

RESOLUTION NO. R2022-XX

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING A MINOR SITE PLAN APPROVAL WITH A CONDITIONAL USE UNDER RESOLUTION NO. 2019-111, TO GRANT A MINOR SITE PLAN REVISION TO CHANGE THE EXTERIOR ELEVATIONS AT 3495 NORTH MIAMI BEACH BOULEVARD, 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 City of North Miami Beach (“City”) Code of Ordinances, Chapter 24, “Zoning and Land Development Code” (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, Spring Oaks Greenhouses, LLC, was granted site plan and conditional use approval to permit the renovation of an existing 3,339 square foot retail bay to operate a medical marijuana dispensary, within a 28-035-square foot shopping center on the property located at 3495 North Miami Beach Boulevard; and

WHEREAS, Ian Bacheikov and Wesley Hevia on behalf of Green Ops Group FL, LLC (“Applicant”) request a Minor Site Plan Modification for elevation changes to the Jungle Boys Medical Marijuana Dispensary, consisting of new façade articulations, color changes, backlighting, etc., located at 3495 North Miami Beach Boulevard, (“Property”) as legally described in Exhibit “A” and shown in Location Map, Exhibit “B”; and

WHEREAS, the Applicant does not include any other requests to modify the approved site plan for the parcel located at 3495 North Miami Beach Boulevard; and

WHEREAS, the Property is zoned General Business District (B-2) which is intended to provide suitable sites for development of retail and service commercial uses of a general nature which serve the diverse consumer needs of the entire community; and

WHEREAS, after a duly noticed public hearing held on April 11, 2022, the Planning and Zoning Board by vote of 5 to 0, recommending approval of the amended Site Plan (File #22-13), subject to the conditions set forth and included below in Section 2; and

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 application 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:

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

Section 2. Decision. Pursuant to Chapter 24, “Zoning and Land Development Code,” Article XV, “Other Development Review Procedures,” Section 24-172 and sub section (K), “Site Plan Review” the following attached site plan to revise the elevations to the Jungle Boys Medical Marijuana Dispensary located at 3495 North Miami Beach Boulevard, (“Property”) as legally described in as Exhibit “A” and shown in Location Map Exhibit “B” incorporated by reference, is approved, subject to 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.

Project Conditions:

2. All the Conditions of Approval provided under the City Council Resolution NO. R2019-111 will remain effective and binding.
3. Signage shall conform to Section 24-147.1, Permanent Signs Allowed and Article XIII, Signs. All signage is reviewed during the building permit phase of development.
4. The accent lighting shall be oriented as to prevent any direct glare or nuisance of any kind on or to adjacent properties or public right-of-way.

General Conditions:

5. The conditions of approval for this site plan are binding on the Applicant, the property owners, operators, and all successors in interest. Prior to issuance of any Master Building Permit, Applicant shall execute a covenant running with the land, binding upon its heirs, successors and assigns, subject to the approval of the City Attorney, which shall be recorded in the public records of Miami-Dade County, Florida, at Applicant's sole expense, containing all of the conditions and provisions required by this Resolution. This recorded covenant may be amended from time to time and shall be re-recorded after each amendment at the Applicant's sole expense, subject to the approval of the City Attorney.
6. Construction of the proposed project shall be in conformance with the certified site plan as signed by the Community Development Director on file with the City of North Miami Beach Community Development Department Planning & Zoning Division with File # 22-13.
7. All representations proffered by the Applicant’s representatives as a part of the site plan application review at the Planning and Zoning Board and City Commission public hearings.
8. Applicant shall remove all public hearing signage no later than 48 hours after the final public

hearing for the development project.

9. No later than 90 days following the final City Commission approval, the Applicant shall enter into an agreement with the City to defend, indemnify and hold harmless (using legal counsel acceptable to the City) the City, its agents, servants and employees, from and against any loss, cost, expense, claim, demand or cause of action of whatever kind or nature arising out of or related to any act or omission related to the variances and for which the City, its agents, servants, or employees, are alleged to be liable or charged with such expense. The Applicant shall pay all costs and expenses related to any legal defense required by the City pursuant to the foregoing.

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 regulations.

Section 4. **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 5. **Conflicts.** All resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

Section 6. **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 ___ the day of _____, 2022.

[SIGNATURE PAGE TO FOLLOW]

ATTEST:

ANDRISE BERNARD
CITY CLERK

ANTHONY F. DEFILLIPO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
LANGUAGE & FOR
EXECUTION

HANS OTTINOT
CITY ATTORNEY

Sponsored By: Mayor and City Commission

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

Exhibit "A"
LEGAL DESCRIPTION

LOTS 27, 28, AND 29, BLOCK 4, OF EASTERN SHORES ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, PAGE 28, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA,

LESS AND EXCEPT THAT PORTION OF LOT 29, BLOCK 4, EASTERN SHORES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, PAGE 28, OF THE PUBLIC RECORDS OF MAIMI-DADE COUNTY, FLORIDA, LOCATED IN SECTION 15, TOWNSHIP 52 SOUTH, RANGE 42 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID LOT 29, THENCE RUN SOUTH 58°36' 07" WEST ALONG THE SOUTHEASTERLY LINE OF SAID LOT 29 AND ALONG THE NORTHEASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 826, FOR A DISTANCE OF 20 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST, THENCE FROM A TANGENT BEARING OF NORTH 58°36' 07" EAST, RUN NORTHEASTERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CIRCULAR CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 20 FEET, THROUGH A CENTRAL ANGLE OF 90°00'00" FOR AN ARC DISTANCE IF 31.42 FEET TO THE POINT OF TANGENCY WITH THE EASTERLY LINE OF SAID LOT 29, THENCE RUN SOUTH 31°23'53" EAST ALONG THE EASTERLY LINE OF SAID LOT 29 FOR A DISTANCE OF 20 FEET TO THE POINT OF BEGINNING..

Tax Folio: 07-2215-001-0940

Exhibit "B"
LOCATION MAP

