

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Board of Adjustment

TO: Chairperson and Members
Planning Board

DATE: December 11, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **ZBA20-0120**
1531 Alton Road – Medical Cannabis Treatment Center

An application has been filed requesting variance(s) regarding the distance separation for the relocation of an existing medical cannabis treatment center

RECOMMENDATION

Approval of the requested variance.

ZONING/SITE DATA

Address:	1531 Alton Road
Folio:	02-3234-018-0480
Legal Description:	Lots 13 Thru 20, Block 65 of Commercial Subdivision, according to the plat thereof as recorded in Plat Book 6 at Page 5 of the Public Records of Miami-Dade County, Florida.
Zoning:	CD-2, Commercial Medium Intensity
Future Land Use Designation:	CD-2, Commercial Medium Intensity
Lot Size:	60,000 SF
Building Use:	Commercial – Retail/Restaurant
Year Constructed:	1991
Surrounding Uses:	North: Commercial West: Commercial/Residential South: Commercial East: Commercial

THE PROJECT

The applicant, SWC Miami Beach Botanicals, LLC., has submitted the following plans and documents:

- Letter of intent, dated October 12, 2020
- Plans, entitled “Surterra – Miami Beach Relocation”, by ASD/SKY, dated October 10, 2020.
- Boundary Survey, by Blanco Surveyors Inc., dated September 11, 2009.
- Specific Purpose Survey, by K2M Design, signed and sealed by Steven S. Grasley, dated October 8, 2020

The applicant is requesting a variance associated with the relocation of an existing medical cannabis treatment center. Specifically, the applicant is requesting the following variance:

1. **A variance to reduce by 850 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 620 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 1,200 feet of another medical cannabis treatment center.

The proposed medical cannabis treatment center would be located approximately 620 feet from a proposed medical cannabis treatment center, located at 1439 Alton Road, that has obtained building permit approval. The code requires a minimum 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, and the reasons set forth in the analysis, staff has concluded that the requested variance does satisfy 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, staff has concluded that the plans and documents with the application indicate the following, as they relate to the hardship criteria requirements of Section 118-353(d), Miami Beach City Code:

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.
Satisfied
2. That the special conditions and circumstances do not result from the action of the applicant.
Satisfied

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.

Satisfied

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.

Satisfied

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

Satisfied

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.

Satisfied

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.

Satisfied

COMPLIANCE WITH ZONING CODE:

The application, as submitted, appears to be consistent with the applicable requirements of the City Code, with the exception of the variances requested 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

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

Not Applicable

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

Not Applicable

- (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

- (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

- (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

- (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.

Satisfied

- (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

- (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

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

Not applicable

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

Not applicable

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

Satisfied.

ANALYSIS

The applicant, SMC Miami Beach Botanicals, was issued a BTR for a medical cannabis treatment center, doing business as Surterra Wellness and located at 1523 Alton Road, in 2018. In 2018 a building permit was also issued for a proposed medical cannabis treatment center located at 1439 Alton Road; the permit for this location is still in active status.

Subsequent to the issuance of the BTR for Surterra Wellness, the City's Land Development Regulations, pertaining to medical cannabis treatment centers, were modified. Specifically, on February 13, 2019, the City Commission approved Ordinance No. 2019-4247, which established a minimum 1,200-foot distance separation requirement between medical cannabis treatment centers. As such, the existing Surterra Wellness located at 1523 Alton Road, and the approved medical cannabis treatment center located 1439 Alton Road, both became legal non-conforming because they are less than 1,200 feet apart.

The applicant is proposing to relocate Surterra Wellness from 1523 Alton Road to 1531 Alton road, within the same shopping center. Although the proposed new location at 1531 Alton Road

reduces the degree of nonconformity as it would be a greater distance from the approved medical cannabis treatment center located at 1439 Alton road, it still does not comply with the minimum 1,200-foot distance separation requirement.

The general intent of Ordinance No. 2019-4247 was to prevent the clustering or concentration of medical cannabis treatment centers within a permitted area. Based upon the information provided, the requested variance satisfies the practical difficulty standards and would not be contrary with the intent of the minimum distance separation requirement, as the number of medical cannabis treatments centers in the area will not be increased. Additionally, the proposed relocation further separates the two medical cannabis treatment centers, thereby reducing the extent of the non-conformance.

Based upon the foregoing, staff is supportive of the proposed variance. However, staff is recommending conditions to ensure that operations cease at 1523 Alton Road prior to commencing at 1531 Alton Road, so as to avoid multiple establishments operating at the same time.

RECOMMENDATION

In review of the forgoing analysis, staff recommends that the Board of Adjustment **approve the requested variance**, subject to the conditions enumerated in the attached draft order.

ZONING/SITE MAP

