

RESOLUTION NO. R2020-106

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING THE SITE PLAN MODIFICATION, SUBMITTED BY LAAAJ, LLC, PURSUANT TO SECTION 13 OF THE DEVELOPMENT AGREEMENT RECORDED IN OR BK 30628, PG, 3272-3353 AND CITY CODE SECTION 24-172 FOR THE DEVELOPMENT OF A 578,651 SQUARE FOOT, EIGHT-STORY MIXED-USE DEVELOPMENT, CONSISTING OF ±17,000 SQUARE FEET OF RETAIL SPACE, UP TO 356 RESIDENTIAL DWELLING UNITS, AND UP TO 573 PARKING SPACES ON A ±2.90- ACRE PARCEL OF LAND LOCATED AT 16955, 17005, 17017, 17035 AND 17071 WEST DIXIE HIGHWAY, NORTH MIAMI BEACH, FLORIDA; PROVIDING FOR FINDINGS OF FACT; PROVIDING EXPIRATION AND LIMITATION OF APPROVAL; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

(P&Z Item No. 20-10, September 14, 2020)

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, LAAAJ, LLC, (the “Applicant”) was granted site plan approval, pursuant to Resolution No. 2017-48 and the Development Agreement recorded in OR BK 30628, PG, 3272- 3353 of Miami Dade County Public Records, to develop a 838,712 square foot, nineteen (19) story mixed-use development, consisting of 415 residential units, 50,486 net square feet (72,000 gross square feet) of office space, and 30,210 net square feet (32,000 gross square feet) of commercial retail space, on a ±2.90 acre parcel of land located at 16955-17071 West Dixie Highway (the “Property”), as legally described in Exhibit “A;” and

WHEREAS, pursuant to ZLDC Section 24-172 and Section 13 of the recorded Development

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Agreement, the Applicant requests a modification to the approved site plan, in order to construct a net 578,651 square foot (not including BOH, storage, amenity areas balconies or porches), eight (8) story mixed-use development; consisting of up to 356 residential dwelling units, 17,000 gross square feet of commercial retail space, and up to 573 parking spaces (the “Site Plan Modification”) on the Property; and

WHEREAS, the Site Plan Modification reduces the total number of residential dwelling units by a minimum of fifty-nine (59) units and a maximum of one hundred three (103) units, office space by 50,486 net square feet, and commercial retail space by 15,000 gross square feet (collectively, the “Unallocated Development Program”);

WHEREAS, the Unallocated Development Program shall be allocated back into the “basket of rights” for the Mixed-Use Neighborhood Center (“MU/NC”) zoning district, pursuant to the City Comprehensive Plan; and

WHEREAS, the Property is zoned MU/NC, which is intended to establish a mixed-use area characterized by compactness, pedestrian friendly design, neighborhood-scale and framed by architecture and landscape design appropriate to local history and the natural environment; and and

WHEREAS, after a duly noticed public hearing held on September 14, 2020, the Planning and Zoning Board by vote of 5 to 0, recommended approval of the Site Plan Modification, 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 Site Plan Modification is consistent with the City Comprehensive Plan and furthers the purpose, goals, objectives and policies of the Comprehensive Plan, and is in the best interest of the City.

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

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 24-172, “Site Plan Review” and Section 13 of the recorded Development Agreement, the Site Plan Modification to construct a 578, 651 net square foot (not including BOH, storage, amenity areas, balconies, or porches), eight (8) story mixed-use development; consisting of up to 356 residential dwelling units, 17,000 gross square feet of commercial retail space, and up to 573 parking spaces, attached as Exhibit “B” and incorporated by reference, 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 included in Resolution No. 2017-48 are incorporated by this reference and shall remain in force and effect.
3. Upon issuance of the first building permit for vertical construction of the Project (“First Building Permit”), the Unallocated Development Program consisting of a minimum of 59 units and a maximum of 103 dwelling units, 50,486 net square feet of office space, and 15,000 gross square feet of gross commercial retail space shall be reallocated to the “basket of rights” for the Mixed-Use Neighborhood Center (“MU/NC”) zoning district, pursuant to the City’s Comprehensive Plan. Until the issuance of the First Building Permit, the Unallocated Development Program shall continue to apply to the Property. In no event shall the Site Plan Modification exceed the approved development program pursuant to the Development Agreement recorded in OR BK 30628, PG 3272-3353, unless a modification to the Development Agreement is approved pursuant to Chapter 163, Florida Statutes, and the City Code.
4. The conditions of approval for this site plan are binding on the Applicant, the property owners, operators, and all successors in interest. 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.
5. Construction of the proposed project shall be in conformance with the following:

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- a. Alta Survey prepared by Cousins Surveyors and Associates, Inc
- b. Plans prepared by MSA Architects, Inc., Ross Engineering, Inc., Witkin Hults and Partners, Lighting Dynamics Incorporated, including the following:

