

RESOLUTION NO. R2016-

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING CONDITIONAL USE AND SITE PLAN APPROVAL, IN ACCORDANCE WITH SECTION 24-52(C)(6) AND 24-52(C)(12) OF THE NORTH MIAMI BEACH CODE OF ORDINANCES FOR THE CONSTRUCTION AND OPERATION OF A PROPOSED RESIDENTIAL DETOXIFICATION AND DRUG AND ALCOHOL REHABILITATION SERVICE IN AN EXISTING OFFICE BUILDING; AS PROPOSED, IN THE B-2, GENERAL BUSINESS DISTRICT AND LOCATED AT 951 NE 167 STREET, NORTH MIAMI BEACH, FLORIDA.

WHEREAS, the property described herein is zoned B-2, General Business District; and

WHEREAS, the Applicant requests conditional use approval to construct and operate a residential detoxification and a drug and alcohol rehabilitation service in an existing office building located at 951 NE 167 Street ; and

WHEREAS, a residential detoxification service is a service involving care that is provided on a short-term, inpatient basis, in a structured live-in environment within a hospital setting, to assist individuals to withdraw from the physiological and emergent psychological effects of substance abuse; and

WHEREAS, a drug/alcohol rehabilitation service treats inpatients with a structured live-in environment within a non-hospital setting that includes a 24-hours-a day, 7-days-a-week basis for treatment, rehabilitation, and transitional care; and

WHEREAS, the Applicant is seeking conditional use and site plan approval pursuant to Sections 24-52(C)(6) and 24-52(C)(12) for short-term inpatient residential detoxification service, not to exceed ten (10) days in duration and, in the same facility, a post-detoxification inpatient residential treatment not to exceed twenty (20) days, as permitted and licensed by the Florida Department of Children and Families; and

WHEREAS, Sections 24-52(C)(6) and 24-52(C)(12) of the City's Zoning and Land Development Code provide that in the B-2 General Business Zoning District for the aforementioned property, the proposed uses for residential detoxification and drug and alcohol rehabilitation services are conditionally permitted subject to meeting the standards of review set forth in section 24-175 *Conditional Uses*; and

RESOLUTION R2015-65

WHEREAS, on August 8, 2016 the Planning and Zoning Board recommended _____ of the site plan and conditional use by a vote of ___ to __, subject to the conditions set forth and included herein below in Section 1.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of North Miami Beach, Florida.

Section 1. Site Plan and conditional use approval, in order to operate a residential drug and alcohol rehabilitation service and a residential detoxification service in an existing office building, on property legally described as:

THE EAST 1/3 OF THE SOUTH 2/3 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 LESS THE SOUTH 25 FEET FOR RIGHT OF WAY, OF SECTION 7, TOWNSHIP 52 SOUTH, RANGE 42 EAST, ALL LYING AND BEING IN MIAMI-DADE COUNTY, FLORIDA

A/K/A

951 NE 167 Street
North Miami Beach, Florida

IS HEREBY GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. Unless otherwise provided, all of the below conditions shall be completed/complied with prior to the issuance of the building permit.
2. The conditions of approval for this site plan and conditional use approval are binding on the Applicant, the property owners, operators, and all successors in interest and assigns.
3. 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.
4. Application/supporting documentation. Construction of the proposed project shall be in conformance with the following:
 1. Sketch of Survey prepared by Mojarena & Associates, Inc.
 2. Plans prepared by Faith Architecture & Design, LLC. including the following:
 - i. Cover Sheet, Sheet CS-1
 - ii. Vicinity Plan and Zoning Plan, Sheet A0.50
 - iii. Proposed Site Plan, Sheet A0.51
 - iv. Security Plan and Site Details, Sheet A0.52
 - v. New Garage Level Floor Plan, Sheet A1.10
 - vi. New 1st Floor Plan, Sheet A1.11
 - vii. New 2nd Floor Plan, Sheet A1.12
 - viii. New 3rd Floor/Roof Plan, Sheet A1.13
 - ix. Existing Exterior Elevations, Sheet A2.10
 - x. Existing Exterior Elevations, Sheet A2.11

