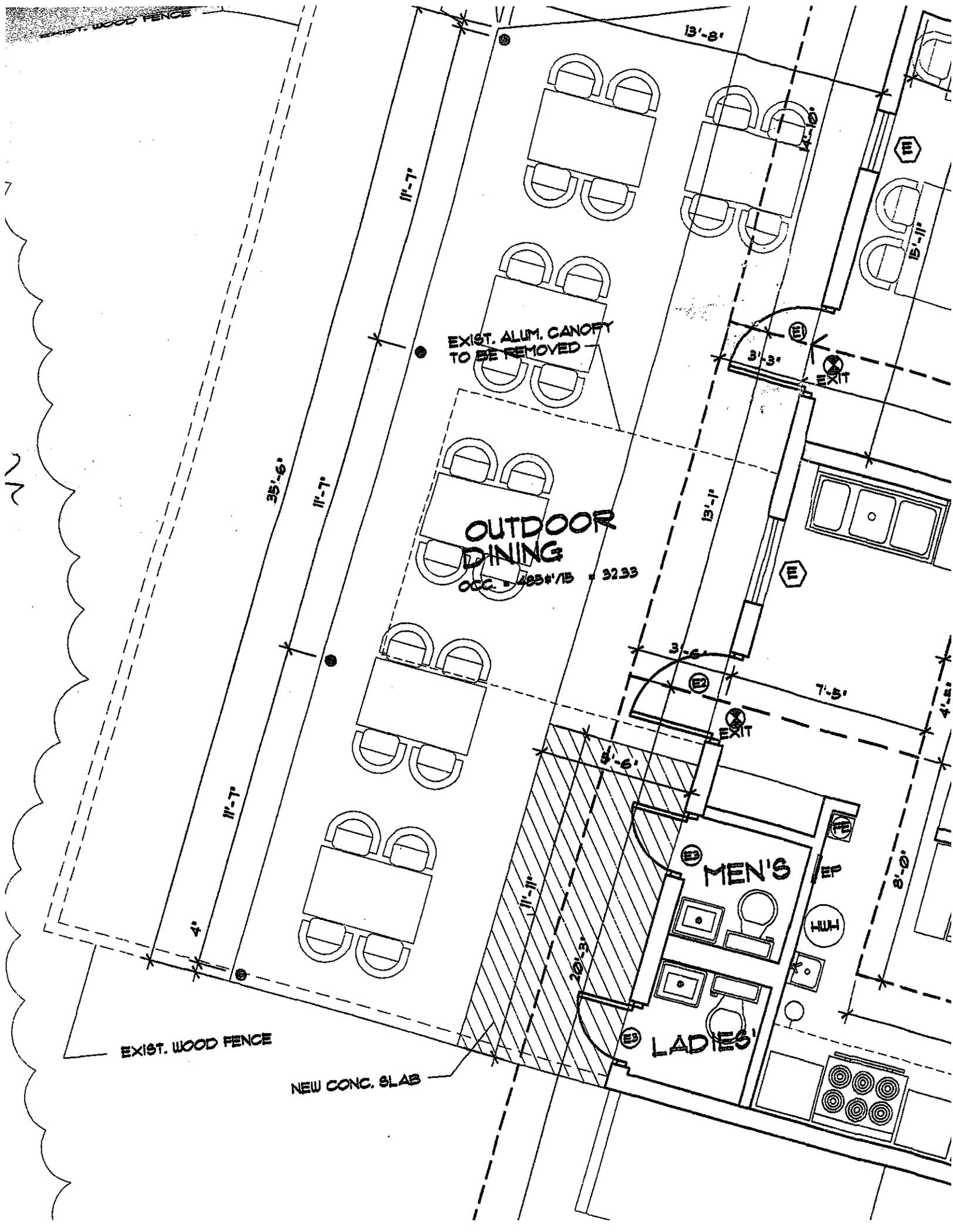
**Attachments**

Submitted Application  
Submitted Letter of Intent  
Submitted Survey and Plans  
Newspaper Advertisement



**RIGHTS**  
1/4" = 1'-0"





EXIST. WOOD FENCE

13'-8"

11'-7"

EXIST. ALUM. CANOPY  
TO BE REMOVED

OUTDOOR  
DINING  
OCC. 485#1/15 • 3233

35'-6"

11'-7"

13'-11"

11'-7"

4'-0"

EXIST. WOOD FENCE

NEW CONC. SLAB

3'-6"