- OCS Cover
- SP-1 Site Plan/Data
- SP-2 Temporary Construction Fencing Plan
- A-2.1 Building Plans-Level 1
- A-2.2 Building Plans-Level 2
- A-2.3 Building Plans-Level 3
- A-2.4 Building Plans-Levels 4-5
- A-2.5 Building Plans-Levels 6-7
- A-2.6 Building Plans-Level 8
- A-2.7 Roof Plan
- A-3.1 Building Elevations
- A-3.2 Building Elevations
- A-3.3 Building Elevations
- A-3.4 Site Details and Materials
- A-3.5 Massing Aerial Views
- A-4.1 Conceptual Unit Plans
- A-4.2 Conceptual Unit Plans
- L-1 Landscape Plan
- L-2 Landscape Plan
- L-3 Landscape Plan
- HS-1 Plaza Hardscape Plan
- HS-2 Plaza Hardscape Plan
- HS-3 Pool Hardscape Plan
- C-2 Paving Grading and Drainage Plan
- C-3 Water and Sanitary Sewer Plan
- C-4 Pavement Marking and Signage Plan
- C-5 Vehicle Tracking Analysis Plan
- L-1.1 Site Photometric Plan
- L-1.2 Site Photometric Plan
- L-1.3 Site Photometric Plan

6. All representations proffered by the Applicant's representatives as a part of the site plan application review at the Planning and Zoning Board and City Commission public hearings.
7. 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

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- 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.
8. Applicant shall remove all public hearing signage no later than 48 hours after the final public hearing for the development project.
 9. 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.
 10. Applicant shall provide a unity of title or covenant in lieu of unity of title, in a form acceptable to the City Attorney, for all parcels prior to the issuance of the Master Building Permit. The unity of title or covenant in lieu of unity of title shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the Applicant.
 11. 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.
 12. 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.
 13. 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.
 14. Applicant must join the North Miami Beach Police Department ("NMBPD") *Trespass After Warning* Program, provide the NMBPD with access to the property at all times, and a safety plan.
 15. All above ground utilities on-site and on adjacent public right of ways shall be relocated underground pursuant to Section 24-62(F) of the City's Code of Ordinances.
 16. All water and sewer service installations are the responsibility of the Applicant and must be permitted through the NMB Water Department.
 17. 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

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- would not be refunded but would be credited to the property for any subsequent development.
18. 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.
 19. Prior to the issuance of the Master Building Permit, the applicant shall place back into the basket of rights 54 residential dwellings for the Mixed-use Neighborhood Center Zoning District.
 20. 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.
 21. Prior to the issuance of the Master Building Permit, the Applicant shall meet all requirements of the Department of Public Works Solid Waste Division and ensure that the solid waste container storage area be visually screened from ground view of surrounding and adjacent properties.
 22. 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.
 23. 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.
 24. Prior to issuance of the Certificate of Occupancy, the Applicant shall have the registered engineer certify that on-site lighting has been constructed and is operating in accordance with the photometric plans and must not exceed 1.0 Foot-candle beyond all property lines.
 25. Prior to the issuance of a temporary Certificate of Occupancy, the Applicant shall request and complete the address assignment process for the common areas and residential units as required, with the U.S. Postal Service, Miami-Dade County Fire Rescue, and the Miami- Dade County Property Appraisers. This Resolution shall be made part of any declaration of condominium and other applicable condominium documents, if so established.
 26. On-site security shall be provided to ensure the security of residents and property.
 27. The Applicant and its successors and assigns, including but not limited to the successor homeowners' association, if any, 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.
 28. 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.
 29. "No Dumping – Drains to Stream" signage/markers must be installed along the right-of- way.
 30. The developer shall work with the City of North Miami Beach Human Resources Department to advertise employment opportunities and use good faith efforts to promote the hiring of City residents to fill employment positions within the development during all phases of construction and development

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Section 3. **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 modification 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 modification 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 City Code, 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 and variances 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 **22nd day of October, 2020.**

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ATTEST:


ANDRISE BERNARD
CITY CLERK


ANTHONY F. DEFILLIPO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION


Hans Ottinot, Interim City Attorney
Ottinot Law, P.A.

SPONSORED BY: Mayor and City Commission

Commissioners	YES	NO	ABSTAIN	ABSENT
Mayor Anthony DeFillipo	X			
Vice-Mayor Barbara Kramer	X			
Commissioner McKenzie Fleurimond	X			
Commissioner Fortuna Smukler	X			
Commissioner Phyllis S. Smith	X			
Commissioner Michael Joseph	X			
Commissioner Paule Villard	X			

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Exhibit "A"
LEGAL DESCRIPTION

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, AND 12, BLOCK 5, AND TRACT B, OF "A SUBDIVISION OF A PORTION OF TRACT "A" GREYNOLDS PARK GARDENS", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 55, PAGE 57, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Tax Folio: 07-2209-002-0010

A/K/A

16955-17071 West Dixie Highway

North Miami Beach, Florida

