

RESOLUTION NO. 2023-R-128

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT, IN SUBSTANTIALLY THE ATTACHED FORM, FOR A PROPOSED MIXED-USE DEVELOPMENT CONSISTING OF A TWELVE (12) UNIT, 4-STORY APARTMENT BUILDING, WITH 434 SQ. FT. OF RETAIL SPACE, ON REAL PROPERTY LOCATED AT 12315 NE 4TH AVENUE, IDENTIFIED WITH MIAMI-DADE COUNTY FOLIO NUMBER 06-2230-036-0100, AND TOTALING APPROXIMATELY .20 ACRES, IN ACCORDANCE WITH ARTICLE 3, DIVISION 4, SECTIONS 3-402 THROUGH 3-407, ARTICLE 4, DIVISION 2, SECTION 4-202, SECTION 4-203(B), SECTION 4-205, SECTION 4-303, SECTION 4-305, AND SECTION 4-306 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, CHAPTER 29, ENTITLED “LAND DEVELOPMENT REGULATIONS; PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES.

WHEREAS, the Subject Property consists of one (1) parcel of land totaling .20 acres (8,100 sq. ft) located at 12315 NE 4th Avenue, specifically identified with Miami-Dade County (“County”) folio number 06-2230-036-0100, and is designated C-3, Commercial on the Official Zoning Map, which allows a building height of fifty-five (55) feet, and a wide variety of non-residential uses, including retail, and Central Business Commercial on the City’s 2036 Future Land Use Map (“FLUM”), which allows a building height of one hundred fifty (150) feet; and

WHEREAS, the Subject Property is in the Arts, Culture and Design Overlay District (“AOD”), which allows uses that further arts, culture and design and art education within the district, including live/work studios, and requires that all new development (exclusive of single family residential) incorporate a public art component; and

WHEREAS, it is also located within the Neighborhood Redevelopment Overlay (“NRO”) District, which requires that buildings over thirty-five (35) feet located adjacent to single-family structures be setback a minimum of twenty-five (25) feet; and

WHEREAS, the property is within the NE 123rd/NE 125th Street Planned Corridor Development (“PCD”) Overlay District, both of which allows, through the conditional use permit (“CUP”) process, up to 100 dwelling units per acre (du/acre); a maximum height of one hundred ten (110) feet; and allows multi-family residential and a wide-variety of commercial uses, including retail, and based upon the property size, the site could accommodate up to twenty (20) dwelling units; and

WHEREAS, Article 3, Division 4, section 3-405 of the LDRs establishes criteria for the approval of a CUP; and

WHEREAS, 123 NOMI VENTURE, LLC (the “Applicant”) is the owner of the Subject Property and through their Representative, Federico Zapata, filed a CUP application with the Community Planning and Development Department requesting approval to construct a 4-story, 12-unit mixed-use development, including one (1) live/work unit; four hundred thirty-four (434) square feet of retail space; and sixteen (16) ground level covered parking spaces on the Subject Property; and

WHEREAS, on May 17, 2023, the City’s Board of Adjustment granted the Applicant a variance to reduce the required setback to ten (10) feet; and

WHEREAS, the City has reviewed the proposed request and found that it is consistent with Objectives 1.17 and 1.18 of the Comprehensive Plan, and satisfies the requirements of Section 3-405, Section 4-203(B), Section 4-205, Section 4-303, Section 4-305, and Section 4-306 of the LDRs; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on June 6, 2023, reviewed the proposed request, and found it to be consistent with the Comprehensive Plan and in keeping with the intent of the LDRs, and, thereby, recommended approval of the CUP to Mayor and City Council; and

WHEREAS, Mayor and City Council have determined that the proposed request is in the best interest of the City, does not adversely affect the health, safety, and welfare of residents, and thereby, approves the CUP.

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

Section 1. Approval of Conditional Use Permit. The Mayor and City Council of the City of North Miami, Florida, hereby, approve the CUP, in substantially the attached form, for a 12-unit mixed-use development, including one (1) live/work unit; four hundred thirty-four (434) square feet of retail space; and sixteen (16) ground level covered parking spaces on the Subject Property, in accordance with Article 3, Division 4, Section 3-407 of Chapter 29 of the City of North Miami Code of Ordinances, Land Development Regulations.

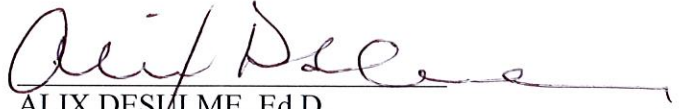
Section 2. **Effective Date.** This Resolution shall be effective upon adoption.

