

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Board of Adjustment

TO: Chairperson and Members
Planning Board

DATE: May 1, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **ZBA19-0095. 607 5th Street**

An application has been filed requesting variance(s) to reduce the required 1,200-foot distance separation between a proposed medical cannabis treatment center and an approved medical cannabis treatment center.

RECOMMENDATION

Denial of the requested variance.

BACKGROUND

On *September 25, 2017*, the City Commission adopted Ordinance No. 2017-4133, entitled "Medical Cannabis Treatment Centers and Pharmacy Stores." The ordinance established requirements for pharmacy stores and medical cannabis treatment centers.

On *February 13, 2019*, The City Commission adopted Ordinance No. 2019-4247, which, in pertinent part, established 1,200-foot distance separation requirements between medical cannabis treatment centers.

On *March 11, 2019*, the applicant submitted a revision to a previously issued building permit for the interior remodeling of a retail space. The revision modified the scope of work to include the buildout of a medical cannabis dispensary.

On *June 10, 2019*, the applicant submitted a land use board application for the subject variance.

ZONING/SITE DATA

Address: 607 5th Street

Folio: 02-4203-008-0010

Legal Description:

LOT 1 THROUGH 11, INCLUSIVE, OF BLOCK "A" OF TATUM'S RESUBDIVISION OF LOTS 7 AND 8 OF OCEAN BEACH ADDITION, NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, AT PAGE 81, OF FLORIDA; SAID RESUBDIVISION BEING RECORDED IN PLAT BOOK 21, AT PAGE 26, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; TOGETHER WITH 3.08 FOOT EASEMENT LYING SOUTH OF LOTS 3 AND 4 AND NORTH OF LOTS 5 TO 11, BLOCK "A" OF TATUM'S RESUBDIVISION OF LOTS 7 AND 8 IN BLOCK

48 OF OCEAN BEACH ADDITION NO. 3, PLAT BOOK 21, AT PAGE 26, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

LOT 6, IN BLOCK 48, OCEAN BEACH ADDITION NO. THREE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 81 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

Zoning: C-PS2 Performance Standard District, General Mixed-Use Commercial

Future Land Use Designation: General Mixed Use Commercial Performance Standard (C-PS2)

Lot Size: ~27,977 SF (Per Miami-Dade Property Appraiser)

Building Size: ~14,436 SF (Per Miami-Dade Property Appraiser)

Building Use: Retail

Year Constructed: 1993

Surrounding Uses: North: Mixed-Use Commercial/Residential Building
West: Mixed-Use Commercial/Residential Building
South: Commercial Building
East: Commercial Building
(See Zoning/Site map at the end of the report)

THE PROJECT

The applicant, Plants of Ruskin, LLC, doing business as AltMed, Florida, has submitted the following plans and documents:

- A revised Letter of Intent dated November 12, 2019.
- A Specific Purpose Survey dated March 20, 2019.
- Plans titled "muv Tenant Improvements," with a revision date of June 12, 2019.

The applicant is requesting a variance to permit a medical cannabis treatment center within a 2,363 SF retail bay within an existing retail building located 607 5th Street. According to the Specific Purpose Survey, the site is located within 425 feet of an approved medical cannabis treatment center located at 550 Collins Avenue.

On September 25, 2017, the City Commission adopted Ordinance No. 2017-4133, entitled "Medical Cannabis Treatment Centers and Pharmacy Stores." This Ordinance established requirements for pharmacy stores and medical cannabis treatment centers, including the creation of four (4) areas in the City where such uses would be allowed.

On February 13, 2019, the City Commission adopted Ordinance No. 2019-4247, which, in pertinent part, amended the regulations applicable to medical cannabis treatment centers and pharmacies in order to establish a 1,200-foot distance separation requirement between medical cannabis treatment centers and pharmacy stores, respectively. Section 6 of the Ordinance provides that "[t]his Ordinance shall take effect ten (10) days following adoption" (i.e. on February

23, 2020). Accordingly, the 1,200-foot distance separation requirement applies to the subject application.

Building permit plans for the site were initially submitted for the interior remodeling of a retail space. On March 11, 2019, the applicant revised its building permit plans to indicate, for the first time, that the use proposed for the remodeled interior space is a medical cannabis treatment center. At that time, the applicant was notified that a survey would be required indicating whether the location complied with the minimum distance separation requirements in City Code Section 142-1502. As the proposed site did not comply with the minimum distance separation requirement between medical cannabis treatment centers, a building permit for the proposed improvements could not be issued. Subsequently, the applicant filed the subject variance application.

The applicant is requesting the following variance:

A variance to reduce by 775 feet the minimum distance separation of 1,200 feet between medical cannabis treatment centers, to allow a medical cannabis treatment center to be located within 425 feet of another medical cannabis treatment center.

