



# City of North Miami Beach, Florida

## Community Development Department

17050 NE 19<sup>th</sup> Avenue  
1<sup>st</sup> Floor

North Miami Beach, Florida 33162  
Planning & Zoning Division: (305) 354-4456

### PLANNING & ZONING BOARD

Meeting: 06/13/2022

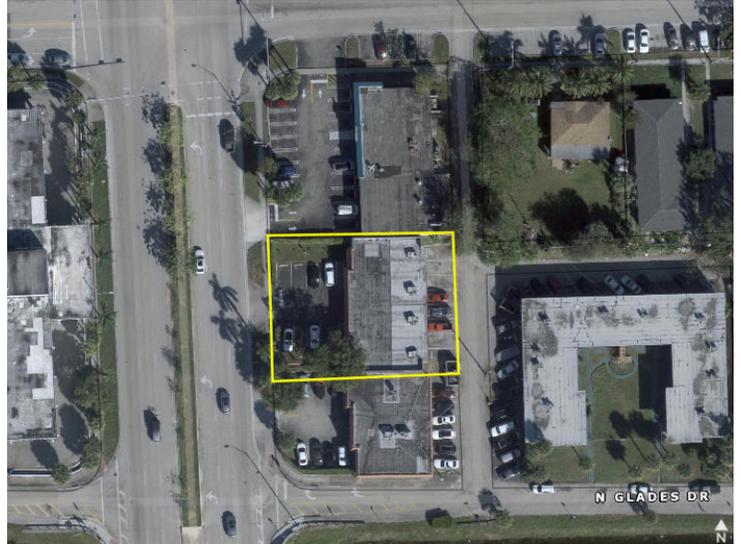
File No: 22-05

Application Name: Muv North Miami Beach

**General Data:**

**Applicant:** Kathleem J Hess  
**Architect :** Balaity Property Enhancement  
**Location:** 16635 NE 19 Avenue  
**PCN:** 07-2216-001-0280  
**Property Size:** 11,500 Sq. Ft  
**FLUM:** Fulford Mixed Use Town Center (MU/TC)  
**Zoning:** Fulford Mixed Use Town Center (MU/TC)  
**Adjacent Zoning:**

- North: MU/TC
- East: MU/TC
- South: MU/TC
- West: MU/TC



**Existing Land Use:** Office  
**Proposed Land Use:** Medical Marijuana Dispensary  
**Proposed Gross Floor Area:** 3,977 Sq. Ft (Existing)

**Item before the Board:**

The action before the Board is for the approval of a Minor Site Plan/Conditional Use application for a medical marijuana dispensary located 16635 NE 19<sup>th</sup> Ave pursuant to Ordinance (Ord.) Section 24-172 (G), 24-172 (H)(3), including the following:

- Conditional use approval for proposed Medical Marijuana Dispensary per Sec. 24-58.1(G)(2); and
- Approval for Minor Site Plan Modification.

**Optional Board Motions for Action Items:**

1. Move to continue with direction.
2. **Move approval** of the Site Plan application (File#22-22) and Conditional Use application for the 16635 NE 19<sup>th</sup> Avenue Medical Marijuana Dispensary, by finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Zoning and Land Development Regulations.
3. **Move denial** of the Site Plan application (File#22-22) and Conditional Use application for 16635 NE 19<sup>th</sup> Avenue Medical Marijuana Dispensary, by finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in the Zoning and Land Development Regulations.

**Technical Notes:**

1. The light pole standards shall be corrected prior to (i.e. City Commission hearing, site plan certification, permit issuance, Certification of occupancy?) pick one.

**Project Planner:**  
 Jethro Francois,  
 Planner I  
[Jethro.francois@citynmb.com](mailto:Jethro.francois@citynmb.com)  
 305-948-2966

**Review Dates:**  
Planning & Zoning Board:  
 June 13, 2022  
City Commission (TBD)

**Attachments:**  
 Draft Resolution  
 Application & Letter of  
 Intent  
 Survey



**Summary:**

The proposed application seeks to renovate the property located at 16635 NE 19<sup>th</sup> Avenue in order to Change the Use from an office to a Medical Marijuana dispensary. The property is a one-story commercial building totaling 3,977 Square feet on a 11,500 square foot parcel of land located in the edge Sub-area of the Mixed-Use District.

