

December 20, 2024

VIA ELECTRONIC DELIVERY

Mr. Zafar Ahmed
Director, Community Development Department
City of North Miami Beach
17050 NE 19th Avenue, 1st Floor
North Miami Beach, FL 33162

RE: RK 14025 BISCAYNE LLC | Folio No.: 07-2221-031-0020
Amended Letter of Intent for Proposed Raising Cane's Restaurant

Dear Mr. Ahmed:

This shall constitute the amended letter of intent on behalf of RK 14025 BISCAYNE LLC (the "Applicant"), in connection with the enclosed application (the "Application") for that certain +/-1.05 acre property located at 14025 Biscayne Boulevard in the City of North Miami Beach (the "Property") and identified by folio #07-2221-031-0020, as shown in the aerial image below. The Application seeks site plan approval, conditional use approvals, a non-use variance to permit a drive-through that is not enclosed within a parking garage, and is hereby amended to include the following additional non-use variance requests, pursuant to the North Miami Beach Code of Ordinances (the "Code"): (1) a variance from the frontage requirement stipulated in Section 24-58.4(K)(2)(a); (2) a variance from the maximum forecourt size requirement in Section 24-58(S)(3)(b)(i)(2); (3) a variance from the glazing requirement in Section 24-58(S)(1)(g)(i)(4); and (4) a variance from the window sill maximum height requirement in Section 24-58(S)(1)(g)(i)(5).



The Property is an outparcel of the existing Target Shopping Center.

The Property is designated Business, zoned Arch Creek Mixed-Use Corridor (“MU-C”), and is located within the “Core” sub-area of the MU-C district. The Property is currently improved with the one-story, former ABC Fine Wines & Spirits building. The Applicant is seeking to develop the Property with a Raising Cane’s restaurant in accordance with Table MU/C-1 of the Code and, therefore, is seeking approval of (i) a site plan, (ii) a conditional use permit to allow the restaurant to provide service from a drive-through window, (iii) a non-use variance to permit a drive-through when not enclosed in a garage, (iv) non-use variances to permit a reduction in the required building frontage and to permit an increase in the required building forecourt, and (vi) non-use variances to permit reduced glazing on the façade of the building, and to allow for higher window placement to ensure customer privacy and safety. These requests are appropriate given the nature of the Property, its location, and the need for an efficient operation of the proposed restaurant use.

I. Site Plan

Raising Cane’s is a fast casual quick-service restaurant specializing in chicken fingers. The proposed restaurant use will be compatible with the commercial character of Biscayne Boulevard. Fronting Biscayne Boulevard, the Property is ideally suited for a restaurant, which will complement and support the uses in the surrounding area, including the adjacent Target Store, which the Property is an outparcel of. The proposed restaurant will enhance the Property, provide a quality food option for the community, and encourage additional economic development in the area.

The site plan has been designed in accordance with all applicable provisions of the Code, including the site plan requirements set forth in Section 24-172. The restaurant has been designed with 3,181 square feet of indoor space, a covered patio for outdoor dining, and a drive-through. The site plan proposes 15 parking spaces, which meets the applicable off-street parking standards – requiring a minimum of 12 spaces and does not exceed the maximum of 18 required spaces. The site plan proposes a two-lane drive-through, which can accommodate up to 23 cars at a time, along with a pass-by lane. The site plan meets height, setback, landscaping, and open space standards

The MU/C District encourages urban design and seeks to activate street frontages through reduced setbacks, pedestrian accessibility, and a human scale. As such, the new building is oriented towards Biscayne Boulevard. The elevations have been designed as a custom prototype specifically for the Property. The Applicant has incorporated natural stone accents and smooth concrete into its design to give the building an attractive modern aesthetic from all viewpoints and prevents any potential for a wall-like appearance. A courtyard area compliments the outdoor dining patio on the west side of the building, facing Biscayne Boulevard, providing an inviting atmosphere for pedestrians and drivers alike. The building's massing, custom ornamentation, and color selections establish a scale and aesthetic that will be inviting to patrons. The design

proposes an efficient use of the Property and contributes to a cohesive, functional urban development pattern envisioned for the MU/C District.

