

ATTACHMENT III

RESOLUTION NO. R2026-XX

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING MAJOR MODIFICATION OF THE DEVELOPMENT SITE PLAN APPROVAL GRANTED ON JANUARY 18, 2022 BY RESOLUTION R2022-14, FOR THE CONSTRUCTION OF A BUILDING WITH A TOTAL FLOOR AREA OF 572,456 SQUARE FEET, BUILDING HEIGHT OF 23 STORIES / 255 FEET WITH A MIX OF USES A INCLUDING 30 UNIT HOTEL, 7,328 SQUARE FEET OF RETAIL, 334 RESIDENTIAL DWELLING UNITS, AND 410 PARKING SPACES ALONG WITH THREE VARIANCES; AS AMENDED BY ADMINISTRATIVE MINOR SITE PLAN APPROVAL GRANTED BY THE DEPARTMENT OF COMMUNITY DEVELOPMENT ON APRIL 22, 2025, FOR INCREASE IN TOTAL BUILDING FLOOR AREA TO 650,384 SQUARE FEET, INCREASE IN BUILDING HEIGHT TO 25 STORIES / 272 FEET 8 INCHES, INCREASE IN OPEN SPACE FROM 30,177 SQUARE FEET TO 41,326 SQUARE FEET, PROVIDE 10 ADDITIONAL RESIDENTIAL DWELLING UNITS, AND REDUCE RETAIL SPACE TO 4,526 SQUARE FEET; TO ALLOW FOR THE ELIMINATION OF THE APPROVED HOTEL USE, ELIMINATION OF THE VARIANCE FROM MINIMUM LOT SIZE REQUIREMENTS FOR HOTEL USE; AND INCREASE THE NUMBER OF RESIDENTIAL DWELLING UNITS BY 30 TO A TOTAL OF 374 WITH NO OTHER MODIFICATIONS TO THE PRIOR PROJECT APPROVALS FOR THE PROPERTY LOCATED AT 2040 NE 163RD STREET; 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, Article XV, Other Development Review Procedures, 24-172, Site Plan Review provides that the site plan review process is required for any proposed major modification of any previously approved site plan review approval; and

WHEREAS, Steven J. Wernick, Esq., AICP, authorized agent on behalf of 2040 NE 163rd Holdings, LLC (the “Applicant”), request for major modification of the site plan approval granted on January 18, 2022, by R2022-14 for The William (formerly Blue Quinta). The applicant seeks to modify the existing site plan approval to eliminate the hotel use and add thirty (30) additional residential dwelling units to a total of 374 residential dwelling units and 4,526 square feet of

ground floor commercial space and 410 space parking structure all within originally approved 572,456 square foot, 23 story building as detailed more fully in EXHIBIT B located at 2040 NE 163rd Street, North Miami Beach, FL 33162 as otherwise described in EXHIBIT A; and

WHEREAS, on April 22, 2025, the Community Development Department granted approval of a minor modification of prior site plan approval, for the increase of total building floor area of thirteen (13) percent from 572,456 Square Feet to 650,384 square feet, an eight (8) percent increase in building height from: 23 stories / 255 feet to: stories / 272 feet 8 inches, thirty seven (37) percent increase in open space from 30,177 square feet to 41,326 square feet, thirty nine (39) percent decrease in ground floor commercial area from 7,328 square feet to 4,526 square feet, increasing residential dwelling units by 10 from 334 to 344; and

WHEREAS, the proposed major modification of prior site plan approval, eliminates the 30 unit hotel use and increases the number of residential dwelling units by 30 from 344 to 374; and

WHEREAS, the proposed elimination of the hotel use eliminated the need for the variance granted in R2022-14 from the requirement of Section 24-58.2 (G) Table MU/EC-1 which requires a minimum site area of two acres for hotel use; and

WHEREAS, the Technical Review of Application for Development (TRAD) Committee based on the application package, Resolution R2022-14 Site Plan Approval granted on January 14, 2022, and the Administrative Site Plan Approval granted on April 22, 2025, determined this application for major modification of prior site plan approval meets all the applicable requirements of the City Code of Ordinances; and

WHEREAS, the TRAD Committee has recommended conditions of approval identified in Section 2 Project Conditions of this resolution; and

WHEREAS, the City's Planning and Zoning Board, as the Local Planning Agency, held a duly noticed public hearing on **April 13, 2025**, and reviewed the proposed resolution for consistency with the City of North Miami Beach's ZLDC and Comprehensive Plan, and recommended approval by a vote of __ to __ ; and

WHEREAS, the Mayor and City Commission find the proposed resolution to be consistent with the North Miami Beach's ZLDC and Comprehensive Plan.