**Background:**

The subject site is situated along the east side of NE 19<sup>th</sup> avenue adjacent to north glades drive. The following is a list of events relating to the property:

- According to the Miami-Dade County Property Appraiser records the building was built in 1981.
- On September 16<sup>th</sup>, 1980, the City Council of the City of North Miami Beach approved Resolution No. R80-93 to build the proposed one-story office building.
- On April 21<sup>st</sup>, 1981, the City Council approved Resolution No. R81-48 granting a non-use variance to permit a freestanding sign on a lot with a frontage of 92 linear feet to permit a sign area of 119 square feet where 31 square feet would be permitted.

**Site Plan Analysis:**

**Compliance with the Zoning and Land Development Regulations:**

Items identified in the Land Development Regulations shall be specifically addressed by the body taking final action on the site and development application/request.

Pursuant to ZLDC Sec. 24-58.1(A), **Purpose and Intent**, MU/TC Fulford Mixed-Use City Center District “The intent is to enable transit-oriented development that contributes to the creation of an urban downtown and the formation of a quality pedestrian-oriented, Mixed-use district. The objective is to shape development to create a "place," an exciting, enlivened social gathering point and a destination, which encourages the establishment of a wide mix of commercial and residential uses that offer the flexibility to meet a variety of market needs. The aim of these regulations is to create an environment that attracts day and evening activities so that the street is occupied by visitors, residents, business owners and operators who have a clear and vested interest in the vitality of the Fulford Mixed-Use Town Center District (MU/TC).”

- The intent of the mixed use is to create an urban downtown and to provide activities and businesses that will have streets occupied with residents, visitors, and business owners. Providing a medical marijuana dispensary, which is regarded as retail in the city code, aligns with the intent of the zoning. The use of retail promotes more pedestrian activity along NE 19<sup>th</sup> avenue.

Pursuant to ZLDC Sec. 24-58.1(E)(1) **Sub-areas Regulating Plan**, The Sub-areas Regulating Plan, which divides the MU/TC into three (3) Sub-areas: Core, Transition and Edge. The highest density and intensity within the MU/TC shall be allocated to the Core Sub-area, a mixed-use area in the heart of the district. The densities and intensities shall then gradually decrease from the Core to the Transition Sub-area where mixed-uses are still permitted and **then further decrease to the Edge Sub-area which is characterized by single uses**, including low density residential adjacent to existing low density residential.

- The property located 16635 NE 19<sup>th</sup> Avenue is permitted to operate as a single use because it is within the Edge Sub-area of the Fulford Mixed Use Town Center (MU/TC). The proposed use is only retail and the applicant are proposing a medical marijuana dispensary.

Permitted Uses	Proposed Use(s)
Mixed Use, Residential and/or • Office	Mixed-Use Development • Office Space (3,977 sq. ft.)

Pursuant to ZLDC Sec. 24-58(R) **Height Standards**. The height of buildings shall be measured in stories and in feet. The maximum overall building height shall not exceed the maximum building height allowed for the district. Additionally, the following shall apply:

Required		Existing
Building Height Max. 15-Stories / 195-feet		1-Stories* / 14 feet 8 inches
Setbacks	Required	Proposed setback (in feet)
Front:	0ft (Min) – 20ft (Max)	55.4'
Rear:	0 feet	23.0
Side:	0 feet	0"

**Special Regulations:**

Pursuant to Ord. Section 24-58 (Q) **Light Pole Standards**. The following standards shall apply for light poles:

- (1) Light poles shall not exceed an overall height of 17.5 feet above grade;
- (2) No cobra head lights are permitted;
- (4) All lighting shall be weather and vandal resistant (i.e., resistant to graffiti, shattering etc.).
- (5) All lighting shall be constructed from steel, cast iron, spun aluminum, colored concrete or granite.

The proposed light poles exceed the permitted height within the MU/TC. The applicant has proposed a new light pole at 20 feet but according to the MU/TC does not permit any light poles to exceed 17.5 feet.

**Supplemental Regulations:**

Pursuant to Ord. Section 24-79 (A) **Paint Colors**, all buildings located in commercial Zoning Districts (B-1, B-2, B-3, B-4, B-5, and FCC) are required to obtain a permit to paint building exteriors. Allowable paint colors are as follows: (1) Base: Must have a light reflectance value (LRV) of 35 or greater. (2) Trim: May be any solid color.

