

**RESOLUTION NO. R2021-XX**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL FOR THE DEVELOPMENT OF A TEN-STORY TOWER, CONSISTING OF 237,483 SQUARE FEET OF OFFICE SPACE, ON PROPERTY LOCATED AT 3227 NE 163 STREET, 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.**

**(P&Z Item No. 21-7, June 14<sup>th</sup>, 2021)**

**WHEREAS**, the City of North Miami Beach (“City”) Code of Ordinances, Chapter 24, “Zoning and Land Development Code” (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**, Canal Park Office 2, LLC, (the “Applicant”) requests site plan approval to construct a ten-story tower consisting of approximately 237,483 square feet of office space, on a ±2 acre parcel of land located at 3227 NE 163<sup>rd</sup> Street, North Miami Beach, Florida, (“Property”), as legally described in Exhibit “A;” and

**WHEREAS**, the Property is zoned B-2, General Business District; and

**WHEREAS**, after a duly noticed public hearing held on June 14, 2021, the Planning and Zoning Board by vote of \_ to \_, recommended \_\_\_\_\_ of the site plan, subject to the conditions set forth and included below in Section 2; and

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

**WHEREAS**, the Mayor and City Commission find the proposed Site Plan consistent with the North Miami Beach Comprehensive Plan and find approval of the application 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. Site Plan Decision.** Pursuant to Chapter 24, “Zoning and Land Development Code,” Article XV, “Other Development Review Procedures,” Section 24-172, “Site Plan Review” the following attached site plan to construct a ten-story tower consisting of 237,483 square feet of office space, attached as Exhibit “B” and incorporated by reference, on the Property, 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 site plan are binding on the Applicant, the property owners, operators, and all successors in interest and assigns. 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. 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
3. Construction of the proposed project shall be in conformance with the following:
  - a. Boundary Survey prepared by Pulice Land Surveyors, Inc.
  - b. Plans prepared by Idea Architect, GSLA Design, Main Street Engineering, and Fortin, Leavy, Skiles, Inc., including the following:
    - A-000 Cover Sheet and Index of Drawings
    - A-010 Code Study - Site Plan
    - A-011 Views of the Site and Neighbors
    - A-050 Rear View Rendering

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- A-080 Proposed Site Plan
- A-081 Site Plan Color and Materials
- A-201 Ground Floor Plan
- A-202 2nd Floor Plan - Parking Plan P02
- A-203 Parking Plan P02B
- A-204 3rd Floor Plan -Parking Plan P03A
- A-205 Parking Plan P03B
- A-206 4th Floor Plan - Parking P04
- A-207 5<sup>th</sup> Floor
- A-208 6<sup>th</sup> Floor
- A-209 7<sup>th</sup> Floor
- A-210 8<sup>th</sup> Floor
- A-211 9<sup>th</sup> Floor
- A-212 10<sup>th</sup> Floor
- A-213 Roof Plan
- A-501 South elevation
- A-502 North Elevation
- A-503 East Elevation
- A-504 West Elevation
- A-601 General Section
- A-901 Details And Material
- A-950 Renderings
- A-951 Renderings
- LD-001 Photometric Calcs. Site Plan
- LD-002 Photometric Calcs. Parking Level 01
- LD-003 Photometric Calcs. Parking Level 02-02A
- LD-004 Photometric Calcs. Parking Level 03-03A
- LD-005 Photometric Calcs. Parking Level 04
- LD-006 Photometric Calcs. Exterior 5<sup>th</sup> Floor Terrace
- LD-007 Photometric Calcs. Exterior Lighting Plan Site
- FA1 Site Plan - Approved by Miami-Dade Fire
- C1 Cover Sheet
- C2 Notes
- C3 Notes
- C4 Adjacent Driveway Plan
- C5 Stormwater Pollution Prevention Plan
- C6 Stormwater Pollution Prevention Details
- C7 Demolition Plan
- CB Geometry, Paving, Signage & Marking Plan
- C9 Grading & Drainage Plan
- C10 Water & Sewer Plan
- C11 Paving & Drainage Plan
- C12 Paving & Drainage Plan
- C13 Sections And Details