- Variance requested from:

Sec. 142-1502. Zoning districts allowing medical cannabis treatment centers, pharmacy stores, and related uses, prohibited locations, and nonconforming uses.

(b) Location of uses.

(4) No medical cannabis treatment center shall be located within 1200 feet of another medical cannabis treatment center.

The proposed medical cannabis treatment center is located approximately 425 feet from a permitted medical cannabis treatment center located at 550 Collins Avenue. City Code Section 142-1502(b)(4) requires a 1,200 foot distance separation between medical cannabis treatment centers. The distance separation is determined by measuring a straight line from the entrance and exit of each business.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

Based on the plans and documents submitted with the application, the applicant has **NOT** substantiated that the requested variance satisfies the requirements in Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

Additionally, the plans and documents submitted with the application do **NOT** satisfy the hardship criteria, set forth in City Code Section 118-353(d), as more specifically noted herein:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
2. That the special conditions and circumstances do not result from the action of the applicant.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district.
4. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant.
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
7. That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

COMPLIANCE WITH ZONING CODE:

The application, as submitted, appears to be consistent with the applicable requirements of the City Code, with the exception of parking requirements and the variance request herein. This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development Regulations establishes the following criteria for sea level rise and resiliency that must be considered as part of the review process for development orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.**

Not applicable. The building is not being substantially renovated.

- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.**

Not applicable. The building is not being substantially renovated.

- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.**

Not applicable. The building is not being substantially renovated.

- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native, or Florida-friendly plants) shall be provided, in accordance with chapter 126 of the city Code.**

Not applicable. The building is not being substantially renovated.

- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time**

by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

Not applicable. The building is not being substantially renovated.

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-way and adjacent land, and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three additional feet in height.**

Not applicable. The building is not being substantially renovated.

- (7) As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.**

Not applicable. The building is not being substantially renovated.

- (8) Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard.**

Not applicable. The building is not being substantially renovated.

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with chapter 54 of the city Code.**

Not applicable. The building is not being substantially renovated.

- (10) As applicable to all new construction, stormwater retention systems shall be provided.**

Not applicable. The building is not being substantially renovated.

- (11) Cool pavement materials or porous pavement materials shall be utilized.**

Not applicable. The building is not being substantially renovated.

- (12) The design of each project shall minimize the potential for heat island effects on-site.**

Not applicable. The building is not being substantially renovated.

ANALYSIS

The subject site consists of an existing 1-story retail building that was constructed in 1993. The applicant is proposing to open a medical cannabis treatment center.

Initially, on May 23, 2018, the applicant submitted a building permit application to subdivide a retail space. Subsequently, on November 30, 2018, a revision was submitted for the interior alteration of a retail space. On March 11, 2019, the applicant submitted another revision to its

building permit plans to modify the scope of work to include the buildout of a medical cannabis treatment center. At the time the building permit revision was submitted, the minimum 1,200-foot distance separation requirement in Ordinance No. 2019-4247 for medical cannabis treatment centers had already taken effect. The applicant subsequently applied for a business tax receipt (BTR) for a medical cannabis treatment center, which was denied.

The policy underlying Ordinance No. 2019-4247 is to limit the proliferation of medical cannabis dispensaries or pharmacy stores in any of the areas in which such uses are allowed. Because the Ordinance had taken effect prior to the submittal of the request for a medical cannabis treatment center use, and because the application does not comply with the distance separation therein, a variance is required.

Neither the proposed location nor the building have any peculiar conditions which limit the applicant's ability to operate other types of commercial or retail uses. The space has been used for other commercial purposes in the past. Therefore, the application does not comply with criteria no. 1 for the granting of a variance, which requires that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. The site could be used for any of the other commercial or retail uses permitted by the land development regulations.

Further, the distance separation requirements do not deny the applicant the reasonable use of the land. The applicant has the ability to perform many other commercial or office activities on the site. Therefore, the proposed variance does not comply with criteria no. 4, as the literal interpretation of the provisions of this ordinance do not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance, and would not work an unnecessary or undue hardship on the applicant.