- The architectural elevations provided shows stucco finished colors which include colors such as orange, grey, and white. The plans show one (2) base colors and (1) trim colors. The first base color is Sherwin Williams 7014 Elder White with an LRV of 39. It covers 40.4% of the façade. The second base color is Sherwin Williams 6003 Proper Gray and it possess an LRV of 73. It covers 34.7% of the façade. The trim color is Pantone 1655 Orange.

Pursuant to Ord. Section 24-82 (A)(2) **Vision Clearance**, when a public street, alley or accessway intersects another public street, all fences, signs, walls, or landscaping elements within the triangular areas created by such intersections as defined below shall provide unobstructed vision clearance at an elevation of from three (3) to six (6) feet in height from the finished grade of the abutting roadways.

- The code section requires 15'x15' vision clearance triangles on each side of an accessway when intersecting an alleyway or public street. The applicant has provided the traffic clearance triangles on their plans and the trees within the vision triangles comply with Section 24-82(A)(3) Trees having over six (6) feet of clear trunk with limbs and foliage trimmed in such a manner as not to extend into the vision clearance area shall be permitted, provided they in no way create a traffic hazard.

**Off-Street Parking Requirements:**

The following table demonstrates the project's Off-street parking in comparison to Ord. Section 24-95, 24-97 and 24-99:

Use	Formula	Required	Provided
Retail	2 spaces for each 1,000 sq. ft. gfa (min) 4 spaces for each 1,000 sq. ft gfa (max)	(3,977 sf /1000x2) = 8 spaces (3,977 sf/1000x4) = 16 spaces	17
<b>Total</b>		16	17

The applicant is proposing to utilize off-street parking to accommodate for the lack of the parking spaces that can be found on property. The applicant seeks to add an additional two spaces off-site that will be for **employees only**.

- If the variance is approved the applicant wants to add surplus parking on the adjacent property. Parking agreement will be provided before permit issuance.

Pursuant to Ord. Section 24-93 (G) **illumination**. All off-street parking facilities, except those which serve single-family or two-family residential dwellings, shall be illuminated according to the standards contained herein.(1)For the purpose herein, open off-street parking facilities shall include the surface of open-to-the-sky parking spaces, driveways and accessways. (2) Intensity of illumination:(a) Open parking facilities shall provide an average illumination intensity of one (1) foot candle equal to one (1) lumen per square foot and shall be well distributed on the pavement areas.

- The applicant's photometric plans show only one addition of a light pole to the site plan. The remainder of the existing illumination of the parking lot will not be changed the sheet provided shows an average illumination of 1.1 with the minimum from 0.3fc to the maximum to 2.5fc.

Pursuant to Ord. Section 24-96 (A)(1), **Loading Spaces**, At the time of the erection of any multifamily use of fifty (50) dwelling units or more, mixed uses, nonresidential use or, at the time any nonresidential use is altered, enlarged or increased in capacity by adding floor area, there shall be space provided and maintained for the loading and unloading of materials, goods, or supplies, and for delivery and shipping so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets, parking facilities and alleys by pedestrians and other vehicles.

- Applicant has stated that there is no need for a loading zone because only a company SUV will be used for loading and not truck. The applicant has stated that they will be utilizing the alley and the rear entrance in order to transport materials, goods and supplies. Staff has determined that there is no need to add an additional loading space because there is no floor area being added.

Pursuant to ZLDC Sec. 24-58(L) **Landscape Standards**. The following standards shall apply in addition to any applicable standards in Article XI (Landscaping) not modified herein.

(1) Modified Standards.

- a. Tree specifications shall be as per **Section 24-119 (Minimum Landscaping Requirements for All Zoning Districts)** except for the following:
  - i. A maximum of twenty-five (25%) percent of all required trees shall be of a palm species.
  - b. Utilization of berms to screen parking and/or vehicular use areas from public thoroughfares and adjacent residential uses shall be prohibited.
  - c. Perimeter landscape requirements: The requirement of a continuous buffer strip of not less than five (5) feet in width, along the perimeter of a property adjacent to any street right-of-way only, shall not be required.

(2) Additional Standards.

