

RESOLUTION NO. R2022-XX

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING THE SITE PLAN, FOR A 14,700 SQUARE FOOT, FOUR STORY OFFICE BUILDING ON A 10,125 SQUARE FOOT LOT IN THE MIXED USE INTERNATIONAL BOULEVARD DISTRICT, LOCATED AT 11 NW 168TH STREET, NORTH MIAMI BEACH, FLORIDA; PROVIDING FOR FINDINGS OF FACT; CONFIRMING EXPIRATION AND LIMITATION OF APPROVAL; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the property described herein is zoned in the Edge-Sub Area of the MU/IB, Mixed Use International Boulevard District; and

WHEREAS, the City Code of Ordinances, Chapter 24, of the ZLDC, Article XV, “Other Development Review Procedures,” Section 24-172, “Site Plan Review” provides that site plan approval is required for new developments, any significant shift in the type of land use that involves major interior alteration, and any change in required parking or other similar impact determined to be significant by the Community Development Director; and

WHEREAS, the Applicant requests site plan approval in order to construct a 14,700 square foot, four (4) story, office building on a 10,125 square foot lot located at 11 NW 168 Street; and

WHEREAS, after a public hearing on March 14, 2022, the Planning and Zoning Board, by a 6 to 0 vote, recommend approval of the site plan, subject to the conditions set forth and included in Section 1 below.

WHEREAS, the City Commission conducted a duly noticed public hearing in accordance with the law; and

WHEREAS, the Mayor and City Commission find the proposed Site Plan is consistent with the North Miami Beach Comprehensive Plan and find that approval of the Application furthers the purpose, goals, objectives and policies of the Comprehensive Plan, and is in the best interest of the City.

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NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are confirmed, adopted, and incorporated herein and made a part hereof.

Section 2. **Decision.** Pursuant to Section 24-172 and Section 24-176 of the Zoning and Land Development Code, the following Site plan attached and incorporated by reference as Exhibit “B,” for the development of a new 14,700 square foot, four (4) story, office building on a 10,125 square foot lot legally described in Exhibit “A”, is hereby approved with the following conditions:

1. Unless otherwise provided, all the below conditions shall be completed and complied with prior to the issuance of the building permit.
2. The conditions of approval for this site plan are binding on the Applicant, property owners, operators, and all successors in interest and assigns.
3. Construction of the proposed project shall be in conformance with the following:
 - a. Sketch of Boundary Survey prepared by Landmark Surveying & Associates, Inc.
 - b. Plans prepared by Plana International, Inc. including the following:
 - Sheet A-1, Site Plan
 - Sheet A-2, Floor Plan
 - Sheet A-4, Elevations
 - Sheet C-1, Paving and Striping Plans
 - Sheet D-1, Drainage Plan
 - Sheet L-1, Landscape Plan
 - Sheet L-2, Landscape Plan
 - Sheet PH-1, Photometric Plan
4. All representations and exhibits as prepared and provided to the Community Development Department as part of the Application Submittal Package, as amended.
5. All representations proffered by the Applicant’s representatives as a part of the application review at the Planning and Zoning Board and City Commission public hearings.
6. Substantial modifications to the plans submitted and approved as part of the application may require the Applicant to return to the Planning and Zoning Board and Mayor and City Commission for approval. Insubstantial changes shall include proportionate reductions in residential units and parking spaces by less than 5% of the total proposed project, changes that do not alter the project more than 5% of lot coverage, setbacks, height, density and intensity calculations so long as the proposed amendment does not cause an increase in the number of average daily trips; does not alter the location of any points of ingress, egress, access and vehicular and pedestrian patterns to the site; and does not violate any condition placed upon the site plan as originally approved. Insubstantial changes may be administratively approved by the City Manager or designee. Any de minimis amendments

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to the plans or site plans which cannot be resolved administratively shall be returned to the Mayor and City Commission for a formal review. However, under no circumstances, may any plans, site plans, building, structure, or project be administratively altered by more than 5% lot coverage, setbacks, height limitations, as well as density or intensity calculations set forth in a previously approved site plan.