7'-5"

3'-6"

11'-11"

20'-3"

MEN'S

LADIES

15'-11"

8'-0"

4'-6"

NW



776 Northeast 125<sup>th</sup> Street, P.O. Box 610850, North Miami, Florida 33161-0850 (305) 893-6511

**To:** Honorable Board of Adjustment Members

**From:** Andrew Dixon  
Zoning Administrator  
Community Planning & Development Department

**Date:** February 24, 2016

**V-2-16** EAST OF 5<sup>th</sup> TOWNHOMES – 12121 N.E. 5<sup>th</sup> AVENUE & 509 N.E. 121<sup>st</sup> STREET

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**Application Summary**

**Applicant/Agent:** EAST OF 5<sup>th</sup> TOWNHOMES – 13290 W. DIXIE HIGHWAY  
**Location:** 12121 N.E. 5<sup>th</sup> AVENUE & 509 N.E. 121<sup>st</sup> STREET  
**Land Area:** 40.215 SQ FT  
**Folio Number:** 06-2230-031-0150 & 06-2230-031-0160  
**Petition:** 5th AVENUE DEVELOPMENT, LLC – 12121 NE 5TH AVENUE & 509 NE 121ST STREET

1. A VARIANCE TO ARTICLE 5, DIVISION 20, SECTION 5-2002(B) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A PROPOSED TOWNHOUSE DEVELOPMENT TO SET BACK 13’-3” AND 20’-10” FROM THE EAST AND WEST SIDE PROPERTY LINE, RESPECTIVELY, INSTEAD OF THE MINIMUM 30’-0” REQUIRED IN THE LDRS FOR TOWNHOUSE DEVELOPMENT; AND
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**Staff Recommendation**

Approval

**Project Summary**

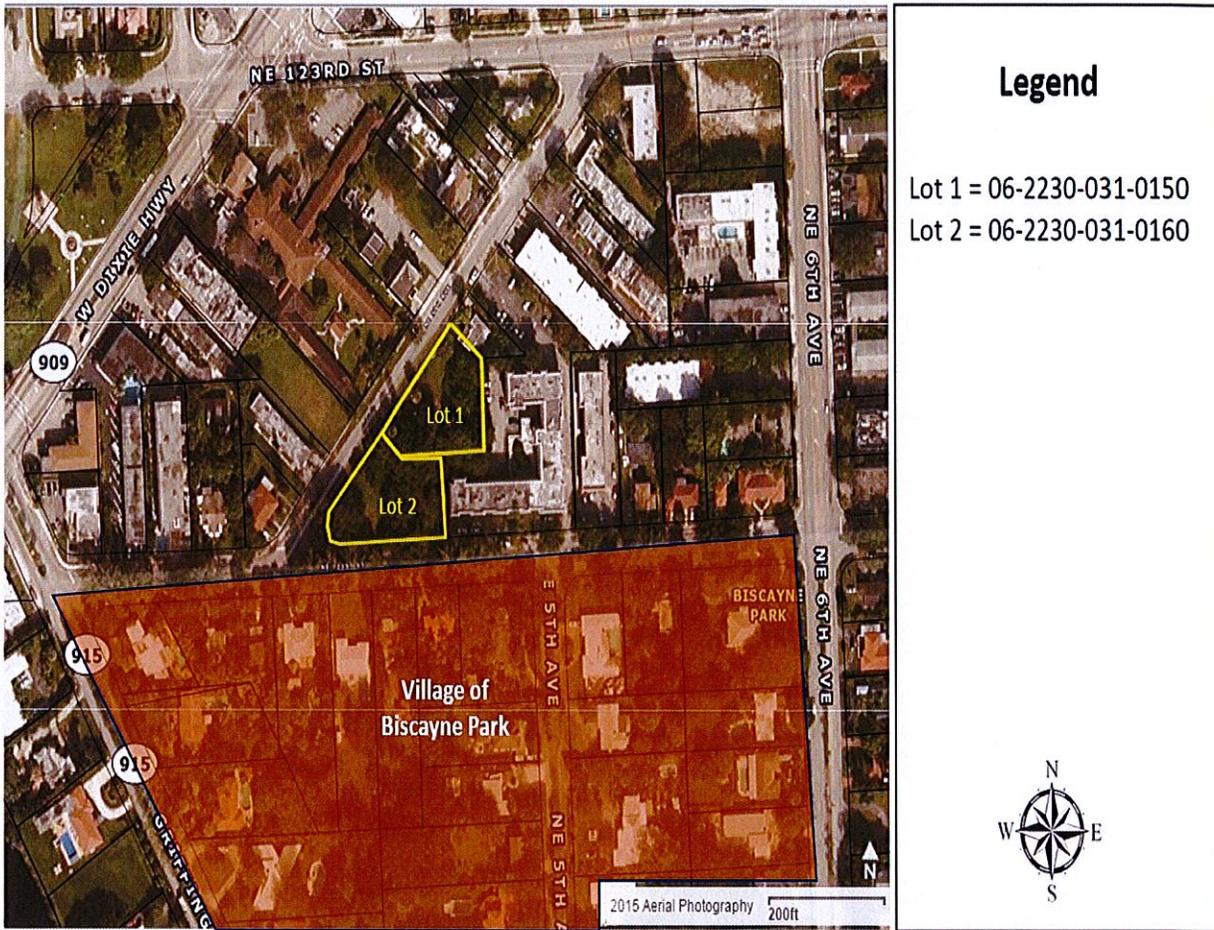
The subject property consists of two (2) contiguous irregularly shaped lots (See Fig. 1). The northerly parcel (Lot 1) located at 12121 N.E. 5<sup>th</sup> Avenue contains 19,468 sq. ft. or 0.44-acre. The southerly parcel (Lot 2) with the physical address of 509 N.E. 121<sup>st</sup> Street comprises 20,757 sq. ft. or 0.48-acre and, based on the City’s 2007 Adopted Future Land Use Map (FLUM), falls within the Village of Biscayne Park Transition Zone (the ‘Transition Zone’). Together, these two (2) lots comprise 40,215 sq. ft. or 0.92-acre. It is the intent of the owner on record for these two (2) parcels, 5<sup>th</sup> Avenue Development, LLC, (the ‘Applicant’) to develop these two (2) lots with a 20-unit market-rate townhouse residential development.