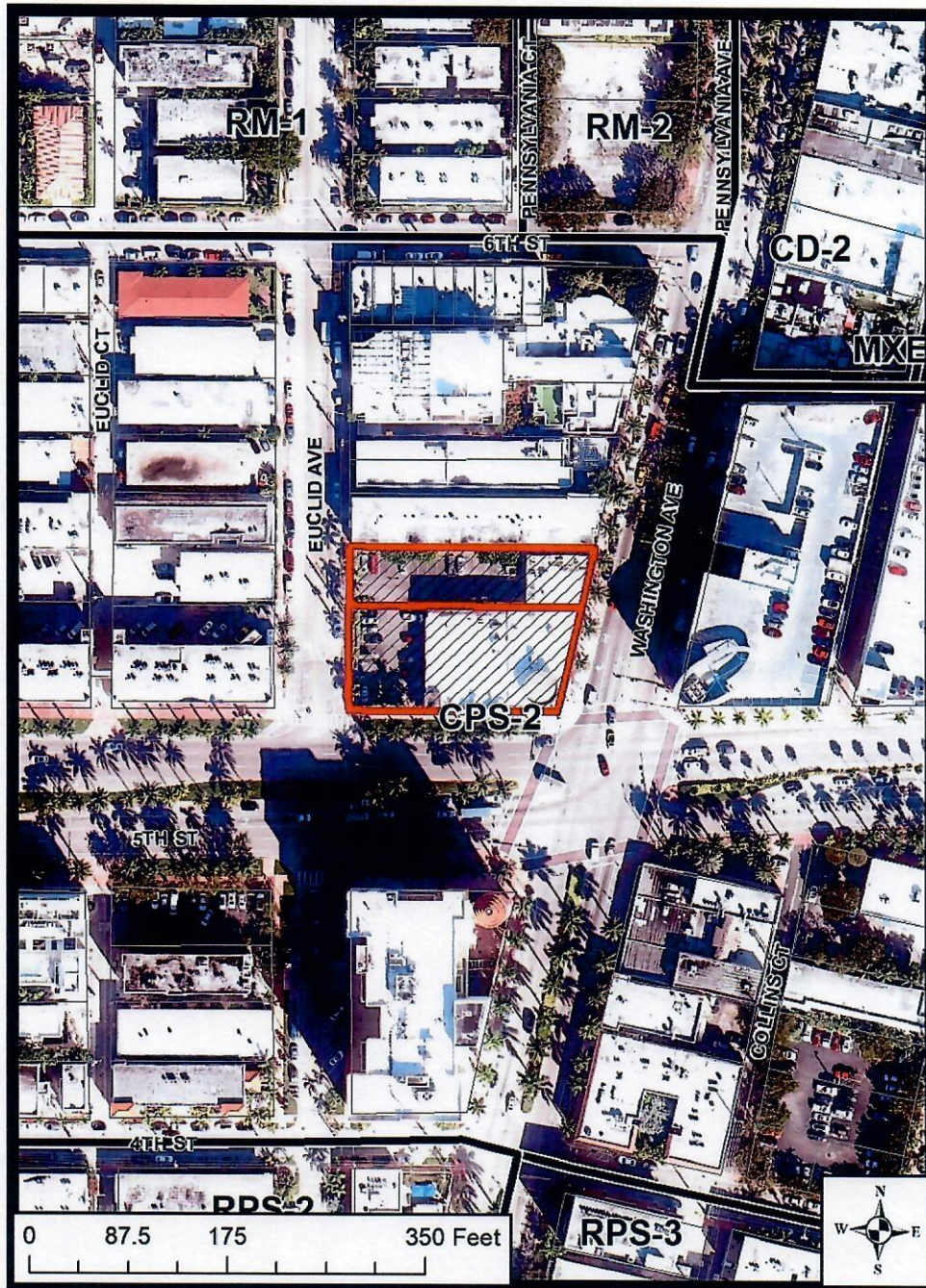
The intent of Ordinance No. 2019-4247 (See Exhibit A) was to regulate potentially high-impact business establishments like medical marijuana treatment centers and prevent them from proliferating throughout the City by preventing clustering and concentration of such uses. The approval of the variance would be inconsistent with hardship criteria no. 6, as it would not be in harmony with the general intent and purpose of Ordinance No. 2019-4247. The approval of the variance would lead to an overconcentration of medical cannabis treatment centers in a specific area of the City. That overconcentration would be injurious to the area involved and otherwise detrimental to the public welfare.

Because the applicant has failed to demonstrate that the subject variance would comply with either the practical difficulty criteria or the hardship criteria for the granting of a variance, staff recommends that the variance be denied.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Board of Adjustment **deny** the requested variance.

ZONING/SITE MAP



**BOARD OF ADJUSTMENT
CITY OF MIAMI BEACH, FLORIDA**

MEETING DATE: May 1, 2020

PROPERTY: 607 5th Street

FOLIO: 02-4203-008-0010

FILE NO. ZBA19-0095

IN RE: The application for a variance to reduce the required 1,200-foot distance separation between a proposed medical cannabis treatment center and an approved medical cannabis treatment center.