NOW, THEREFORE, Mayor and City Council approves this CUP along with the following findings and conditions:


1. **Density Bonus:** That the City allocates twelve (12) residential units from the floating bonus unit pool of one thousand three (1,003) available units, leaving a balance of nine hundred ninety-one (991) available units.
2. **Development Review Committee Approval:** After approval of the CUP, the Applicant shall submit a site plan application to the Development Review Committee (DRC) for City Council. Failure to file said precise plan within one (1) year of the City Council approval shall result in the revocation of the CUP. Site Plan approval must be granted by City Council before the applicant can apply for a building permit. The final approved precise plan and the CUP shall be recorded in the records of the Miami Dade County Clerk and provided to the City Planner prior to submission of a building permit.
3. **Site Plan Compliance:** That the Applicant must develop the property in accordance with the final site plan approved by the City Council.
4. **Operation and Maintenance:** That the owners or successors or assigns in title is bound by the CUP and shall continue operation and maintenance of all areas, functions, and facilities as depicted on the approved precise site plan, unless otherwise released by the Mayor and City Council.
5. **Easements:** That the Applicant shall provide suitable areas for easements for dedication and/or improved for the installation of public utilities and purposes which include, but shall not be limited to water, gas, telephone, electric power, sewer, drainage, public access, ingress, egress, and other public purposes.
6. **Installation of Utilities:** That all utilities within the Subject Property including, but not limited to, telephone, electrical systems, and television cables, shall be installed underground.
7. **Sidewalk:** That the Applicant shall, in coordination with the City of North Miami Public Works Department, through an Installation and Maintenance Agreement, construct a 6' wide sidewalk along NE 4th Avenue frontage of the Subject Property.

8. **Transitional Setback:** Pursuant to the variance granted by the BOA on May 1, 2023, the setback from single family residential structures shall be no less than ten (10) feet.
9. **Drive Aisle Stacking Distance:** The stacking distance between the edge of the pavement and the first intersecting drive aisle shall be no less than twenty-one (21) feet.
10. **Surface Parking Setback:** Parking may not be any closer than three (3) feet to any property line, provided that all parking surface materials are permeable.
11. **Building Permits:** That the Applicant applies for a building permit within eighteen (18) months of approval of the precise site plan by the City Council. Failure to do so will result in the expiration of the precise site plan.
12. **Miscellaneous:** That the CUP comply with all applicable requirements of the City's Public Works Department, Police Department, and all other County and State agencies.
13. **Certificate of Occupancy:** That a Certificate of Occupancy (CO) from the Building Department be only issued to the applicant upon complying with all the terms and conditions of this CUP approval; the same is subject to cancellation upon violation of any of the conditions herein listed.
14. **Certificate of Use:** That a Certificate of Use (CU) from the Community Planning & Development Department and Business Tax Receipt (BTR) be only issued to the Applicant upon compliance with all terms and conditions of this CUP approval; the same subject to cancellation upon violation of any of the conditions herein listed.
15. **Public Art:** That the Applicant shall, prior to the submittal of an application for building permits, complete the Arts in Public and Private Spaces approval process, and prior to Certificate of Occupancy, the approved public art must be installed or completed.
16. **Leadership in Energy and Environmental Design (LEED) Certification:** Proof of LEED or equivalent National Green Building Certification is required prior to obtaining final Certificate of Occupancy.
12. **Sustainable Building Program:** The Applicant shall integrate and maintain their proposed sustainable building commitments.

PASSED AND ADOPTED by a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, this 11th day of July, 2023.


ALIX DESULME, Ed.D.
MAYOR

ATTEST:



VANESSA JOSEPH, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Estimé-Irvin

Seconded by: Galvin

Vote:

Mayor Alix Desulme, Ed.D.	<u>X</u>	(Yes)	_____	(No)
Vice-Mayor Mary Estimé-Irvin	<u>X</u>	(Yes)	_____	(No)
Councilman Scott Galvin	<u>X</u>	(Yes)	_____	(No)
Councilwoman Kassandra Timothe, MPA	<u>X</u>	(Yes)	_____	(No)
Councilman Pierre Frantz Charles	<u>X</u>	(Yes)	_____	(No)

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE CITY OF NORTH MIAMI CITY COUNCIL ON THIS 25th DAY OF July, 2023.