Based on the current Medium Density Residential (75 ft., 16 du/ac) land use designation and R-5 zoning classification, the subject property can accommodate a development of up to fifteen (15) units and as high as 75 ft. The Applicant’s proposal to develop a proposed 20-unit development, which will consist of two (2) 2-story structures, will be very much in scale and character with some of the surrounding low-lying residential developments, and therefore be more in keeping with the spirit and intent of the Transition Zone. Since the desired density exceeds what is permitted by right on the site, the applicant submitted a conditional use permit as per the requirements of Article 4, Division 2, Section 4-204 of the LDRs and was granted a density bonus of 13.25 dwelling units per acre (du/ac), which would transfer five (5) floating residential units from the NRO secondary pool to Lot 1.

**Neighborhood Land Use Characteristics**

<b>Property</b>	<b>Future Land Use</b>	<b>Existing Zoning</b>	<b>Existing Use/Subdivision</b>
Site	Medium Density Residential	R-5, Multifamily District	Multifamily
North	Central Business Commercial	C-3, Commercial	Commercial
South	Medium Density Residential	R-5, Multifamily District	Multifamily
East	Medium Density Residential	R-5, Multifamily District	Multifamily
West	Low Density Residential	R-2, Single Family	Single-Family

The subject property is located at 12121 N.E. 5<sup>th</sup> Avenue & 509 N.E. 121<sup>st</sup> Street. The surrounding North Miami properties are mostly multifamily homes. The following aerial pictures depict the location of the proposed site.



**Consistency with the City of North Miami Comprehensive Land Use Plan**

The subject property is designated Medium Density Residential on the City’s adopted Future Land Use Map (FLUM). In accordance with Policy 1.13.1 of Objective 1.13 of the Future Land Use Element (FLUE) of the City’s Comprehensive Plan, this land use category is intended primarily for multifamily residential dwellings with a maximum density of 16.3 dwellings per acre (du/ac), as set forth in Policy 1.1 of Objective 1.1 of the FLUE, as such, the request is consistent. Furthermore, the applicant’s variance request does not change either the use of the property as a multifamily residence, or the density allowed in the land use category. Therefore, the request conforms to the goals, objectives and policies of the Comprehensive Plan. It is also in keeping with Objective 3B.4 of the Housing Element of the Comprehensive Plan, which requires that the City “ensures an adequate balance of housing that will ensure a range of housing options by providing the appropriate densities, intensities, height, type, and size that encourage the creation of new housing units.” The proposed market-rate townhouse development is a suitable addition to revitalize this stagnant area of the City, which features an aging housing stock and has not seen any redevelopment in over fifty (50) years. The proposed townhouse development is consistent with the City of North Miami Comprehensive Land Use Plan.