LEGAL DESCRIPTION: LOT 1 THROUGH 11, INCLUSIVE, OF BLOCK "A" OF TATUM'S RESUBDIVISION OF LOTS 7 AND 8 OF OCEAN BEACH ADDITION, NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, AT PAGE 81, OF FLORIDA; SAID RESUBDIVISION BEING RECORDED IN PLAT BOOK 21, AT PAGE 26, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; TOGETHER WITH 3.08 FOOT EASEMENT LYING SOUTH OF LOTS 3 AND 4 AND NORTH OF LOTS 5 TO 11, BLOCK "A" OF TATUM'S RESUBDIVISION OF LOTS 7 AND 8 IN BLOCK 48 OF OCEAN BEACH ADDITION NO. 3, PLAT BOOK 21, AT PAGE 26, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

LOT 6, IN BLOCK 48, OCEAN BEACH ADDITION NO. THREE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 81 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

ORDER

The applicant, Plants of Ruskin, LLC., filed an application with the Planning Department for the following variance:

1. A variance to reduce by 775 feet, the minimum distance separation of 1,200 feet between medical cannabis treatment centers, to allow a medical cannabis treatment center to be located within 425 feet of another medical cannabis treatment center.

The City of Miami Beach Board of Adjustment makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

- A. Based on the documents submitted with the application, testimony and information provided by the applicant, and the Planning Department Staff Report, the project as submitted does NOT satisfy the requirements of Section 118-353(d) of the Miami Beach Code, as more specifically noted hereto:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including staff recommendations, as modified by the Board of Adjustment, that the application for Variance Approval is **DENIED** for the above-referenced project.

Dated this _____ day of _____, 2020.

BOARD OF ADJUSTMENT
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Rogelio Madan, AICP
Chief of Community Planning & Sustainability
For the Chair

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Rogelio Madan, Chief of Community Planning and Sustainability of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]

Notary:
Print Name:
Notary Public, State of Florida
My Commission Expires:
Commission Number:

Approved As To Form:
City Attorney's Office ()

Filed with the Clerk of the Board of Adjustment on _____ ()

"Exhibit A"

MEDICAL CANNABIS TREATMENT CENTERS AND PHARMACY STORE AMENDED LAND USE REGULATIONS FOR DISTANCE SEPARATION FROM SCHOOLS

LAND USE AND DEVELOPMENT COMMITTEE VERSION

ORDINANCE NO. 2019-4247

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA; AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE V, ENTITLED, "SPECIALIZED USE REGULATIONS," DIVISION 10, ENTITLED CONTROLLED SUBSTANCES REGULATIONS AND USE," TO: (1) PROVIDE FOR A METHOD OF CALCULATION FOR DISTANCE SEPARATION REQUIREMENTS BETWEEN MEDICAL CANNABIS TREATMENT CENTERS AND PRIVATE OR PUBLIC ELEMENTARY, MIDDLE OR SECONDARY SCHOOLS; AND (2) CREATE A DISTANCE SEPARATION REQUIREMENT BETWEEN MEDICAL CANNABIS TREATMENT CENTERS AND BETWEEN PHARMACIES; AMENDING CHAPTER 130 OF THE CITY CODE, ENTITLED "OFF-STREET PARKING," ARTICLE VI, ENTITLED "PARKING CREDIT SYSTEM," SECTION 130-161, ENTITLED "REGULATIONS," TO CLARIFY PARKING REQUIREMENTS FOR SUCH USES AND PRECLUDE USE OF THE PARKING CREDIT SYSTEM; AMENDING SECTION 142-1502 OF THE CITY CODE ENTITLED "ZONING DISTRICTS ALLOWING MEDICAL CANNABIS TREATMENT CENTERS, PHARMACY STORES, AND RELATED USES, PROHIBITED LOCATIONS, AND NONCONFORMING USES," TO CORRECT THE ZONING DESIGNATION FROM "TC-1" "TC-2" AND "TC-3(c)" TO "TC-1" AND "TC-C" FOR A MAJORITY OF THE BOUNDARY OF AREA 4, DUE TO THE ADOPTION OF THE "NORTH BEACH TOWN CENTER – CENTER CORE" REGULATIONS PURSUANT TO ORDINANCE NO. 2018-4224; AND TO CORRECT A SCRIVENER'S ERROR TO REPLACE HARDING AVENUE WITH BONITA AVENUE, AS THE WESTERN BOUNDARY OF AREA 4; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, on November 8, 2016, Florida voters approved Amendment 2 to the Florida Constitution, entitled "Use of Marijuana for Debilitating Medical Conditions;" and

WHEREAS, Amendment 2 allows medical use of marijuana for individuals with debilitating medical conditions as determined by a licensed Florida physician, and allows caregivers to assist patients' medical use of marijuana; and

WHEREAS, Amendment 2 requires that the Department of Health shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers; and