The site plan has been carefully designed to ensure appropriate access for pedestrians, cyclists, patrons' vehicles, and service vehicles with well-situated sidewalks, bike racks, driveways, and parking and loading areas. The site plan establishes connectivity at both the pedestrian and vehicular level. The building is oriented towards the street and connects to the sidewalk along Biscayne Boulevard. The main entrance to the Property will be located on the north side, connecting to the main entrance driveway for the shopping center. The Property may also be accessed from multiple points within the abutting Target parcel, which is intended to allow free movement within the proposed development and ensure compatibility with the shopping center's circulation system. The design of the circulation and parking facilities ensure safe and efficient ingress/egress and parking. Additionally, as described in detail below, the drive-through is enclosed within a structural extension of the building in a manner that mimics the characteristics of a parking garage. The design serves to protect patrons from weather, provide shade, and screen vehicles from view. The Property was designed in this manner so as to not create any incompatible visual relationships along the Biscayne Boulevard corridor. The site plan meets open space, landscaping, parking, and pedestrian/bicycle requirements. Thus, it is wholly compatible with the intent of the MU/C District.

The Applicant has prepared a traffic study in connection with the site plan and conditional use applications. The traffic study analyzed the type of development proposed and the detailed site plan layout to determine the potential impacts on the roadway network surrounding the Property. Based on the trip generation analysis, the project was determined to result in a significant reduction of vehicular trips – a 72% reduction in net new external PM peak hour trips – from the prior liquor store use. The restaurant will generate 42 total net new PM peak hour trips, reduced from the previous 142 PM total net new PM peak hour trips. The adjacent roadway (Biscayne Boulevard) operates at an acceptable level of service, no driveway conflicts were observed, and traffic destined for the Property is not expected to impact queuing at the driveways. As a result, the traffic analysis concluded that off-site traffic mitigation measures are not necessary or warranted since sufficient roadway capacity exists to support the new project trips and the project will not pose a negative traffic impact within the study area.

Also included with the site plan submittal are a conceptual paving and drainage plan and a truck access plan. The conceptual paving and drainage plan indicates that an adequate wastewater collection system will be provided in accordance with City standards for location and design. Additionally, an efficient solid waste collection system has been designed, which will ensure collection convenience in accordance with all applicable City standards. The development of the Property will also be designed in a manner to ensure all life safety and fire prevention requirements will be met. The development of the Property has been designed in such a way as to discourage and reduce the possibility of nuisance and criminal activity and the

Applicant looks forward to working with the Police Department during this review process to address any comments or concerns. The site plan has utilized its location and visibility, proposed traffic circulation, locations of windows and doors, security lighting, and parking lot lighting to promote a safe environment for patrons and employees.

II. Conditional Use for Drive-Through

The Applicant seeks the approval of a conditional use on the Property to allow a drive-through in connection with the development of the restaurant. Table MU/C-1 in Section 24-58.4(G)(2) of the Code requires conditional use approval for this proposed use. The MU/C District seeks to ensure high quality, architecturally compatible, consistently landscaped development through a stimulation of neighborhood commercial and retail activities. New development or redevelopment projects are expected to enhance the visual character of Biscayne Boulevard in terms of massing and scale through the development of pleasant shopping areas with attractive pedestrian spaces. This project exceeds those standards. The drive-through is located on the interior side of the building and is enclosed within a structural extension of the building in a manner similar to a parking garage. This structure is intended to screen the drive-through area and protect patrons from natural elements, such as heat, wind, and rain.

The Applicant meets the criteria for the granting of a Conditional Use set forth in Section 24-175(B) of the Code as follows:

- (1) The proposed use will be compatible with the existing natural environment and other properties within the neighborhood;

The proposed use is compatible with the existing natural environment and the commercial character of the MU-C district.

