

**RESOLUTION NO. R2022-XX**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A MINOR SITE PLAN MODIFICATION AND CONDITIONAL USE APPROVAL FOR THE OPERATION OF A MEDICAL MARIJUANA DISPENSARY WITHIN AN EXISTING 3,977 SQUARE FOOT BUILDING LOCATED AT 16635 NE 19 AVENUE WITHIN THE FULFORD MIXED-USE TOWN CENTER (MU/TC) ZONING DISTRICT, AS LEGALLY DESCRIBED IN EXHIBIT “A;” 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 V, “Zoning Use Districts,” Section 24-58.1, “Mixed Use Fulford Town Center” Table MU/TC-1 requires conditional use approval for a Medical Marijuana Dispensary (“MMD”); 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**, Hunt Real Estate Services, Inc., (the “Applicant”), requests Minor Site Plan Modification and Conditional Use approval for the operation of a MMD in an existing commercial building at 16635 NE 19 Avenue North Miami Beach Florida, as legally described in Exhibit “A” (“Property”); and

**WHEREAS**, the original site plan for the Property was approved, pursuant to Resolution No. R80-93, to develop a one-story office building totaling at 3,977 square feet; and

**WHEREAS**, the Property received a Non-Use Variance pursuant to Resolution No. R81-48 to permit a freestanding sign on a lot with a frontage of 92 linear feet and to permit a sign area of 119 square feet where 31 square feet is permitted; and

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**WHEREAS**, the Applicant is proposing façade improvement to update the outdated architectural features of the building to propose a more modern design along Northeast 19<sup>th</sup> Avenue; and

**WHEREAS**, after a duly noticed public hearing held on July 11, 2022, the Planning and Zoning Board, by vote of 5 to 0, recommended approval of the site plan and conditional use, subject to the conditions set forth and included below in Section 2; and

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

**WHEREAS**, the Mayor and City Commission find that the proposed Conditional Use and Minor Site Plan Modification is consistent with the North Miami Beach Comprehensive Plan and the City’s Land Development Code, and is in the best interests of the City.

**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.** The Conditional Use and Site Plan Modification (Exhibit “B”) to permit the operation of a medical marijuana dispensary, while maintaining the variances and site plan, approved pursuant to Resolution No. R80-93 and Resolution R81-48, is approved subject to the following conditions and Plans depicted in Exhibit “B”:

1. Unless otherwise provided, all the below conditions shall be completed and complied with prior to the issuance of the building permit.
2. Construction of the proposed project shall be in conformance with the certified plans signed by the Community Development Director on file with the City of North Miami Beach Community Development Department Planning & Zoning Division with file number 22-05.
3. 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.
4. 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 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 in accordance with ZLDC Section 24- 172 (K).

5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. Applicant must join the NMBPD Trespass After Warning Program, provide the NMBPD with access to the property at all times, and a safety plan; participate in the NMBPD Rapid

Response Training Program; link the alarm systems directly to the NMBPD; and keep former employee information on file after termination of employment.

11. The Applicant shall either, place doors and windows on inside hinges and affix a robust security laminate to exterior windows to improve their impact and shatter resistance; or install new impact resistant windows and doors.
12. Prior to issuance of the Certificate of Occupancy, the Applicant shall have the registered landscape architect or arborist to certify the installed landscaping, tree removal and mitigation have been installed in accordance with the plans.
13. 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.
14. The Applicant, its successors and assignees are permitted to operate as a medical marijuana dispensary only. In the event recreational marijuana is legalized, no sales of recreational marijuana will be permitted at this location.
15. The Applicant shall sealcoat and restripe the site's vehicular use areas in compliance with applicable City standards.
16. 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. Time for Building Permit.** Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, an approved site plan shall remain valid for a period of 18 months from the date of approval with a master building permit issuance required. If a master building permit is not issued within an 18-month time period, the site plan approval, including any development right entitlements and any subsequent phasing, shall be considered null and void. If a site plan expires, a new submittal shall be required with board approvals. Minor site plan modifications which do not require board approvals would still be required to adhere to the, original site plan approval expiration date. Major site plan modifications which require board approvals will receive a new 18-month period starting from the date of the modified final site plan approval. Site plan applications received prior to the effective date of this ordinance shall adhere to the previous expiration regulations. Additionally, if at any time a building permit lapses, the site plan, including all phases thereof, shall be considered null and void.

**Section 4. Time for Business Tax Receipt.** Pursuant to Section 24-175(C) of the City Code, the Applicant must obtain a Business Tax Receipt within one (1) year of the date of this Resolution or the Conditional Use approval granted shall be deemed null and void and the Applicant shall be required to reinstate the conditional use 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 \_\_ **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 Fortuna Smukler				
Commissioner Paule Villard				
Commissioner Daniel Jean				
Commissioner Michael Joseph				
Commissioner Barbara Kramer				

**Exhibit "A"**  
**LEGAL DESCRIPTION**

TRACT "C" LESS AND EXCEPT THE SOUTH 8 FEET THEREOF, BLOCK 67 PF THE 3<sup>RD</sup> REVISED PLAT OF SECTIONS A, B, C, D, E, F AND THE AMENDED PLATS OF SECTION C, G, H, I AND J, OF FULFORD VY THE SEA, ACCORDING TO THE PLAT THERE AS REOCRDED IN PLAT BOOK 34, PAGE 20, OF THE PUBLIC RECORDS OF MIAMI-DADE, FLORIDA;

FORMERLY KNOWN AS

LOT 20 LESS AND EXCEPT THE SOUTH 8 FEET THEREOF AND ALL OF LOT 21, BLOCK 67, OF FULFORD BY THE SEA SECTION "F" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 64 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

Tax Folio: 07-2209-009-0090

A/K/A

16635 NE 19<sup>th</sup> Ave

North Miami Beach, Florida

