

**RESOLUTION NO. R2022-XX**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING CONDITIONAL USE APPROVAL IN ACCORDANCE WITH SECTION 24-175 OF THE NORTH MIAMI BEACH ZONING AND LAND DEVELOPMENT CODE FOR THE OPERATION OF A 3,888 SQUARE FOOT MEDICAL OFFICE BUILDING WITHIN THE (RO) RESIDENTIAL OFFICE DISTRICT, LOCATED AT 17200 NE 19<sup>TH</sup> AVE, NORTH MIAMI BEACH, FLORIDA, 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 24-50, “Residential Office District” provides that conditional use approval is required for offices concerning licensed medical and dental practitioners and health related services; and

**WHEREAS**, Alan S. Rosenthal (the “Applicant”), requests conditional use approval for the operation of a Medical Office at 17200 NE 19<sup>th</sup> Ave, North Miami Beach Florida, as legally described in Exhibit “A” (“Property”); and

**WHEREAS**, the Property is an existing Nonconforming Structure that was built in the year 1979; 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 conditional use request, 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 that the proposed Conditional Use 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.

**RESOLUTION NO. R2022-XX**

**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 Chapter 24, “Zoning and Land Development Code,”

Article XV, “Other Development Review Procedures,” Section 24-175, “Conditional Uses” operation of Medical Office at the Property as depicted in Exhibit “B” 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.
2. The conditions of approval for this conditional use are binding on the Applicant, the property owners, operators, and all successors in interest and assigns.
3. The proposed conditional use shall be in conformance with the following 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 22-22.
4. 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.
5. 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).

6. The 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.
7. 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.
8. 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.
9. 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.
10. 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 the City of North Miami Beach impact fees paid, which would not be refunded but would be credited to the property for any subsequent development.
11. 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.
12. 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 the termination of employment.

**Section 3. Conditional Use Findings of Fact.** The Mayor and City Commission make the

**RESOLUTION NO. R2022-XX**

following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested Conditional Use meets the applicable Conditional Use Review Standards provided for in Section 24-175(B) of the Code of Ordinances of the City of North Miami Beach. The requested conditional use is compatible with the existing natural environment and surrounding properties, does not create substantial detrimental effects on the neighborhood property values, can be accommodated by existing community facilities, has adequate provisions for vehicular and pedestrian traffic movement, has adequate drainage systems for the proposed use, complies with the required setbacks and buffering to control possible adverse effects, is located in an area which is sufficient, appropriate and adequate for the proposed use and reasonable expansion.

**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.

ATTEST:

\_\_\_\_\_  
ANDRISE BERNARD  
CITY CLERK

(CITY SEAL)

\_\_\_\_\_  
ANTHONY F. DEFILLIPO  
MAYOR

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 Daniel Jean				
Commissioner Fortuna Smukler				
Commissioner Barbara Kramer				

**RESOLUTION NO. R2022-XX**

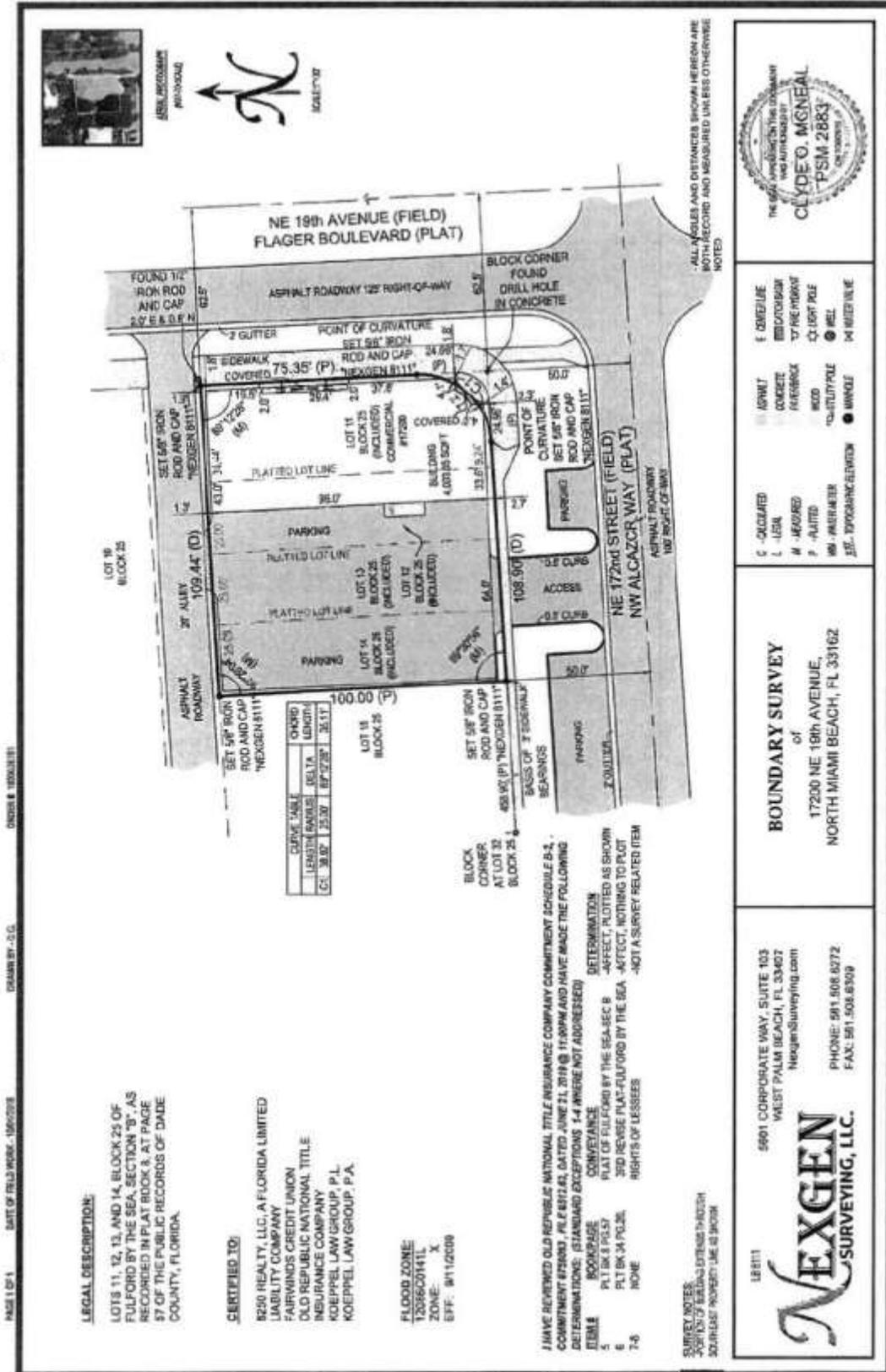
**Exhibit "A"**  
**LEGAL DESCRIPTION**

LOTS 11, 12, 13, AND 14, BLOCK 25 OF FULFORD BY THE SEA, SECTION "B", AS  
RECORDED IN PLAT BOOK 8, AT PAGE 57 OF THE PUBLIC RECORDS OF DADE  
COUNTY, FLORIDA

Tax Folio: 07-2209-009-1020

A/K/A  
17200 ne 19<sup>th</sup> Ave.  
North Miami Beach, Florida

**Exhibit "B"**  
**SITE PLAN-REFERENCE ONLY**



RESOLUTION NO. R2022-XX