- xi. Planting Plan, Sheet LA-1
 - xii. Planting Notes, Specifications, and Details, Sheet LA-2
 - xiii. Photometric Site Plan, Sheet PH-1
5. All representations and exhibits as prepared and provided to the Community Development Department as part of the Application Submittal Package, as amended.
 6. All representations proffered by the Applicant's representatives as a part of the review of the application at public hearings.
 7. The Applicant shall comply with all applicable conditions and permit requirements of the Miami-Dade County Fire Department, the Water and Sewer Department, Department of Regulatory and Economic Resources, Florida Department of Environmental Protection (FDEP), Florida Department of Children and Families, the Florida Department of Transportation (FDOT) and any other applicable regulatory agency. Any operational licenses required by all applicable agencies shall be active and maintained in current status at all times.
 8. The Facility shall obtain accreditation with the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) within the first year of operation and shall maintain active accreditation in good standing.
 9. Prior to issuance of any Master Building Permit, Applicant shall provide the City Manager or designee with a draft schedule for the construction of the Project, (the "Construction Schedule").
 10. Construction workers are prohibited from parking on residential streets or public parking lots. Prior to application for the Master Building Permit, the Applicant shall submit a construction parking plan providing off-street parking for construction workers during the period of construction to the City Manager or designee for review and approval. The construction parking plan shall provide: (a) Applicant's general contractor shall direct all workers to park at off street sites; (b) no workers shall park their vehicles in residential neighborhoods; and (c) Applicant shall provide reports as needed to the City Manager or designee detailing any problems and complaints regarding the parking.
 11. 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 Council 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 and conditional use 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 Council 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.
 12. The facility shall be limited to a maximum of sixty (60) beds, at any time, any increase, by more than three (3) beds, shall require submission of an amended conditional use application, pursuant to the City of North Miami Beach Zoning and Land Development Code, requiring

City Council approval, public notice, and public hearings before the Planning and Zoning Board and the City Council.

13. Prior to the issuance of a Master Building Permit, the City Manager or designee and the City Attorney, may refer any application for review by engineering, planning, legal, technical, environmental, or professional consultant(s) as deemed necessary. The City shall be reimbursed by Applicant for reasonable fees and charges made by such consultant(s) or professional(s) within thirty (30) days of submission of a City voucher. These fees and charges are in addition to any and all other fees required by the City.
14. The Applicant shall submit an MOT (Maintenance of Traffic) to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
15. Applicant shall furnish payment and performance bonds, cash, or letter(s) of credit issued in a form and by a bank reasonably acceptable to the City to ensure Applicant's performance and/or payment of the public improvements; (the term "public improvements" does not include any voluntary proffers; however, if the City has completed the public improvements prior to issuance of the Temporary Certificate of Occupancy, the City shall be paid the sums due in cash immediately upon demand. The payment and performance bond(s) required by this Resolution shall be issued by a surety having a minimum rating of A-1 in the Best's Key Rating Guide, Property/Casualty edition, shall be subject to the approval of the City and shall include this legend: "This bond (these bonds) may not be cancelled or allowed to lapse until thirty (30) days after receipt by the City of North Miami Beach, by certified mail, returned receipt requested, addressed to: CITY MANAGER with a copy to: CITY ATTORNEY, both addressed to: 17011 NE 19 Avenue, 4th Floor, North Miami Beach, FL 33162-3111 of written notice from the issuer of the bond of its intent to cancel or to not renew." As improvements and payments are made in accordance with the terms of this Resolution, the City, in its sole discretion, may reduce or eliminate the bond amount. These rights reserved by the City with respect to any construction bond or other performance or payment bond established pursuant to this section are in addition to all other rights and remedies the City may have under this Resolution, in law or in equity.
16. No building permits shall be issued (except for signage, demolition, foundation, temporary power, construction trailers and sales center) unless the Applicant has submitted all documents required under this approval as of that date, in form and content subject to the approval of the City Attorney with the City Manager or designee, and shall have paid all professional reimbursements and other payments required by the Code of Ordinances of the City of North Miami Beach.
17. Prior to the issuance of the Master Building Permit, the Applicant shall submit plans for the construction of an appropriate barrier between the construction site and adjoining properties in order to minimize blowing of dust and construction debris. Applicant shall comply with the regulations of the Code of Ordinances the City of North Miami Beach relating to construction site operations, including but not limited to the installation of a chain link construction fence with a windscreen displaying a rendering of the Project. Applicant shall use its good faith efforts to minimize vibration and noise during construction of the Project.
18. Prior to the issuance of the Master Building Permit, the Applicant shall meet all requirements of the Department of Public Works Solid Waste Division for trash containers.
19. All City impact fees shall be paid prior to the issuance of a master building permit.