**Compliance with the City of North Miami Land Development Regulations**

The subject property is zoned R-5, Multifamily on the City’s Adopted Zoning Map. The purpose of this zoning district is to preserve and enhance medium density multifamily neighborhoods in the city. This zoning district encourages redevelopment to provide housing needs of a diverse community at a greater

density than other districts. This development is consistent with the residential medium land use category of the comprehensive plan and is compatible with the overall residential character of the district. The applicant's proposed townhouse development is compliant with the City of North Miami Land Development Regulations.

**Criteria for granting variances:** Article 3, Division 6, Section 3-606 of the City's LDRs provides authority to the BOA to hear and grant or deny applications for variances from the terms of these LDRs. In evaluating an application for variances, the BOA shall find that the applicant demonstrates compliance with four of the six items as listed below:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.
3. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the neighborhood.
4. The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.
5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure, or building.
6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

### **Analysis**

As per Article 5, Division 20, Section 5-2002(B) of Chapter 29 of the City of North Miami Code of Ordinance, Land Development Regulations ("LDRS") to allow a proposed townhouse development to setback 13'-3" and 20'-10" from the east and west side property line respectively, instead of the minimum 30'-0" required in the LDRS for townhouse development and variance to Article 5, Division 20, Section 5-2001(D) of Chapter 29 of The City of North Miami Code of Ordinance, Land Development Regulations ("LDRS") to allow said development with two (2) townhouse rows with a length of eight (8) units and twelve (12) units respectively, instead of the maximum length of six (6) units per townhouse row as required in the LDRS for townhouse development. Upon reviewing this variance request, it is found to meet at least 4 of the 6 criteria set forth in Article 3, Division 6, Section 3-606, as demonstrated below.

- ✓ Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

*The irregular triangular site configuration with an acute angled corner creates special conditions and circumstances which are specific to this site*

- ✓ The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.

*Not Applicable*

- ✓ That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the neighborhood.

*The side setback requirements from the property lines contrast with the code required side setbacks which are required as a minimum separation between building clusters within the site. The reduced side setbacks and the number of townhouses in a row will not affect the stability and appearance of the neighborhood but will further enhance its character.*

- ✓ The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.

Not Applicable

- ✓ The variance requested is the minimum variance that will make possible the reasonable use of the land, structure, or building.

*The unusual configuration of the lot poses a challenge to achieve the setbacks set forth in the Land Development Regulations. The proposed variances are necessary to complete the project. Two of the requested variances which is the side setback from the south building and the number of townhouses in a row is the only significant variance being requested. All other requested variances are marginal in nature and it is the minimum variance that makes possible the reasonable use of the land*

- ✓ The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

*The proposed requested variance are in harmony with the general intent of the neighborhood, and maintains the basic intent and purpose of the subject regulations particularly as it affects the stability and appearance of the City. The proposed development will help to increase property values and improve the neighborhood character hence creating a pedestrian friendly project*

### **Conclusion**

Given the foregoing, the applicant's request conforms to the goals, objectives and policies of the City's Comprehensive Plan, as it will neither alter the use of the property as a multifamily use, nor affect the neighborhoods character and its surroundings. In fact, it is in keeping with the intent and purpose of the City's LDRs and will ultimately improve the appearance and character of the neighborhood. Therefore, recommendation is made to approve the requested variance.

### **Public Notification/Comments**

In accordance with Subsections (A), (B) and (C) of Article 3, Division 3, Section 3-302 of the City's LDRs, notification of the applicant's request was published in the Miami Herald, posted on the property, and mailed to property owners within a 500-foot radius of the subject property to give them an opportunity to comment on the application if they so desire. No comments were received from any of the neighboring property owners within the aforementioned radius.

### **Applicable Ordinances**

Article 3, Division 3, Section 3-302 Subsections (A), (B) and (C).  
Article 3, Division 6, Section 3-606;  
Article 5, Division 20, Section 5-2002(B)  
Article 5, Division 20, Section 5-2001(D)

**Attachments**

Submitted Application  
Submitted Letter of Intent  
Submitted Survey and Plans  
Newspaper Advertisement