WHEREAS, on June 9, 2017, the Florida Legislature adopted Senate Bill 8A, which provided regulations for implementing Amendment 2, and established the definition of

medical marijuana treatment center dispensing facilities and parameters for local regulations; and

WHEREAS, on June 23, 2017, the Florida Legislature enacted Section 381.986 of the Florida Statutes, which allows a municipality to determine, by ordinance, the criteria for the location of, and other permitting requirements for, medical marijuana treatment center dispensing facilities located within the boundaries of a municipality, provided such requirements do not conflict with State law or department rule; and

WHEREAS, Florida law, under Section 381.986(11)(b)(2), requires that a municipality may not enact ordinances for permitting, or for determining the location of, dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies (as licensed under Chapter 465 of the Florida Statutes); and

WHEREAS, under Florida law, however, a medical marijuana treatment center dispensing facility is prohibited from being located within 500 feet of a public or private elementary, middle or secondary school, unless the local government expressly waives the distance separation requirement pursuant to a public hearing, determining that such waiver of the distance separation requirements would promote the public health, safety, and general welfare of the community; and

WHEREAS, the Mayor and City Commission adopted regulations for medical marijuana treatment center dispensing facilities and pharmacy stores on September 25, 2017, pursuant to Ordinance No. 2017-4133, and now seek to establish and codify the method for calculating the aforementioned distance separation requirements set forth under Florida law (pertaining to the 500 foot distance separation between a school property line and a medical marijuana treatment center dispensing facility); and

WHEREAS, the City is legally authorized, pursuant to Section 381.986(11)(b)(2), Florida Statutes, to determine by ordinance, criteria for the location of medical marijuana treatment center dispensing facilities (City utilizes the term "medical cannabis treatment center"), provided there are no specific limits on the number of those businesses to be located within the City; and

WHEREAS, a 1200 foot distance separation requirement between individual medical marijuana treatment center dispensing facilities is essential to regulate potentially nuisance causing high impact establishments from proliferating throughout the City; and

WHEREAS, the City also finds that it is in the best interest of its residents and visitors to establish a 1200 foot distance separation requirement between medical cannabis treatment center dispensing facilities and between pharmacies; and

WHEREAS, this will serve to prevent the clustering or concentration of these businesses, and further accomplish the purpose of disbursing and mitigating the potential deleterious impacts more widely; and

WHEREAS, subsequent to the adoption of Ordinance No. 2017-4133, the City created a new zoning district known as the "North Beach Town Center – Center Core", adopted pursuant to Ordinance No. 2018-4224, which changed the designation of much of the Town Center area from the "TC-1" "TC-2" and "TC-3(c)" zoning designations to a new zoning designation of "TC-C", which TC-C designation now encompasses a majority of the boundary of the medical

cannabis treatment center and pharmacy district of Area 4, and which designation should be reflected in this Ordinance; and

WHEREAS, additionally, the City desires to correct a scrivener's error within the boundary description of Area 4, to replace Harding Avenue with Bonita Avenue as the western boundary.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. Chapter 142 of the City Code, entitled "Zoning District and Regulations," Article V, entitled "Specialized Use Regulations," entitled, Division 10, "Controlled Substances Regulations and Use," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICT AND REGULATIONS**

* * *

ARTICLE V. SPECIALIZED USE REGULATIONS

* * *

DIVISION 10. CONTROLLED SUBSTANCES REGULATIONS AND USE

* * *

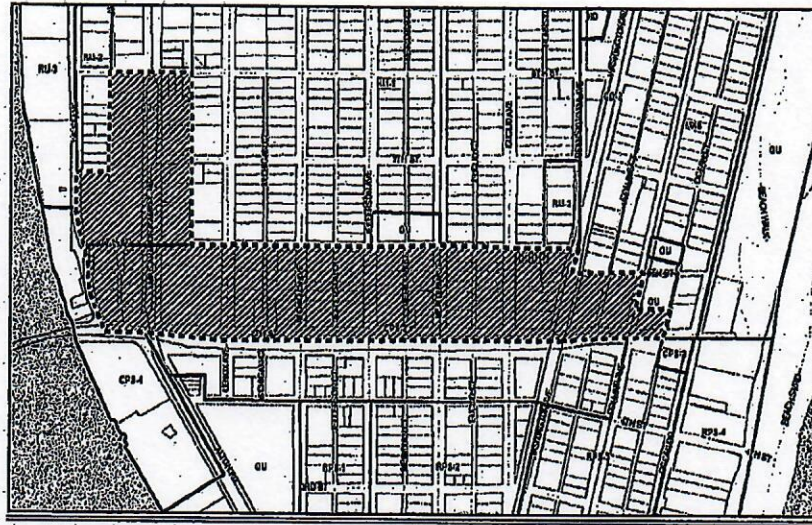
Sec. 142-1502. Zoning districts allowing medical cannabis treatment centers, pharmacy stores, and related uses, prohibited locations, and nonconforming uses.