- a. Building setback shall be adjusted to preserve existing native tree canopies, where feasible.
- b. Landscape strips shall only be placed between the sidewalk and the back of curb.
- c. Use of trees to provide shade, color, and interest, and use of vines, or trained plant materials is appropriate.
- d. Street Trees.
  - i. Street trees are required and shall be spaced at a maximum of thirty (30) feet on center.
  - ii. Street trees shall not be required when colonnades are being provided along the street and the colonnade is placed at a maximum of five (5) feet from the back of curb.
  - iii. When a landscape strip is not provided, street trees shall be placed in tree pits covered with ADA compliant grates. Tree grates shall be sized appropriately for each tree species at maturity. The use of tree grates is appropriate when on-street parking is provided. When no on-street parking is provided, landscape strips are preferred.
  - iv. Adequate clearance to the building facade for uniform development of the street tree canopy shall be demonstrated for the type and species selected

**Landscape Regulations:**

Pursuant to Ord. Section 24-118 (A)(1), **Landscape Plan Required.**: Prior to the issuance of a building permit, a landscape plan shall be submitted to and approved by the Director of the Community Development Department. The plan shall clearly delineate existing and proposed buildings, parking, driveways, or other vehicular use areas. The plan shall also designate the name (botanical and common), size (height and spread), quantity, quality and location of the plant material to be installed, as well as the name, size, location, and condition of viable, existing vegetation. The applicant provided landscape plans and will not remove any of the existing trees on the property. Pursuant to Ord. Section 24-119 Minimum Landscape Requirements for All zoning districts species required trees to be of a species, which normally grow to a minimum height of twenty-five (25) feet and have a mature crown spread of not less than twenty (20) feet with trunks, which can be maintained, with over six (6) feet of clear wood. All required trees shall be field grown and have a minimum caliper or diameter at breast height (D.B.H) of three (3) inches and be a minimum of twelve (12) feet in height and five (5) feet in spread at time of planting.

- The applicant is providing a total number of 6 trees on the proposed property, including the existing trees on site.
- The applicant is providing 5 Dahoon Holly trees and (one) existing black olive tree.

A note has been added to the report requiring that the trees planted must meet the required tree species that grow to a minimum height of 25 feet and have a mature crown of not less than 20 feet with trunks in accordance with Ord. Section 24-119 (A)(1).

- The shrubs provided are shown to be installed in layers between 24" to 48" on center in accordance with Ord. Section 24-119 (B). According to Section 24-22 **Definitions**, shrub is a bushy woody plant, usually with several permanent stems, and usually not over ten (10) feet in height at its maturity and is planted at eighteen (18) inches on center, minimum. The shrubs specified included Dwarf Firebush, Red Tip Cocoplum, Green Island Ficus, Red Fountain Grass Dwarf, and Japanese Boxwood.
- Ground covers: May be used in lieu of grass. Ground covers shall present a finished appearance and reasonably complete coverage at time of planting at twelve (12) inches on center, minimum. The ground cover specified include Sunshine Mimosa Powderpuff..

Pursuant to Ord. Section 24-130 **On-Site Stormwater Runoff**, the first one (1) inch of rainfall shall be retained on-site through the use of swales, trench drains, retention ponds and other techniques acceptable to the City Engineer.

- The City Engineer provided TRAD signoff for the project indicating that the plans must comply with all required drainage requirements at time of building permit.

**Site Plan Review Standards:**

Review Standards. The following standards shall be utilized by all applicable individuals and departments involved in the review and evaluation of required plans and exhibits:

Pursuant to Ord. Section 24-172 (G)(1), **Natural environment**: All proposed development shall be designed in such a manner as to preserve, perpetuate and improve the existing natural character of the site. Existing trees and other landscape features shall, to the maximum extent possible, be preserved in their natural state and additional landscape features shall be provided to enhance architectural features, to relate structural design to the site, and to conceal unattractive areas and uses. Special attention shall be devoted to natural vegetation along waterfronts.

- The Landscape plan sheet L-1 shows that all the trees on site will remain. Applicant must maintain and preserve the existing trees on site in addition to the new trees that will be planted.

Pursuant to Ord. Section 24-172 (G)(3), **Circulation and parking**: All circulation systems and parking facilities shall be designed and located in such a manner as to comply with subsection (a)-(d).

- The proposed site's main entrance/exit is along 19<sup>th</sup> avenue. The property is also accessible via the alley behind the building. The applicant has proposed that both the rear and the front property will be used by customers.