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

Section 1. **Recitals.** The foregoing whereas clauses are true and correct and adopted as the legislative and administrative findings of the City Commission and made a specific part of this Ordinance; all exhibits attached hereto are made a specific part of this Resolution.

Section 2. Findings of Fact. The Mayor and City Commission make the following findings of fact based upon the substantial competent evidence provided by the applicant, pursuant to 24-172 of the Zoning and Land Development Code. This application is a major modification to site plan approval is based on:

1. Approval granted by Resolution R2022-14 on January 14, 2022, construction of a building with a total floor area of 572,456 square feet, building height of 23 stories / 255 feet with a mix of uses including a 30 unit hotel, 7,328 square feet of retail, 334 residential dwelling units, and 410 parking spaces along with three variances
2. Administrative site plan approval amendment granted of April 22, 2025, allowing an increase in total building floor area to 650,384 square feet, a increase in building height to 25 stories / 272 feet 8 inches, an increase in open space from 30,177 square feet to 41,326 square feet, increase of 10 additional residential dwelling units, and a reduction retail space to 4,526 square feet to the approval granted by R2022-14

To allow for the elimination of the hotel use, the elimination of the associated minimum lot size variance for hotel use, and providing an increase of 30 residential dwelling units to a total of 374 dwellings, along with 4,526 square feet of ground floor commercial space, and 448 space parking garage all within a single building with a total floor area of 650,384 square feet, with a height of 25 stories / 272 feet 8 inches, and including 41,326 square feet of on-site open space redeveloping the existing property otherwise described and incorporated herein as attached in EXHIBIT A. Based on these findings the Mayor and City Commission approve the proposed development subject to the following conditions:

Project Conditions:

The conditions of approval for this site plan are binding on the Applicant, the property owners, operators, and all successors in interest. Unless otherwise noted these conditions shall be completed and complied with prior to the issuance of a building permit:

1. Construction of the proposed project shall be in conformance with the plans provided in EXHIBIT B
2. Any future proposed modifications to the approved plans in EXHIBIT B shall be reviewed and approved under the provisions of Section 24-172 Site Plan Review or Section 24-172.1 Administrative Site Plan Review as determined by the Community Development Department.
3. Applicant shall remove the public hearing sign within two business days of the public hearing.
4. Applicant shall comply with all applicable conditions and permit requirements of the Departments of Fire; Water and Sewer; Regulatory and economic Resources; Transportation and Public Works of Miami-Dade County; Florida Department of Transportation; Florida Department of Environmental Protection; South Florida

Water Management District; and any other applicable regulatory agency.

General Conditions:

1. Prior to issuance of any Master Building Permit, the 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
2. Construction of the proposed project 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 and Zoning Division with file number [CC-XX-YYYY].
3. Prior to the issuance of the Master Building Permit, the Applicant shall submit a Site Management Plan and a Temporary Construction Fencing plan pursuant to Section 16-5 of the North Miami Beach Code of Ordinances.
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 by 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.
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, 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 in the City of North Miami Beach, Florida.
10. 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.
11. The 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.
12. The Applicant, its successors, and assigns shall comply with all City ordinances applicable to development and permit approvals at the time of the approval 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.
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. Upon issuance of a hurricane warning by the National Weather Service or similar agency, all removable items from pool decks, roof decks, and other outdoor spaces shall be immediately removed and secured.

Section 5. Limitation of Approval. Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the site plan shall remain valid for a period of 18 months from the date of approval with a master building permit issuance required, unless extended pursuant to Section 24-172 (I), or applicable State Law. If a master building permit is not issued prior to the expiration of the resolution, 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. Any further modification to this approval will require site plan review for major site plan modifications requiring board approvals, which will receive a new 18- month period starting from the date of the modified final site plan approval. Additionally, if at any time a building permit lapses, the site plan, including all phases thereof, shall be considered null and void. 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.

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APPROVED AND ADOPTED on reading this ____ day of _____ 2026.

ATTEST:

ANDRISE BERNARD, MMC
CITY CLERK

MICHAEL JOSEPH
MAYOR

(CITY SEAL)

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE USE AND
RELIANCE OF THE CITY OF NORTH
MIAMI BEACH:

GREENSPOON MARDER, LLP

BY: _____
CITY ATTORNEYS

Sponsored by:

COMMISSIONERS	YES	NO	ABSTAIN	ABSENT
Mayor Michael Joseph				
Vice Mayor Fortuna Smukler				
Commissioner Jay Chernoff				
Commissioner Daniela Jean				
Commissioner McKenzie Fleurimond				
Commissioner Phyllis Smith				
Commissioner Lynn Su				