Any term not specifically defined in these land development regulations shall maintain the meaning provided for in F.S. ch. 381, medical cannabis treatment centers and pharmacy stores shall comply with the following regulations:

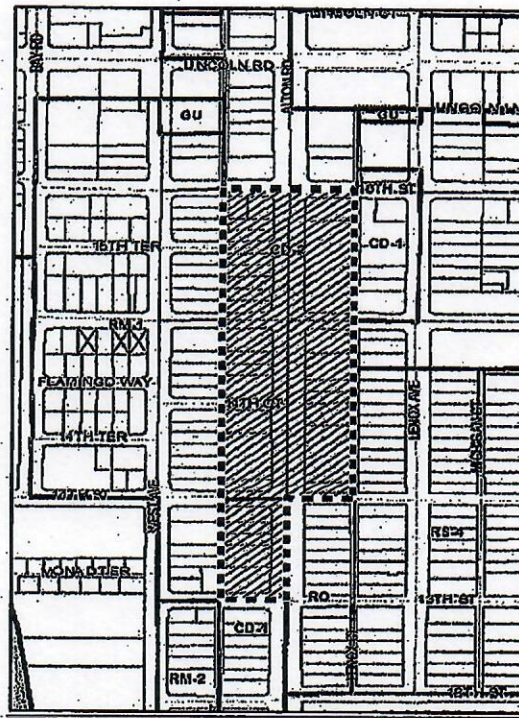
(a) *Permitted areas.* Only in accordance with the requirements of this division and the applicable zoning district, medical cannabis treatment centers and pharmacy stores shall be permitted only in the areas listed below:

(1) Area 1 shall include the following subareas:

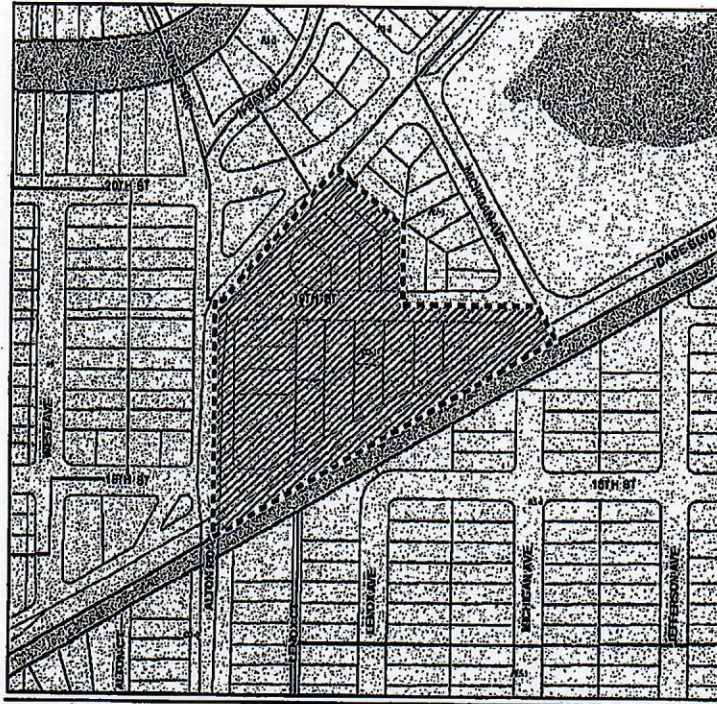
a. Lots zoned CD-2, generally located along Alton Road between 6th Street and 8th Street: lots zoned C-PS2 located north of 5th Street between Ocean Court on the east and West Avenue on the west; as depicted in the map below:



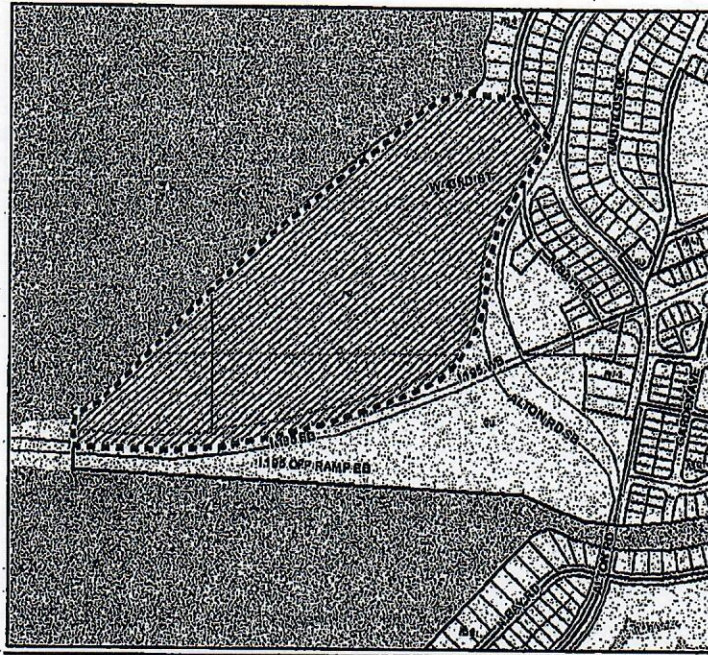
- b. Lots zoned CD-1 and CD-2 fronting Alton Road between 13th Street and 16th Street, as depicted in the map below:



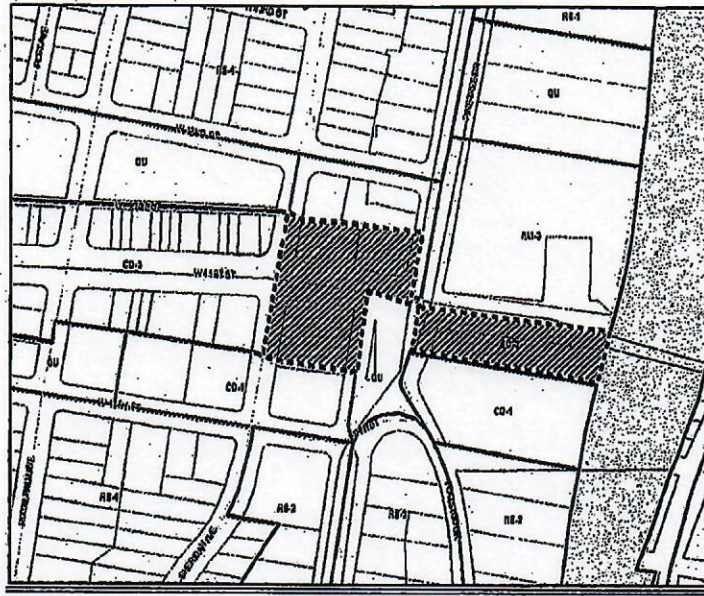
- c. Lots zoned CD-1, generally located between Alton Road on the east and north, Dade Boulevard on the south, Michigan Avenue on the west, as depicted in the map below:



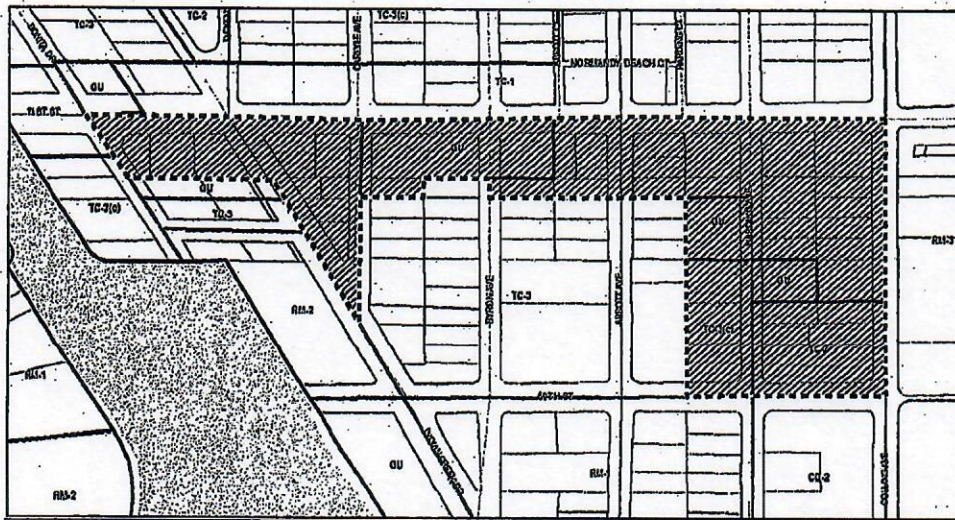
- (2) Area 2 shall include the lots zoned HP located north of the Julia Tuttle Causeway - Interstate 195, as depicted in the map below:



- (3) Area 3 shall include zoned CD-3 and fronting 41st Street between Sheridan Avenue and the Indian Creek Waterway, as depicted in the map below:



- (4) Area 4 shall include lots zoned TC-1 and TC-C south of 71st Street and lots zoned TC-2 and TC-3(c), generally located between Collins Avenue on the east, 71st Street on the north, the west lot line of lots fronting Harding Bonita Avenue on the west, and 69th Street on south, as depicted in the map below:



(b) Prohibited Location of uses.

