

RESOLUTION NO. R2016-XX

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 24-58.4 OF THE NORTH MIAMI BEACH CODE OF ORDINANCES FOR THE OPERATION OF AN OUTPARCEL PACKAGE LIQUOR STORE; AS PROPOSED, IN THE ARCH CREEK MIXED-USE CORRIDOR DISTRICT AND LOCATED AT 14075 BISCAYNE BOULEVARD, NORTH MIAMI BEACH, FLORIDA.

WHEREAS, the property described herein is zoned MU/C ARCH CREEK MIXED-USE CORRIDOR DISTRICT; and

WHEREAS, the applicant requests conditional use and site plan approval in order to operate a 12,900 square foot package liquor store outparcel on property currently used as surface parking for the existing Target Store at 14075 Biscayne Boulevard; and

WHEREAS, after a public hearing on May 9, 2016, the Planning and Zoning Board, by a ___ to ___ vote, recommended approval of the conditional use and site plan, subject to the conditions set forth and included in Section 1 below.

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

Section 1. Conditional use and site plan approval in order to operate a 12,900 square foot package liquor store, on property legally described in Attachment "A" 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 are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
3. Construction of the proposed project shall be in conformance with the following:
 - a. Sketch of Survey prepared by Pulice Land Surveyors, Inc.
 - b. Plans prepared by Thomas Engineering Group, Design Construction International LLC, and KAMM Consulting including the following:
 - Sheet C-01, Cover Sheet
 - Sheet C-05, Site Plan
 - Sheet C-06, Site Details
 - Sheet C-07, Paving, Grading & Drainage Plan
 - Sheet C-08, Paving, Grading & Drainage Details
 - Sheet L-01, Tree Disposition Plan
 - Sheet L-02, Landscape Plan

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- Sheet L-03, Landscape General Notes
 - Sheet A-1, Floor Plan
 - Sheet A-2, Exterior Elevations
 - Sheet A-10, Roof Plan
 - Sheet CE, Color Elevations
 - Sheet E1.1, Site Photometric Plan
4. All representations proffered by the Applicant's representatives as a part of the review of the application at 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 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 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.
 6. 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.
 7. 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, subject to the approval of the City Attorney and 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.
 8. All engineering (paving and drainage) plans at time of permitting must be signed and sealed by a State of Florida Certified Engineer and must be stamped approved by Miami-Dade County DRER and FDOT.
 9. All City impact fees shall be paid prior to issuance of a master building permit, for each phase of the project.
 10. 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, Miami-Dade County Public Health Department, the Florida Department of Environmental Protection (FDEP), the Florida Department of Transportation (FDOT) and any other applicable regulatory agency.
 11. 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.
 12. Building plans must be submitted to DERM for an allocation review and letter.
 13. Water and/or sewer utility plans must be submitted to the City's Engineering Division for review and approval, separately from the building plans.

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14. The site plan and conditional use approval shall remain valid for a period of 12-months from the date of adoption of the Resolution by the City Council. If the first master building permit is not applied for within the 12-month time period, the approvals shall be considered null and void and of no force and effect unless extensions of time are obtained pursuant to applicable law.
15. 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 be forfeited. This shall not apply 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.
16. Applicant must provide the NMBPD with access to the property at all times.
17. Applicant must provide the NMBPD with a safety and security plan.
18. Applicant must join the NMBPD *Trespass After Warning* Program.
19. The words "Aventura", "Miami Beach," "North Miami," and "Sunny Isles Beach" shall not be used by the applicant immediately preceding or following the Project name. The words "Aventura," "Miami Beach," "North Miami," 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.
20. 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.
21. 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. This Conditional Use is also subject to modification or revocation.
22. The City Council shall retain the right to call the owner, applicant, and/or operator back before them and modify the hours of operation or the occupant load proposed for the project 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 and for other modifications of this Conditional Use Permit.
23. Prior to issuance of any Master Building Permit, 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. The Applicant shall provide a draft of the covenant within ninety (90) days of site plan approval. 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.
24. Decorative bollards shall be installed where standard bollards are indicated on the site plan.
25. Light poles shall not exceed an overall height of 17.5 feet above grade.

26. Lighting bollards shall be installed within the plaza area to provide illumination. Location of said lighting bollards shall be determined at the time of building permit.
27. Hours of operation will be from:
- Monday to Thursday - 9 AM to 9 PM
 - Friday and Saturday - 9 AM to 10 PM
 - Sunday - 1 PM to 8 PM

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 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the Applicant must apply for a master building permit, for the first phase of the project, from the City within twelve (12) months of the date of this Resolution or the site plan approval granted shall be deemed null and void and the applicant shall be required to reinstate the site plan review process unless the term is extended by the City Council prior to its expiration.

Section 4. 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.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

JOSE SMITH
CITY ATTORNEY

SPONSORED BY: Mayor and City Council

COUNCILPERSON	YES	NO	ABSTAIN	ABSENT
Mayor George Vallejo				
Vice-Mayor Phyllis Smith				
Councilwoman Barbara Kramer				
Councilwoman Marlen Martell				
Councilman Frantz Pierre				
Councilman Anthony DeFillipo				
Councilwoman Beth Spiegel				

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ATTACHMENT "A"
LEGAL DESCRIPTION

A PORTION OF TRACT "A", ""ANNA LOUISA KAY SUBDIVISION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 149, PAGE 53, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE MOST WESTERLY SOUTHWEST CORNER OF SAID TRACT "A", A POINT ON THE EASTERLY RIGHT-OF-WAY LIMIT OF BISCAYNE BOULEVARD (U.S. HIGHWAY NO. 1) (STATE ROAD NO. 5), A POINT ON THE ARC OF A CIRCULAR CURVE, CONCAVE WESTERLY, THE RADIUS POINT OF WHICH BEARS NORTH 75°48'03" WEST; THENCE NORTHERLY ON SAID EASTERLY RIGHT-OF-WAY LIMIT AND ON THE ARC OF SAID CURVE, WITH A RADIUS OF 5,548.40 FEET, A CENTRAL ANGLE OF 02°03'29", FOR AN ARC DISTANCE OF 199.29 FEET; THENCE SOUTH 79°26'20" EAST 37.84 FEET; THENCE NORTH 88°12'56" EAST 186.42 FEET; THENCE SOUTH 02°41'57" EAST 180.03 FEET TO THE INTERSECTION WITH A SOUTH LINE OF SAID TRACT "A"; THENCE SOUTH 87°18'03" WEST ON SAID SOUTH LINE 277.71 FEET TO THE POINT OF BEGINNING.