

RESOLUTION NO. R2021-XX

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING THE SITE PLAN MODIFICATION, SUBMITTED BY TRINSIC ACQUISITION COMPANY LLC, PURSUANT TO SECTIONS 3.12 AND 13 OF THE DEVELOPMENT AGREEMENT RECORDED IN OR BK 30628, PG, 3272-3353 AND CITY CODE SECTION 24-172 FOR THE DEVELOPMENT OF A 624,636 SQUARE FOOT, EIGHT-STORY MIXED-USE DEVELOPMENT, CONSISTING OF 17,000 SQUARE FEET OF RETAIL SPACE, UP TO 375 RESIDENTIAL DWELLING UNITS, AND 567 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. 21-4, May 10th, 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, the property located at 16955-17071 West Dixie Highway (the “Property”), as legally described in Exhibit “A, 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

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WHEREAS, the Property was granted approval of a site plan modification under Resolution No. 2020-106 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 square feet of commercial retail space, and 573 parking spaces on the Property; and

WHEREAS, pursuant to ZLDC Section 24-172 and Sections 3.12 and 13 of the recorded Development Agreement, Trinsic Acquisition Company, LLC, (the “Applicant”) requests a modification to the approved modified site plan, in order to construct a 624,636 square foot, eight (8) story mixed-use development; consisting of up to 375 residential dwelling units, 17,000 square feet of commercial retail space, and 567 parking spaces (the “Site Plan Modification”) on the Property; and

WHEREAS, the Site Plan Modification reduces the total number of residential dwelling units by forty (40) units, office space by 50,486 square feet, and commercial retail space by 13,210 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

WHEREAS, after a duly noticed public hearing held on May 10th, 2021, the Planning and Zoning Board by vote of ___ to ___, recommended approval of the Site Plan Modification, 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 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.

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 Sections 3.12 and 13 of the recorded Development Agreement, the Site Plan Modification to construct a 578,651 square foot, eight (8) story mixed-use development; consisting of up to 375 residential dwelling units, 17,000 square feet of commercial retail space, and 567 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. The conditions included in Resolution No. 2020-106 are incorporated by this reference and shall remain in force and effect.
4. Upon issuance of the first building permit for vertical construction of the Project (“First Building Permit”), the Unallocated Development Program consisting of forty (40) unused residential dwelling units, 50,486 square feet of office space, and 15,000 gross square feet of 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

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BK 30628, PG 3272-3353, unless a modification to the Development Agreement is approved pursuant to Chapter 163, Florida Statutes, and the City Code.

5. 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.
6. Construction of the proposed project shall be in conformance with the following:
 - a. Alta Survey prepared by Cousins Surveyors and Associates, Inc
 - b. Plans prepared by Corwil Architects, Landscape Design Workshop, Ross Engineering, Inc., Lighting Dynamics Incorporated, including the following:
 - SP-1 Ground/Site Plan
 - SP-2 Street Sections Diagrams
 - SP-3 Temporary Construction Fencing Plan
 - A-2.02 2nd Level Floor Plan
 - A-2.03 3rd Level Floor Plan
 - A-2.04 Typ. 4th to 7th Level Floor Plan
 - A-2.05 8th Level Floor Plan
 - A-2.06 9th Level Floor Plan
 - A-3.01 Elevations
 - A-3.02 Elevations
 - A-3.03 Elevations
 - A-3.04 Fenestration Calculations
 - A-3.05 Architectural Materials
 - A-3.06 Renderings
 - A-4.01 Unit Plans
 - A-4.02 Unit Plans
 - A-4.03 Unit Plans
 - A-4.04 Unit Plans
 - A-4.05 Unit Plans
 - C-1 Paving Grading and Drainage Plan
 - C-2 Water and Sanitary Sewer Plan
 - C-3 Pavement Marking and Signage Plan
 - C-4 Fire Truck Circulation Plan
 - C-6 Garbage Truck Circulation Plan
 - C-8 Pollution Prevention Control Plan
 - C-5 Vehicle Tracking Analysis Plan
 - L-1.1 Site Lighting Photometrics
 - L-1.2 Site Lighting Photometrics
 - L-1.3 Site Lighting Photometrics

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- L-1.4 Site Lighting Photometrics
- L-1.5 Site Lighting Photometrics
- L-1 Overall Site plan
- LH-1 Hardscape Plan
- LH-2 Hardscape Plan
- LP-1 Planting Plan
- LP-2 Planting Plan
- LP-3 Planting Plan, Pool Deck/Amenity Deck
- LP-4 Planting Details and Notes

7. 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.
8. 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.
9. Applicant shall remove all public hearing signage no later than 48 hours after the final public hearing for the development project.
10. 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.
11. 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.
12. 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

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Protection (FDEP), the Florida Department of Transportation (FDOT) and any other applicable regulatory agency.

13. 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.
14. 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.
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 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.
16. 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.
17. 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.
18. Prior to the issuance of a Master Building Permit, the Applicant shall provide the approval from Miami-Dade County for ingress and egress on to West Dixie Highway, with impending road improvements.

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

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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 the day of , 2021.

[SIGNATURE PAGE TO FOLLOW]

ATTEST:

ANDRISE BERNARD
CITY CLERK

ANTHONY F. DEFILLIPO
MAYOR

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(CITY SEAL)

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

HANS OTTINOT
INTERIM CITY ATTORNEY

SPONSORED BY: Mayor and City Commission

	YES	NO	ABSTAIN	ABSENT
Commissioners				
Mayor Anthony DeFillipo				
Vice-Mayor Paule Villard				
Commissioner McKenzie Fleurimond				
Commissioner Barbara Kramer				
Commissioner Daniela Jean				
Commissioner Michael Joseph				
Commissioner Fortuna Smukler				

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, 07-2209-002-0090, 07-2209-002-0060, 07-2209-002-0120, 07-2209-002-0130

A/K/A

16955-17071 West Dixie Highway

North Miami Beach, Florida

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