Pursuant to Ord. Section 24-172 (G)(4), **Community services and utilities:** All proposed developments shall be designed and located in such a manner as to ensure the adequate provision, use and compatibility of necessary community services and utilities.

- Staff reviewed the site plan and concurrency requirements for potable water, sanitary sewer, solid waste, parks and recreation, and public schools and determined that the levels of service will be adequately maintained and serve the project.

Pursuant to Ord. Section 24-172 (G)(5), **Building and structures:** All buildings and structures proposed to be located within a development shall be oriented and designed in such a manner as to enhance, rather than detract, from the overall quality of the environment. The following guidelines shall be followed in the review and evaluation of all buildings and structures:

- a) Proposed buildings and structures should be related harmoniously to the terrain, other buildings, and the surrounding neighborhood, and should not create through their location, scale, style, color or texture incompatible physical or visual relationships.
  - The proposed redevelopment has been designed to enhance Northeast 19<sup>th</sup> avenue. The medical marijuana dispensary will be the dispensary on 19<sup>th</sup> avenue and after its renovation it will be the modern building along 19<sup>th</sup> Avenue.
- b) Maximum privacy should be incorporated into the design of any individual residential units and related outdoor patio and living areas.
  - While not a residential development, maximum privacy has been incorporated into the design of the colonnade and the new landscape proposed.
- c) Building location and other site features shall be reviewed in the context of any proposed road widenings, particularly the Biscayne Boulevard frontage.
  - No additional roadway widening is anticipated by FDOT for NE 19<sup>th</sup> avenue.
- d) Proposed buildings located in Special Flood Hazard Areas as identified on flood insurance rate maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA) shall have the lowest floor elevated no lower than the level of the base flood elevation.
  - Property is located within Zone X. The finish floor elevation is 10.70' NGVD in compliance with flood requirements.
- e) Proposed buildings and site shall be compliant with the Americans with Disabilities Act (ADA) and Miami-Dade County Code of Ordinances.
  - ADA standards will be reviewed at time of building permit.

Pursuant to Ord. Section 24-172 (G)(7), **Crime Prevention Through Environmental Design (CPTED):** All proposed development shall be designed to discourage and reduce the possibility of nuisance and criminal activity.

The police department has reviewed the plans throughout the TRAD process for location, traffic, visibility, windows and doors, security lighting, parking lot lighting, use of digital security cameras, especially in parking areas and other common areas, including ingress and egress areas, and has determined that project demonstrates acceptable design standards to reduce crime. The police department has recommended The PD recommends a Close Circuit Television Plan (CCTV Plan) to cover the interior and exterior of the facility, Impact Glass windows for the building, the hinges on the front and rear doors to be placed on the inside of the doors, and join the NMBPD Trespass After Warning Program

**Conditional Use:**

**Article XV. Other Development Review Procedures, Sec. 24-175 Conditional uses.**

ZLDC Section 24-175 (B)(1)-(9) list the conditional use review standards. The following is the staff analysis of the project in accordance with these standards:

1. The proposed use is compatible with the exiting natural environmental and other properties within the neighborhood;
  - The medical marijuana dispensary use is compatible with the neighborhood. The Property has been developed as a nonresidential use and is compatible with the other commercial uses that are located along Northeast 19<sup>th</sup> avenue.
2. The proposed use will create no substantial detrimental effects on neighborhood property values;
  - The restaurant will not create detrimental effects on the neighborhood as the building currently located at 16635 NE 19<sup>th</sup> Ave and the applicant seeks to modernize the structure that's has been out of use. This will correct the blight that is located along NE 19<sup>th</sup> avenue. It does not include uses that traditionally are associated with high rates of crime, noise or other potential nuisances.
3. The proposed use can be accommodated by adequate community facilities
  - The proposed Medical Marijuana Dispensary will not have an impact on schools or park services and will not result in a deficiency in the level of service of community facilities.
4. The proposed use will have adequate provisions for vehicular and pedestrian traffic movement;
  - The property is located on an existing primary street and has not changed any of their traffic features. All of its traffic components including the parking lot are existing.
5. The proposed use will have adequate drainage systems;
  - Drainage will be fully accommodated onsite, as depicted on the civil engineering plans.
6. The proposed use will have adequate setbacks and amenities, to control adverse effects; and
  - Previous approval for the Resolution 12-16 the property was granted a variance from Section 24-52(D)(3) to waive five feet (5') two inches (2") of the minimum required Twenty-Five (25') front yard setback, where front yard setback of nineteen feet (19') ten inches (10") was proposed. The resolution granted a variance from Section 24-52(D)(3) the rear yard setback, waiving nineteen feet (19') six inches (6") of the minimum required twenty feet (20') where a rear setback of six inches (6") was proposed.
7. The proposed use will be located on property, which is sufficient, appropriate and adequate for any reasonable expansion.
  - The restaurant use contained in the proposed site plan is consistent with the City's Comprehensive Plan. The property is landlocked with the railroad tracks to its west and US-1 to its east. Therefore, a reasonable expansion in the will not be feasible.
8. Any other conditions as may be stipulated and made a requirement in granting any conditional uses, when it is considered necessary to further the intent and general welfare, including, but not limited to:
  - The loading and unloading must be done before or after the hours of operation due to the lack of loading space.