- (2) The proposed use will create no substantial detrimental effects on neighborhood property values;

The proposed use will be located on a predominantly commercial thoroughfare so it is not an unanticipated use and has been thoughtfully designed to improve the neighborhood's walkability and overall aesthetic.

- (3) The proposed use can be accommodated by adequate community facilities such as schools, streets, parks, and utilities;

The proposed use will have no impact on schools, streets, parks, or other community facilities. It will have no meaningful impact on local utilities.

- (4) The proposed use will have adequate provisions for vehicular and pedestrian traffic movement, both internal to the use and in the area which will serve the use;

The proposed use contemplates a multi-lane drive-through, which will provide adequate stacking capacity, even at peak-demand times, along with a pass-by lane for vehicles seeking to exit the drive-through.

- (5) The proposed use will have adequate drainage systems to service the use with particular attention to the necessity for on-site retention systems to alleviate runoff and pollution problems;

The proposed use will have adequate drainage facilities to properly dispose of excess water and reduce the risk of flooding.

- (6) The proposed use will have adequate setbacks, buffering, and general amenities in order to control any adverse effects of noise, light, dust, and other nuisances;

The proposed use will have adequate setbacks, buffering, and general amenities to control any adverse effects of noise, light, dust, and other nuisances.

- (7) The proposed use will be located on property which is sufficient, appropriate and adequate for any reasonably anticipated expansion thereof; and

The proposed use will include a smaller footprint than the current structure on the property and is an outparcel within an existing bustling shopping center. As such, the Property can accommodate any reasonably anticipated expansion of the proposed use.

- (8) Any other conditions as may be stipulated and made a requirement in granting any conditional uses, when it is considered necessary to further the intent and general welfare, including, but not limited to:

- (a) Limitations on the hours of commercial or industrial operations,

Limitations on the hours of commercial or industrial operations are not necessary, as this restaurant will have similar hours of operation to other similarly-situated quick-service restaurants in North Miami Beach.

- (b) Limitations on the number of occupants of any building at any one time.

The Applicant will support any reasonable limitation imposed on the number of occupants allowed in the building at any given time for the sake of public safety.

- (9) Medical marijuana dispensary/medical marijuana treatment centers. No medical marijuana dispensaries/medical marijuana treatment centers shall be located within five hundred (500') feet of the real property that compromise a public or private elementary school, middle school, or secondary school.

Not applicable.

The approval of the application and its proposed conditional use is appropriate and will further the goals of the MU/C District.

III. Drive-Through Variance Request

We respectfully request a variance from Section 24-58.2(G)(4) of the Code to waive the requirement that drive-throughs in the MU/C District must be located within a parking garage. The MU/C District allows fast food establishments in the Core and Center sub-areas, however, drive-throughs are only allowed provided they are located inside a parking garage. Not only is this requirement impractical, it is unnecessarily burdensome and could potentially lead to a more unsightly outcome than the stacking it aims to conceal. We believe the proposed site plan aligns with the spirit and intent of the Code by incorporating a low-intensity structure that effectively screens the drive-thru and stacking area from Biscayne Boulevard as well as from the interior side of the Property.

As noted in Section II above, the proposed drive-through is enclosed within a structural extension of the building in a manner similar to a parking garage. This structure is intended to screen the drive-through area from the realm of public view and protect patrons from heat, rain, and other elements. Detailed elevation renderings of the drive-through area are included in the site plan package that demonstrate the high level of design imparted on this important element of the project.

The Applicant satisfies the review criteria set forth in Sec. 24-176(B) of the Code for the granting of a variance as follows:

- (1) A non-use variance to the terms of this Code that will not be contrary to the public interest may be recommended by the Planning and Zoning Board, and except as provided in Section 24-176.1, granted by the City Commission in compliance with the requirements of the City Charter in this Code, upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.