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- C14 Vehicle Loading Spaces Exhibit
- LA-101 Existing Tree Disposition Plan
- LA-201 Planting Plan – Ground Floor
- LA-202 Planting Plan – 5<sup>th</sup> Floor
- LA-203 Planting Plan – Roof
- LA-301 Planting Specifications, Notes and Details
- LA-302 Planting Specifications, Notes and Details

4. All representations and exhibits as prepared and provided to the Community Development Department as part of the Application Submittal Package, as amended.
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.
6. 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

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Applicant shall identify the Project as being located 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. Applicant must join the NMBPD Trespass After Warning Program, provide the NMBPD with access to the property at all times, and a safety plan.
12. 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.
13. All City impact fees shall be paid prior to the issuance of a Master Building Permit. 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 impact fees paid to the City of North Miami Beach, which would not be refunded, but credited to the property for any subsequent development.
14. Prior to issuance of a Certificate of Occupancy, the Applicant shall have the registered landscape architect, or a certified arborist certify that the landscaping, tree removal, and tree mitigation have been completed in accordance to the landscape plan and tree removal permit.
15. 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.
16. Use of building amenities shall be limited to tenants. Not open to the public or for commercial uses.
17. On-site boat operations permitted by City Code shall be from 8 AM to 7 PM, and limited mooring to four (4) boats. No charter or public marina will be allowed.
18. Prior to the issuance of a Certificate of Occupancy, the Applicant shall demonstrate through its plans the opportunity for improved or maintained levels of transit service to serve the Project, including accessibility with existing transit lines. The Applicant will maintain or enhance the current level of service by providing access in the form of a premium transit facility with collocated transit and trolley stops for Miami-Dade County and North Miami Beach.
19. Prior to issuance of the Master Building Permit, the Applicant shall provide manufactures detail sheet for pervious pavers used to ensure compliance with 20% pervious area on ground level.
20. Prior to the issuance of the Master Building Permit, the Applicant shall verify if a cross access agreement exists with the property to the west. If existing, cross-access shall be maintained.
21. Prior to the issuance of the Master Building Permit, the Applicant shall coordinate with Florida Department of Transportation (FDOT) on all applicable permits and approval processes.

22. Prior to the issuance of the Certificate of Occupancy, the Applicant shall update the Valet Parking Traffic Operational Plan to include additional valet service agents to ensure no vehicle queuing issues if field conditions warrant at the time of full occupancy.
23. Prior to the issuance of the Certificate of Occupancy, an Operational Parking Plan, including details of the mechanical lift parking operations and valet traffic plan with hours of operation and a circulation plan. The valet traffic operational plan shall be subject to review and approval by the Community Development Director.

**Section 3.**     **Site Plan Findings of Fact.** The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested site plan meets the applicable Site Plan Review Standards provided for in Section 24-172 of the Code of Ordinances of the City of North Miami Beach. The requested site plan approval is not contrary to the public interest or detrimental to the community and is compatible with the surrounding land uses while maintaining the basic intent and purpose of the zoning and land use regulations.

**Section 4.**     **Time for Building Permit.** 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 from the City within one (1) year of the date of this Resolution or the granted site plan approval shall be deemed null and void, and the Applicant shall be required to reinstate the site plan 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**    **2021.**

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 Michael Joseph				
Commissioner Daniela Jean				
Commissioner Paule Villard				
Commissioner Fortuna Smukler				
Commissioner McKenzie Fleurimond				
Commissioner Barbara Kramer				

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

LOTS 21, 22 AND 23, BLOCK 4, OF EASTERN SHORES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, PAGE 28, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

TAX FOLIO: 07-2215-001-0880

A/K/A

3227 NE 163<sup>rd</sup> Street

North Miami Beach, Florida



