

RESOLUTION NO. R2025-XX

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, FOR APPROVAL OF A DEVELOPMENT SITE PLAN INCLUDING CONDITIONAL USE, VARIANCES, AND CONDITIONS FOR THE CONSTRUCTION OF RAISING CANE’S RESTAURANT WITH DRIVE-THRU SERVICES. THE RESTAURANT CONSIST OF 3,181 SQUARE FEET OF INDOOR SPACE, A COVERED PATIO AREA FOR OUTDOOR DINING, A TWO-LANE DRIVE-THRU ACCOMMODATING UP TO 23 VEHICLES AT A TIME, AND FIFTEEN (15) PARKING SPACES. VARIANCES FROM SECTION 24-58.4(G)(4) TO WAIVE THE REQUIREMENT THAT A DRIVE-THROUGH IN THE MU/C DISTRICT MUST BE LOCATED WITHIN A PARKING GARAGE; FROM SECTION 24-58.4(K)(2)(A) AND SECTION 24-58(S)(3)(B)(i)(2) TO PERMIT THE BUILDING FRONTAGE AT 59% AND FORECOURT SIZE AT 79%; FROM SECTION 24-58(S)(1)(G)(i)(4) FROM THE GLAZING REQUIREMENTS; FROM SECTION 24-58(S)(1)(G)(i)(5) WINDOW PLACEMENT REQUIREMENT; FOR THE DEVELOPMENT TO BE LOCATED AT 14025 BISCAYNE BLVD; PROVIDING FOR FINDINGS OF FACT; CONFIRMING EXPIRATION AND LIMITATION OF APPROVAL; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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 parking needed or other similar impact determined to be significant by the Community Development Director; and

WHEREAS, Tracey Slavens, on behalf of Raising Cane’s Restaurants, LLC. (the “Applicant”), requests site plan approval to construct a fast-food restaurant with a drive-thru and 15 parking spaces, an outdoor covered patio, and approximately 3,181 square feet of indoor commercial space on a 1.05-acre parcel located at 14025 Biscayne Blvd; and

WHEREAS, Section 24-176 of the ZLDC provides that the City Commission may grant a variance based on its determination that the Applicant has demonstrated that the necessary criteria identified in the ZLDC have been satisfied; and

WHEREAS, after a duly noticed public hearing held on **April 21st, 2025**, the Planning and Zoning Board, by a vote of **6 to 0** recommended approval of the site plan, conditional use and non-use variances, 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 application is consistent with the North Miami Beach Comprehensive Plan and in the City's best interests.

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

Section 1. Recitals. The foregoing recitals are confirmed, adopted, incorporated herein, and made a part hereof.

Section 2. Decision. Pursuant to Section 24-172 and Section 24-176 of the Zoning and Land Development Code, the following site plan attached and incorporated by reference as Exhibit "B," as specified herein and in the Application for the proposed construction of a fast-food restaurant with a two-lane drive-thru accommodating up to 23 vehicles, 15 parking spaces, an outdoor covered patio, and approximately 3,181 square feet of indoor commercial space on a 1.05-acre parcel, legally described in Exhibit "A," is hereby approved, subject to the following conditions:

Project Conditions:

The conditions of approval for this site plan are binding on the Applicant, the property owners, operators, and all successors in interest.

1. The Applicant shall provide access to the sewer pump station located on the southwest corner of the Property through the southern (outer) drive-through lane entrance, subject to the following conditions. The City shall use its best efforts to access the pump station before or after restaurant business hours and must provide 24-hour notice if access via the drive-through is required during business hours. If during business hours, the pump station access shall be via Biscayne Boulevard (US-1).
2. The access through the drive-through is limited to vehicles and machinery with a clearance of less than ten (10) feet.
3. The Applicant must install removable bollards at the ingress/egress of the access located at the drive-through lane.
4. The City agrees to restore drive-through facilities, canopy structures, lighting, transformer pad, pavement, drainage, curb-gutter, pavers, sidewalks, and sod if they are damaged by its vehicles or machinery.

General Conditions:

1. Prior to issuance of any Master Building Permit, the 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 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.
2. Construction of the proposed project shall conform to the following certified plans signed by the Community Development Director, which are on file with the City of North Miami Beach Community Development Department Planning & Zoning Division, file numbers 24-36.
3. 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.
4. All representations proffered by the Applicant's representatives as a part of the application review at the Planning and Zoning Board and City Commission public hearings.
5. 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 by 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 initially approved. The City Manager or designee may administratively approve insubstantial changes. Any de minimis amendments to the plans or site plans that 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, and density or intensity calculations set forth in a previously approved site plan.
6. The Applicant shall remove all public hearing signage no later than 48 hours after the City Commission's final public hearing on the development project.

7. 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.
8. The Applicant shall comply with all applicable conditions and permit requirements of the Miami-Dade County Fire Department, the Water and Sewer Department, the Department of Regulatory and Economic Resources, the Florida Department of Environmental Protection (FDEP), the Florida Department of Transportation (FDOT), and any other applicable regulatory agency.
9. 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.
10. The Applicant must join the NMBPD Trespass After Warning Program, always provide the NMBPD with access to the property and a safety plan; participate in the NMBPD Rapid Response Training Program; link the alarm systems directly to the NMBPD; and keep former employee information on file after the termination of employment.
11. The Applicant, its successors, and assigns shall comply with all City ordinances applicable to development and permit approvals at the time of the approval 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 the City of North Miami Beach impact fees paid, which would not be refunded but would be credited to the property for any subsequent development.
12. The Applicant shall obtain a Certificate of Occupancy and Certificate of Use from the City upon compliance with all terms and conditions. The Certificate of Use shall be subject to review upon violation of any of the conditions in accordance with the law.
13. Upon issuance of a hurricane warning by the National Weather Service or similar agency, all removable items from outdoor spaces shall be immediately removed and secured.

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 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 approval is not contrary to the public interest or detrimental to the community. It is compatible with the surrounding land uses while maintaining the basic intent and purpose of the zoning and land use regulations.

Section 4. Non-Use Variance from Sec. 24-58.4(K)(2)(a) The Mayor and City Commission make the following FINDINGS OF FACTS from Section 24-176(B) based on the substantial competent evidence provided:

The requested non-use variance from Section 24-58.4(K)(2)(a), to permit a frontage of 89' 2", or 59%, in lieu of the required 70%, maintains the basic intent and purpose of the applicable zoning, subdivision, and other land use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 5. Non-Use Variance from Section 24-58(S)(3)(b)(i)(2) The Mayor and City Commission make the following FINDINGS OF FACTS from Section 24-176(B) based on the substantial competent evidence provided:

The requested non-use variance from Section 24-58(S)(3)(b)(i)(2), to allow for a forecourt that occupies 79% of the building's frontage in lieu of the required 60%, maintains the basic intent and purpose of the applicable zoning, subdivision, and other land use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 6. Non-Use Variance from Section 24-58(S)(1)(g)(i)(4) The Mayor and City Commission make the following FINDINGS OF FACTS from Section 24-176(B) based on the substantial competent evidence provided:

The requested non-use variance from Section 24-58(S)(1)(g)(i)(4), to allow for a clear glazed area of 14% on the west façade of the proposed development due to the addition of the forecourt or outdoor dining area, in lieu of the required 70% maintains the basic intent and purpose of the applicable zoning, subdivision, and other land use regulations. Moreover, the requested variance is not contrary or detrimental to the public interest because the proposed use and design are

compatible with the surrounding land uses and is in keeping with the surrounding properties.

Section 7. Conditional Use Request The Mayor and City Commission make the following FINDINGS OF FACTS from Section 24-176(B) based on the substantial competent evidence provided:

The Applicant is seeking conditional use approval to permit a drive through for the proposed restaurant. Due to the site's design, the applicant is not able to enclose the drive through inside of a parking garage. City staff has justified the drive through due to the site not having adequate facilities to fulfill the Code's requirement. Table MU/TC-1 is proposed to be amended in the near future, due to the feasibility of this request. The Applicant proposes enclosing the drive through within a structural extension of the building. The structure is intended to screen the drive through from public view.

Section 8. Time for Building Permit. Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the site plan shall remain valid for a period of 18 months from the date of approval with a master building permit issuance required unless extended pursuant to ZLDC Section 24-172 (I), or applicable State Law. If a master building permit is not issued before the resolution's expiration, the site plan approval, including any development correct entitlements and any subsequent phasing, shall be considered null and void. If a site plan expires, a new submittal shall be required with board approvals. Minor site plan modifications that do not require board approvals would still be required to adhere to the original site plan approval expiration date. Major site plan modifications that require board approvals will receive a new 18-month period starting from the modified final site plan approval date. Additionally, if a building permit lapses at any time, the site plan, including all phases thereof, shall be considered null and void.

Section 9. 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 10. Conflicts. All resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

Section 11. Effective Date. This Resolution shall be in force and take effect immediately upon its passage and adoption.

[SIGNATURE PAGE TO FOLLOW]

APPROVED AND ADOPTED by the City of North Miami Beach City Commission at the regular meeting assembled this ____day of June, 2025.

ATTEST:

ANDRISE BERNARD, MMC
CITY CLERK

MICHAEL JOSEPH
MAYOR

(CITY SEAL)

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE USE AND RELIANCE
OF THE CITY OF NORTH MIAMI BEACH:

GREENSPOON MARDER, LLP

BY: _____
CITY ATTORNEYS

Sponsored By: Mayor and City Commission

Commissioners	YES	NO	ABSTAIN	ABSENT
Mayor Michael Joseph				
Vice-Mayor Jay Chernoff				
Commissioner Daniel Jean				
Commissioner McKenzie Fleurimond				
Commissioner Lynn Su				
Commissioner Phyllis Smith				
Commissioner Fortuna Smukler				

Exhibit "A"
LEGAL DESCRIPTION

Folio: 07-2221-031-0020

PARCEL A:

A PORTION OF TRACT "A", "ANNA LOUISA KAY SUBDIVISION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 149, PAGE 53, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE MOST WESTERLY SOUTHWEST CORNER OF SAID TRACT "A", A POINT ON THE EASTERLY RIGHT-OF-WAY LIMIT OF BISCAYNE BOULEVARD (U.S. HIGHWAY NO. 1) (STATE ROAD NO. 5), A POINT ON THE ARCH OF A CIRCULAR CURVE, WESTERLY, THE RADIUS POINT OF WHICH BEARS NORTH 75 DEGREES 48'03" WEST; THENCE NORTHERLY ON SAID EASTERLY RIGHT-OF-WAY LIMIT AND ON THE ARC OF SAID CURVE, WITH A RADIUS OF 5,548.40 FEET, A CENTRAL ANGLE OF 02 DEGREES 03'29", FOR AN ARC DISTANCE OF 199.29 FEET; THENCE SOUTH 79 DEGREES 26'20" EAST 37.84 FEET; THENCE NORTH 88 DEGREES 12'56" EAST 186.42 FEET; THEN SOUTH 02 DEGREES 41'57" EAST 180.03 FEET TO THE INTERSECTION WITH A SOUTH LINE OF SAID TRACT "A"; THEN SOUTH 87 DEGREES 18'03" WEST ON SAID SOUTH LINE 277.71 FEET TO THE POINT OF BEGINNING.