- (1) Medical cannabis treatment centers or pharmacy stores shall be prohibited in all zoning districts and areas not described in subsection (a), above.
- (2) Medical cannabis treatment centers and pharmacy stores shall be considered prohibited uses on all GU sites.

- (3) No medical cannabis treatment center or pharmacy store shall be located within 500 feet of a public or private school. The term school shall include, but not be limited to, preschool, primary elementary, middle or secondary school, or secondary school, as provided in F.S. § 1006.06. The minimum distance separation requirement shall be determined by measuring a straight line from the entrance and exit of the medical cannabis treatment center to the nearest point of the property line of the school.
- (4) No medical cannabis treatment center shall be located within 1200 feet of another medical cannabis treatment center.
- (5) No pharmacy store shall be located within 1200 feet of another pharmacy.
- (6) The minimum distance separation requirements set forth in subsections (4) and (5), shall be determined by measuring a straight line from the entrance and exit of each business.

* * *

Sec. 142-1503. Requirements for medical cannabis treatment centers and pharmacy stores.

(a) Reserved.

(b) Dispensing of, payment for, and receipt of low-THC, medical cannabis, or pharmaceutical drugs administered by a pharmacy is prohibited anywhere outside of the dispensing facility, including, but not limited to, on sidewalks, in parking areas, drive-thrus, or in the rights-of-way surrounding the dispensing facility; provided, however, this provision shall not be construed to prohibit delivery of low-THC, medical cannabis, or pharmaceutical drugs to an eligible patient, as permitted by state law or rule.

(c) Required parking shall be located on the same parcel or unified development site as the medical cannabis treatment center or pharmacy store, or within 500 feet of the site either in private parking facilities or a public parking facility, not within a residential district, with a lease, unity of title, or covenant-in-lieu of unity of title, or other document of a similar nature. Participation in the fee-in-lieu of parking program and the parking credit program is prohibited.

* * *

Section 2. Chapter 130 of the City Code, entitled "Off-Street Parking," Article VI, entitled, "Parking Credit System," Section 130-161, entitled, "Regulations," is hereby amended as follows:

**Chapter 130
Off-Street Parking**

* * *

ARTICLE VI. PARKING CREDIT SYSTEM

Sec. 130-161. Regulations.

Whenever a lawfully permitted building or use is changed in a manner that results in an increase in the number of required parking spaces, the following regulations shall apply. Such building or use shall receive a parking credit equivalent to the adopted parking requirement for the building or uses in existence at the time of application for a building permit or change of use. The most recent available certificate of use or certificate of occupancy shall be utilized to determine the credit. If a building or use was established prior to the adoption of a parking district that reduces the parking requirement, the parking credit shall be calculated pursuant to the parking requirements of parking district no 1. The parking credit shall be calculated at the time of building permit or change of use application and be applied toward the required parking as follows:

- (1) The parking credit shall only be applied to the area within the existing shell of the building, unless otherwise specifically provided in chapter 118, article IX, of these land development regulations.
- (2) Parking credits shall not be applicable to buildings or portions of a building that have been demolished, unless otherwise specifically exempted in chapter 118, article IX, of these land development regulations. Parking credits shall not be applicable to medical cannabis treatment centers and pharmacy stores.
- (3) In order to calculate the parking requirement of a proposed use, the parking credit shall be subtracted from the total parking requirement of the proposed use. The additional required parking shall be provided pursuant to the requirements of section 130-36 or if eligible, the fee in lieu of parking program described in article V of this chapter.
- (4) Existing required parking spaces, inclusive of spaces for which a complete fee in lieu of required parking was made, for a building or use shall not count towards meeting additional required parking for a proposed use, unless the total number of existing required parking spaces exceeds the total number of required parking spaces of the proposed use.

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 4. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten (10) days following adoption.

PASSED AND ADOPTED this 13 day of February, 2019.

ATTEST:

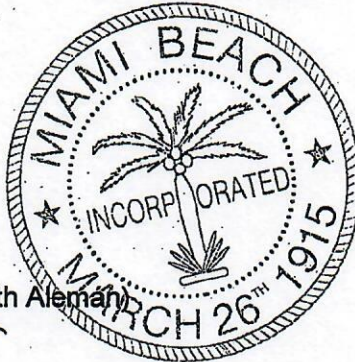
78 2/26/19
Rafael E. Granado, City Clerk

[Signature]
Dan Gelber, Mayor

First Reading: January 16, 2019
Second Reading: February 13, 2019

(Sponsored by: Commissioner John Elizabeth Aleman)

[Signature]
Verified by: Thomas R. Mooney, AICP
Planning Director



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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION
[Signature] 2-28-19
City Attorney Date
NK