20. The Applicant and its successors and assigns, shall maintain all landscape and exterior hardscape features and materials on site and throughout all public improvements in good condition, replacing diseased, dying or dead plant material as necessary and repairing/cleaning/painting all hardscape features so as to present a healthy and orderly appearance at all times.
21. Dumpsters shall be serviced only by the City of North Miami Beach, its approved contractor or other vendor, with the approval of the City Public Works Department. All dumpsters shall be delivered to the trash room no later than 7 a.m. on collection days. The servicing of dumpsters and their locations shall not be visible from pedestrians or passing motorists on the sidewalks, abutting right-of-way, or adjacent streets.
22. The designated outdoor smoking area on the Sheet A0.51 of the site plan shall be monitored by an operational security camera at all times and any patients utilizing this area shall be accompanied by a staff member or security guard.
23. Excluding the outdoor area at the rear of the building designated on the site plan, the proposed facility shall prohibit patients, visitors, and employees from smoking, standing, sitting, gathering, or loitering in front of the building. NO SMOKING and NO LOITERING signage shall be posted on the front façade of the building in a visible location.
24. The Applicant shall have a security risk assessment conducted on the property by the NMBPD Crime Prevention Unit prior to the issuance of a Certificate of Occupancy.
25. The Applicant must join the NMBPD Trespass After Warning Program.
26. The facility must comply with the Florida Building Code Chapter 36 Standards for Security and Forced Entry Prevention.
27. The Applicant shall provide the NMBPD with access to the facility in cases of emergency.
28. The facility shall be required to have, on-site, at all times 24 hours a day, seven (7) days a week, a minimum of one security guard, and licensed qualified professionals, as required per the Florida Administrative Code.
29. The Applicant shall have monitored security cameras for the outdoor area and covering the main entryway and exits into and out of the facility.
30. All deliveries to the property, other than emergencies and necessary medical supplies, shall occur between the hours of 7:00 A.M and 10:00 P.M.
31. The Applicant shall provide scholarship, totaling a minimum of \$1,000,000 of services provided on an annual basis, for individuals in need of addiction treatment. Preference for North Miami Beach residents shall be considered when awarding the scholarships. The owner/applicant/operator will work with the North Miami Beach Police Department for referrals and will provide a report, if requested by NMPD, at the end of each calendar year, listing the amount provided, and the duration of each scholarship recipient's use of service.
32. All access into the building shall be monitored by security personnel, or equipped with an audible alarm.
33. The City Council shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the City Manager, the Applicant shall appear before the City Council for a progress report. The Council reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions, to address possible problems, and to determine the timing and need for future progress reports.

34. The City Council shall retain the right to call the owner, applicant, and/or operator back before them for modification of the conditional use approval should there be valid complaints about loud, excessive, unnecessary, or unusual noise, as determined by the Code Compliance Department, or if code violations have been issued to the property. Nothing in this provision shall be deemed to limit the right of the City Council to call back the owner, applicant and/or operator for other reasons consistent with the conditions contained herein and/or the City Code and for other modifications of this Conditional Use Permit pursuant to reasons contained herein.
35. If numerous incidents of crime and/or public nuisance are reported on the premises the Resolution approving the conditional use may be revoked at the discretion of the City Council.
36. The Applicant, owner and/or operator, both now and in the future, shall abide by all the documents and statements submitted with this application, as well as all conditions of this Conditional Use Permit.
37. Any change and/or transfer of a majority of ownership of facility operator will require the Owner/Applicant to return to City Council for approval.

Section 2. The City Council makes the following FINDINGS OF FACT based upon the substantial competent evidence provided:

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, and is located in an area which is sufficient, appropriate and adequate for the proposed use and reasonable expansion.

Section 3. Pursuant to Section 24-175(C) of the Code of Ordinances of the City of North Miami Beach, the applicant must obtain a Business Tax Receipt within one year of the issuance of a Certificate of Occupancy or within one year of conditional use approval, whichever is longer. This may be extended administratively for good cause for one six-month period by the City Manager or designee. This period may be extended by the Mayor and City Council for good cause.

APPROVED AND ADOPTED by the City Council of the City of North Miami Beach, Florida at regular meeting assembled this ___ **day of** _____, **2016.**

[SIGNATURE PAGE TO FOLLOW]

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

JOSE SMITH
CITY ATTORNEY

SPONSORED BY: Mayor and City Council