7. Applicant shall remove all public hearing signage no later than 48 hours after the final public hearing by the City Commission for the development project.
8. No later than 90 days following the final City Commission approval, the Applicant shall enter into an agreement with the City to defend, indemnify and hold harmless (using legal counsel acceptable to the City) the City, its agents, servants and employees, from and against any loss, cost, expense, claim, demand or cause of action of whatever kind or nature arising out of or related to any act or omission related to variances and for which the City, its agents, servants, or employees, are alleged to be liable or charged with such expense. The Applicant shall pay all costs and expenses related to any legal defense required by the City pursuant to the foregoing.
9. The Applicant shall comply with all applicable conditions and permit requirements of the Miami-Dade County Fire Department, the Water and Sewer Department, and Department of Regulatory and Economic Resources; and the Florida Department of Environmental Protection (FDEP), the Florida Department of Transportation (FDOT) and any other applicable regulatory agency.
10. The words "Aventura", "Miami Beach," and "Sunny Isles Beach" shall not be used by the applicant immediately preceding or following the Project name. The words "Aventura", "Miami Beach" and "Sunny Isles Beach" shall not be part of the website address for the Project. References in the marketing materials to nearby communities shall be limited to descriptions of entertainment, shopping or dining locations, or other landmarks; the Applicant shall identify the Project as being located in the City of North Miami Beach, Florida.
11. The Applicant shall post a sign on-site providing contact information in case of any complaint or concern during construction. The sign shall be removed upon the earlier of the City's issuance of a temporary or full Certificate of Occupancy.
12. The Applicant, its successors and assigns shall comply with all City ordinances applicable to development and permit approvals at the time of adoption of the Resolution and in the event the Master Building Permit expires, all approvals and prior fees paid, shall be subject to forfeiture. This shall not be applied to City of North Miami Beach impact fees paid, which would not be refunded but would be credited to the property for any subsequent development.
13. The Applicant shall obtain a certificate of occupancy and certificate of use from the City upon compliance with all terms and conditions. The certificate of use shall be subject to review upon violation of any of the conditions, in accordance with the law.
14. Prior to the issuance of the Master Building Permit, the Applicant shall meet all requirements of the Department of Public Works Solid Waste Division for trash containers.
15. If applicable, prior to the issuance of any Master Building Permit for the Project, any driveway permit along any State Right-of-Way must be approved and permitted by Florida Department of Transportation ("FDOT"), and proof of an FDOT permit shall be required prior to any work being performed within any State right of way.
16. The Applicant shall post a sign on-site providing contact information in case of any complaint or concern during construction. The sign shall be removed upon the earlier of the City's issuance of a temporary or full certificate of occupancy.

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17. Applicant must join the NMBPD Trespass After Warning Program, provide the NMBPD with access to the property at all times, and a safety plan.
18. The Applicant shall obtain a certificate of occupancy and certificate of use from the City upon compliance with all terms and conditions. The certificate of use shall be subject to review upon violation of any of the conditions, in accordance with the law.

Section 3. **Findings of Fact.** The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided: The requested site plan meets the applicable Site Plan Review Standards provided for in Section 24-172 of the Code of Ordinances of the City of North Miami Beach. The requested site plan approval is not contrary to the public interest or detrimental to the community and is compatible with the surrounding land uses while maintaining the basic intent and purpose of the zoning and land use regulation.

Section 4. **Time for Building Permit.** Pursuant to Section 24-172(I) of the City Code, the Applicant must apply for a master building permit from the City within one (1) year of the date of this Resolution or the granted site plan approval shall be deemed null and void, and the Applicant shall be required to reinstate the site plan review process unless the term is extended administratively or by the City Commission prior to its expiration.

Section 5. **Limitation of Approval.** The issuance of this development permit does not in any way create a vested right(s) on the part of the Applicant to obtain a permit from a county, state or federal agency, and does not create any liability on the part of the municipality for issuance of the permit if the Applicant fails to obtain requisite approvals or does not fulfill the obligations imposed by a county, state or federal agency or undertakes actions that result in a violation of county, state, or federal law.

Section 6. **Conflicts.** All resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

Section 7. **Effective Date.** This Resolution shall be in force and take effect immediately upon its passage and adoption.

APPROVED AND ADOPTED by the City Commission of the City of North Miami Beach, Florida at regular meeting assembled this __ **day of _____, 2022**

ATTEST:

ANDRISE BERNARD
CITY CLERK

ANTHONY F. DEFILLIPO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

HANS OTTINOT
INTERIM CITY ATTORNEY

SPONSORED BY: Mayor and City Commission

	YES	NO	ABSTAIN	ABSENT
Commissioners				
Mayor Anthony DeFillipo				
Vice-Mayor Fortuna Smukler				
Commissioner Michael Joseph				
Commissioner Paule Villard				
Commissioner Daniel Jean				
Commissioner McKenzie Fleurimond				
Commissioner Barbara Kramer				

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Exhibit "A"

LOTS 29, 30 & 31, BLOCK 6, OF "OLETA TERRACE", ACCORDING TO THE
PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, AT PAGE 117, OF THE PUBLIC
RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Tax Folio: 07-2113-007-0480

A/K/A

11 NW 168th Street

North Miami Beach, Florida

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