**Traffic & Concurrency**

The applicant for this project initially provided a traffic statement rather than a traffic study seeing that this property was an existing structure and its previous function is similar in nature to the proposed use as a commercial property. The City of North Miami Beach's traffic consultant recommended that the applicant provide a traffic study so that they would be able to review the traffic impact analysis to see the effects of operating a medical marijuana dispensary at this location. The Traffic Impact Analysis was sent to the Planning and Zoning department on Friday June 20<sup>th</sup>, 2022 and was sent to their Traffic consultant on Monday June 23<sup>rd</sup>, 2022. The comments for the traffic will be provided once reviewed.

- The traffic impact statement was prepared for the applicant by John P. Kim, a professional engineer with Vala Group, Inc. The traffic statement was review by the City’s independent traffic consultant. There are a few outstanding comments are pending which will be addressed by the applicant prior to site plan certification. A note has been added to the resolution and this staff report.

**Comprehensive Plan Consistency:**

The City’s Comprehensive Plan and the Florida Statutes establish that a development order and development approved by the City is consistent with the adopted comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of development permitted by such order or approval are compatible with and further the objectives, policies, land uses, and densities or intensities established in the comprehensive plan and land development regulations. This project is most consistent with and furthers the following policies of the North Miami Beach Comprehensive Plan:

**Future Land Use Element**

**Policy 1.1.9:** Development, development orders, and permits issued by the City must be specifically conditioned on the availability of facilities and services necessary to serve the proposed development.

**Policy 1.2.8:** The City shall encourage development and redevelopment of appropriate scale and type in areas adjacent to established residential neighborhoods. Appropriate scale and type shall be determined by reviewing the compatibility of proposed development and redevelopment with the adjacent residential uses

**Policy 1.2.16:** The City shall continue to identify areas of slum and blight in the community, rank these areas in order of priority, and develop a schedule which will ensure all such areas are studied and solutions are identified.

- The property is providing an additional retail component to NE 19<sup>th</sup> avenue to provide for more pedestrian activity. The proposed use will operate as a single use, rather than a missed use because it is located within the Edge Sub-area of the Mixed-use Town Center. The existing structure complies with the building typology permitted in the mixed. Provide a few sentences indicating for the project complies with the zoning district.

**Transportation Element**

**Policy 1.2.8:** The City will ensure that the design of new and redevelopment mixed use projects are conducive to pedestrian, bicycle and transit use. At a minimum other new development and redevelopment projects will address development intensity and mix of land uses, building and parking lot orientation, bicycle storage, connectivity of pedestrian and bicycle infrastructure, and pedestrian amenities to enhance multimodal transportation alternatives.

- The applicant has provided bicycle racks on site in order to promote multi modes of transition. Describe how the project complies?

**Public Notices:**

- ✓ Public Notice was posted at the property by **June 3, 2022**, at least 10 days prior to the meeting.
- ✓ Courtesy notices were mailed to property owners within a 500-foot radius by **June 3, 2022**, at least ten days before the meeting date.
- ✓ The agenda was posted to the City’s website by **June 6, 2022**, at least 7 days prior to the meeting date
- ✓ Public Notice was posted in the main lobby at City Hall by **June 3, 2022**, at least 10 days prior to the meeting date.