The Applicant designed the drive-through to resemble a parking garage. The proposed structure will shield drive-through stacking from passersby on Biscayne

Boulevard and will blend seamlessly into the surrounding area.

- (2) Appropriate conditions and safeguards, in conformity with the Code, may be prescribed as a condition of the granting of the variance, and violation of such conditions shall be deemed a violation of this Code.

Acknowledged. Notwithstanding, the Applicant has designed this project to align with the Code and the best interests of the public.

- (3) The nonconforming use of adjacent lands, structures, or buildings shall not be considered grounds for the authorization of a variance.

The Applicant is not requesting a variance due to nonconforming uses on adjacent properties but rather because of the unique need for a drive-through at a quick-service restaurant like Raising Cane's.

- (4) A variance granted under the provisions of this Code shall automatically expire under the following conditions:
 - (a) If a permit has not been applied for within one (1) year from the date of granting of a variance (or date of any final court order granting or modifying the variance), in accordance with the specific plans for which that variance was granted, or
 - (b) If a permit issued within the required time period shall expire or be revoked pursuant to the Florida Building Code, and if the time period for originally obtaining a permit has expired, the variance shall automatically expire.

Acknowledged.

IV. Building Frontage and Forecourt Non-Use Variance Requests

We respectfully request a variance from the building frontage requirement in Section 24-58.4(K)(2)(a) and the forecourt size requirement in Section 24-58(S)(3)(b)(i)(2). These variances are essential to achieving a design that balances functionality, aesthetics, and neighborhood character.

Section 24-58.4(K)(2)(a) requires that buildings in the MU/C District along Biscayne Boulevard occupy 70% of the property's frontage. The proposed design would occupy 89'-2", or 59%, of the frontage. This 11% difference is de minimis and ensures the building remains well-proportioned and contextually appropriate for the Arch Creek neighborhood. Strictly adhering to the 70% requirement would necessitate an unusually shaped building that could distract from the neighborhood's visual appeal.

Similarly, Section 24-58(S)(3)(b)(i)(2) limits the forecourt's size to no more than 60% of the building's frontage. The proposed design includes an inviting outdoor seating area spanning

70'-5" linear feet, or 79% of the frontage. While this exceeds the Code's limit, the forecourt blends seamlessly with the building's design and activates the streetscape with vibrant landscaping and an inviting outdoor seating atmosphere.

The Applicant satisfies the review criteria set forth in Sec. 24-176(B) of the Code for the granting of a variance as follows:

- (1) A non-use variance to the terms of this Code that will not be contrary to the public interest may be recommended by the Planning and Zoning Board, and except as provided in Section 24-176.1, granted by the City Commission in compliance with the requirements of the City Charter in this Code, upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.

The requested variances align with the spirit and intent of the Code and will ensure that the project contributes positively to the character of the surrounding community.

- (2) Appropriate conditions and safeguards, in conformity with the Code, may be prescribed as a condition of the granting of the variance, and violation of such conditions shall be deemed a violation of this Code.

Acknowledged. Notwithstanding, the Applicant has designed this project to align with the Code and the best interests of the public.

- (3) The nonconforming use of adjacent lands, structures, or buildings shall not be considered grounds for the authorization of a variance.

These variance requests are not being made on the basis of nonconforming uses on adjacent lands.

- (4) A variance granted under the provisions of this Code shall automatically expire under the following conditions:

- (c) If a permit has not been applied for within one (1) year from the date of granting of a variance (or date of any final court order granting or modifying the variance), in accordance with the specific plans for which that variance was granted, or

- (d) If a permit issued within the required time period shall expire or be revoked pursuant to the Florida Building Code, and if the time period for originally obtaining a permit has expired, the variance shall automatically expire.

Acknowledged.

V. Glazing and Window Placement Non-Use Variance Requests

We respectfully request a variance from the glazing requirement in Section 24-58(S)(1)(g)(i)(4) and the window placement requirement in Section 24-58(S)(1)(g)(i)(5) of the Code. Approval of these variances will ensure that seated patrons, bathrooms, kitchen, and food storage areas are properly screened, and that the indoor dining area is protected against potential car accidents.

Section 24-58(S)(1)(g)(i)(4) requires that buildings in mixed-use districts include a transparent, clear-glazed area comprising at least 70% of the total façade area. The current design includes 14% glazing on the west façade, which is connected to the forecourt or outdoor dining area. The forecourt spans 70.3 linear feet or 75% of the west frontage, and creates the main area of visual interest along Biscayne Boulevard, compensating for the reduced glazing. Specifically, this design ensures adequate screening of food storage areas, provides additional security for the mechanical room, and maintains privacy for the restrooms, all of which are situated along the west façade.

Section 24-58(S)(1)(g)(i)(5) requires window sills to be no more than 24 inches above grade. The proposed design places the window sills at 36 inches above grade. Lowering the sill height would compromise patron safety in the event of a vehicular accident and raise privacy concerns for diners seated near the glazed area. Additionally, meeting the prescribed sill height would disrupt operational efficiency at the drive-through window. The increased sill height is consistent with the overall design of the building, ensuring both aesthetic and practical alignment.

The Applicant satisfies the review criteria set forth in Sec. 24-176(B) of the Code for the granting of a variance as follows:

- (5) A non-use variance to the terms of this Code that will not be contrary to the public interest may be recommended by the Planning and Zoning Board, and except as provided in Section 24-176.1, granted by the City Commission in compliance with the requirements of the City Charter in this Code, upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the

land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.

These variance requests thoughtfully balance operational efficiency, safety, and compliance with the intent of the Code and have no negative impacts. The variance requests are the minimum waivers necessary to accomplish this balance.

- (6) Appropriate conditions and safeguards, in conformity with the Code, may be prescribed as a condition of the granting of the variance, and violation of such conditions shall be deemed a violation of this Code.

Acknowledged. Notwithstanding, the Applicant has designed this project to align with the Code and serve the best interests of patrons, employees, and the general public.

- (7) The nonconforming use of adjacent lands, structures, or buildings shall not be considered grounds for the authorization of a variance.

These variance requests are not being made on the basis of nonconforming uses on adjacent lands.

- (8) A variance granted under the provisions of this Code shall automatically expire under the following conditions:

(e) If a permit has not been applied for within one (1) year from the date of granting of a variance (or date of any final court order granting or modifying the variance), in accordance with the specific plans for which that variance was granted, or

(f) If a permit issued within the required time period shall expire or be revoked pursuant to the Florida Building Code, and if the time period for originally obtaining a permit has expired, the variance shall automatically expire.

Acknowledged.

VI. Conclusion

The proposed site plan, conditional use, and variance requests are consistent with the City's MU/C standards and the goals of the mixed-use district. The use is also compatible with existing and approved uses in the surrounding area. The variances represent the minimum requirements needed to accommodate an appropriate design that provides outdoor dining space, prioritizes customer and employee safety, and ensures customer privacy.

Biscayne Boulevard/US-1 is an important commercial corridor within the City. The

Property is surrounded by intense commercial uses – the Target Store, Costco, car dealerships, and other intense commercial activity along both sides of Biscayne Boulevard. Based on the location and commercial character of Biscayne Boulevard, the proposed design of the restaurant will be an appropriate addition to the area and will enhance the pedestrian-oriented amenities along the corridor.

Enclosed please find the revised site plan and responses to TRAD comments. Based on the foregoing, we ask for your continued favorable review of the site plan, conditional use, and variance requests. As always, should you have any questions or require additional information, please contact me.

Respectfully submitted,

LSN LAW, P.A.

A handwritten signature in blue ink that reads "Tracy Slavens". The signature is written in a cursive, flowing style.

Tracy R. Slavens, Esq.

Enclosures:

CC: