

RESOLUTION NO. R2021-XX

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING CONDITIONAL USE APPROVAL IN ACCORDANCE WITH SECTION 24-175 OF THE NORTH MIAMI BEACH ZONING AND LAND DEVELOPMENT CODE FOR THE OPERATION OF A 3,878 SQUARE FOOT MEDICAL MARIJUANA DISPENSARY, AS PROPOSED ON PROPERTY ZONED B-2 GENERAL BUSINESS DISTRICT, LOCATED AT 17150 BISCAYNE BOULEVARD, NORTH MIAMI BEACH, FLORIDA, AS LEGALLY DESCRIBED IN EXHIBIT “A”; PROVIDING FOR FINDINGS OF FACT; CONFIRMING EXPIRATION AND LIMITATION OF APPROVAL; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

(P&Z Item No. 21-8, July 12, 2021)

WHEREAS, the City of North Miami Beach (“City”) Code of Ordinances, Chapter 24, “Zoning and Land Development Code” (the “ZLDC”), Article V, “Zoning Use Districts,” Section 24-52, “General Business District” provides that conditional use approval is required for a Medical Marijuana Dispensary (“MMD”); and

WHEREAS, Cookies Florida, Inc. (the “Applicant”), requests conditional use approval for the operation of a MMD at 17150 Biscayne Boulevard, North Miami Beach Florida, as legally described in Exhibit “A” (“Property”); and

WHEREAS, the Property was granted site plan approval under Resolution No. R2021-12 to develop an 8,500 square feet commercial development; and

WHEREAS, after a duly noticed public hearing held on July 12, 2021, the Planning and Zoning Board by vote of _ to _, recommended _____ of the conditional use, subject to the conditions set forth and included below in Section 2; and

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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 Conditional Use is consistent with the North Miami Beach Comprehensive Plan and is in the best interests of the City.

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, and incorporated herein and made a part hereof.

Section 2. Decision. Pursuant to Chapter 24, “Zoning and Land Development Code,” Article XV, “Other Development Review Procedures,” Section 24-175, “Conditional Uses” operation of a MMD at the Property as depicted in Exhibit “B” is approved subject to the following conditions:

1. Unless otherwise provided, all the below conditions shall be completed and complied with prior to the issuance of the building permit.
2. The conditions of approval for this conditional use are binding on the Applicant, the property owners, operators, and all successors in interest and assigns. Prior to issuance of any Master Building Permit, 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 of 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
3. The proposed conditional use shall be in conformance with the following:
 - a. Boundary Survey prepared by Royal Point Land Surveyors, Inc.
 - b. Plans prepared by Temeka Group and Kaller Architecture, including the following:
 - A0.00 Cover Sheet
 - A0.01 Distance Survey
 - A0.02 Boundary Survey
 - A0.03 Context Map
 - A0.04 Existing Conditions
 - A0.05 Example Renderings
 - A1.01 Site Plan
 - A1.02 Floor Plan

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- A1.03 Security Plan
- A1.04 Internal Circulation
- PH-1 Photometric Site Plan

4. All representations and exhibits as prepared and provided to the Community Development Department as part of the Application Submittal Package, as amended.
5. 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.
6. 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 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 originally approved. Insubstantial changes may be administratively approved by the City Manager or designee. Any de minimis amendments to the plans or site plans which 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, as well as density or intensity calculations set forth in a previously approved site plan.
7. Applicant shall remove all public hearing signage no later than 48 hours after the final public hearing by the City Commission for the development project.
8. 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.
9. The Applicant shall comply with all applicable conditions and permit requirements of the Miami-Dade County Fire Department, the Water and Sewer Department, and Department of Regulatory and Economic Resources; and the Florida Department of Environmental Protection (FDEP), the Florida Department of Transportation (FDOT) and any other applicable regulatory agency.
10. The words "Aventura", "Miami Beach," and "Sunny Isles Beach" shall not be used by the applicant immediately preceding or following the Project name. The words "Aventura", "Miami Beach" and "Sunny Isles Beach" shall not be part of the website address for the Project. References in the marketing materials to nearby communities shall be limited to descriptions of entertainment, shopping or dining locations, or other landmarks; the Applicant shall identify the Project as being located in the City of North Miami Beach, Florida.

11. 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.
12. The Applicant, its successors and assigns shall comply with all City ordinances applicable to development and permit approvals at the time of adoption 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 City of North Miami Beach impact fees paid, which would not be refunded but would be credited to the property for any subsequent development.
13. The Applicant, its successors and assignees are permitted to operate the proposed use as a medical marijuana dispensary only. Any additions to the scope of services not indicated herein may require further review by the Community Development Department to determine compliance with the land development regulations.
14. 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.
15. Applicant must join the NMBPD Trespass After Warning Program, provide the NMBPD with access to the property at all times, 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 termination of employment.
16. The Applicant shall either, place doors and windows on inside hinges and affix a robust security laminate to exterior windows to improve their impact and shatter resistance; or install new impact resistant windows and doors.

Section 3. Conditional Use Findings of Fact. The Mayor and City Commission make the following FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested Conditional Use meets the applicable Conditional Use Review Standards provided for in Section 24-175(B) of the Code of Ordinances of the City of North Miami Beach. The requested conditional use is compatible with the existing natural environment and surrounding properties, does not create substantial detrimental effects on the neighborhood property values, can be accommodated by existing community facilities, has adequate provisions for vehicular and pedestrian traffic movement, has adequate drainage systems for the proposed use, complies with the required setbacks and buffering to control possible adverse effects, is located in an area which is sufficient, appropriate and adequate for the proposed use and reasonable expansion, and is not

located within five hundred (500') feet of the real property that comprises a public or private elementary school, middle school, or secondary school.

Section 4. Time for Business Tax Receipt. Pursuant to Section 24-175(C) of the City Code, the Applicant must obtain a Business Tax Receipt within one (1) year of the date of this Resolution or the Conditional Use approval granted shall be deemed null and void and the Applicant shall be required to reinstate the conditional use review process unless the term is extended administratively or by the City Commission prior to its expiration.

Section 5. 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 6. Conflicts. All resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

Section 7. Effective Date. This Resolution shall be in force and take effect immediately upon its passage and adoption.

APPROVED AND ADOPTED by the City Commission of the City of North Miami Beach, Florida at regular meeting assembled this __ **the day of** ____ **2021.**

ATTEST:

ANDRISE BERNARD
CITY CLERK

ANTHONY F. DEFILLIPO
MAYOR

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(CITY SEAL)

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

HANS OTTINOT
INTERIM CITY ATTORNEY

SPONSORED BY: Mayor and City Commission

	YES	NO	ABSTAIN	ABSENT
Commissioners				
Mayor Anthony DeFillipo				
Vice-Mayor Michael Joseph				
Commissioner Daniela Jean				
Commissioner Paule Villard				
Commissioner Fortuna Smukler				
Commissioner McKenzie Fleurimond				
Commissioner Barbara Kramer				

Exhibit "A"
LEGAL DESCRIPTION

A PORTION OF TRACT "C" LYING EASTERLY OF THE EASTERLY RIGHT-OF-WAY OF THE FLORIDA EAST COAST RAILROAD RIGHT-OF-WAY AND WESTERLY OF THE WESTERLY RIGHT-OF-WAY OF FEDERAL HIGHWAY (BISCAYNE BOULEVARD - STATE ROAD NO. 5 - U.S. HIGHWAY NO. 1) AS SHOWN ON RECORDED PLAT OF "MAULE FEDERAL HIGHWAY INDUSTRIAL SITES", RECORDED IN PLAT BOOK 46, AT PAGE 55 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SAID FLORIDA EAST COAST RAILROAD RIGHT-OF-WAY AND THE SOUTHERLY LINE OF SAID TRACT "C" THENCE RUN NORTH 86°19' 48" EAST ALONG THE SOUTH LINE OF SAID TRACT "C", FOR A DISTANCE OF 102.16 FEET TO THE POINT OF BEGINNING OF PARCEL OF LAND HEREINAFTER TO BE DESCRIBED; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT "C" FOR A DISTANCE OF 3.16 FEET TO A POINT; THENCE RUN NORTH 14°42'13" EAST FOR A DISTANCE OF 238.78 FEET TO A POINT; THENCE RUN NORTH 75°17'47" WEST FOR A DISTANCE OF 3.00 FEET TO A POINT; THENCE RUN SOUTH 14°42'13" WEST FOR A DISTANCE OF 239.77 FEET TO THE POINT OF BEGINNING. CONTAINING 717.8 SQUARE FEET (0.016 ACRES MORE OR LESS).

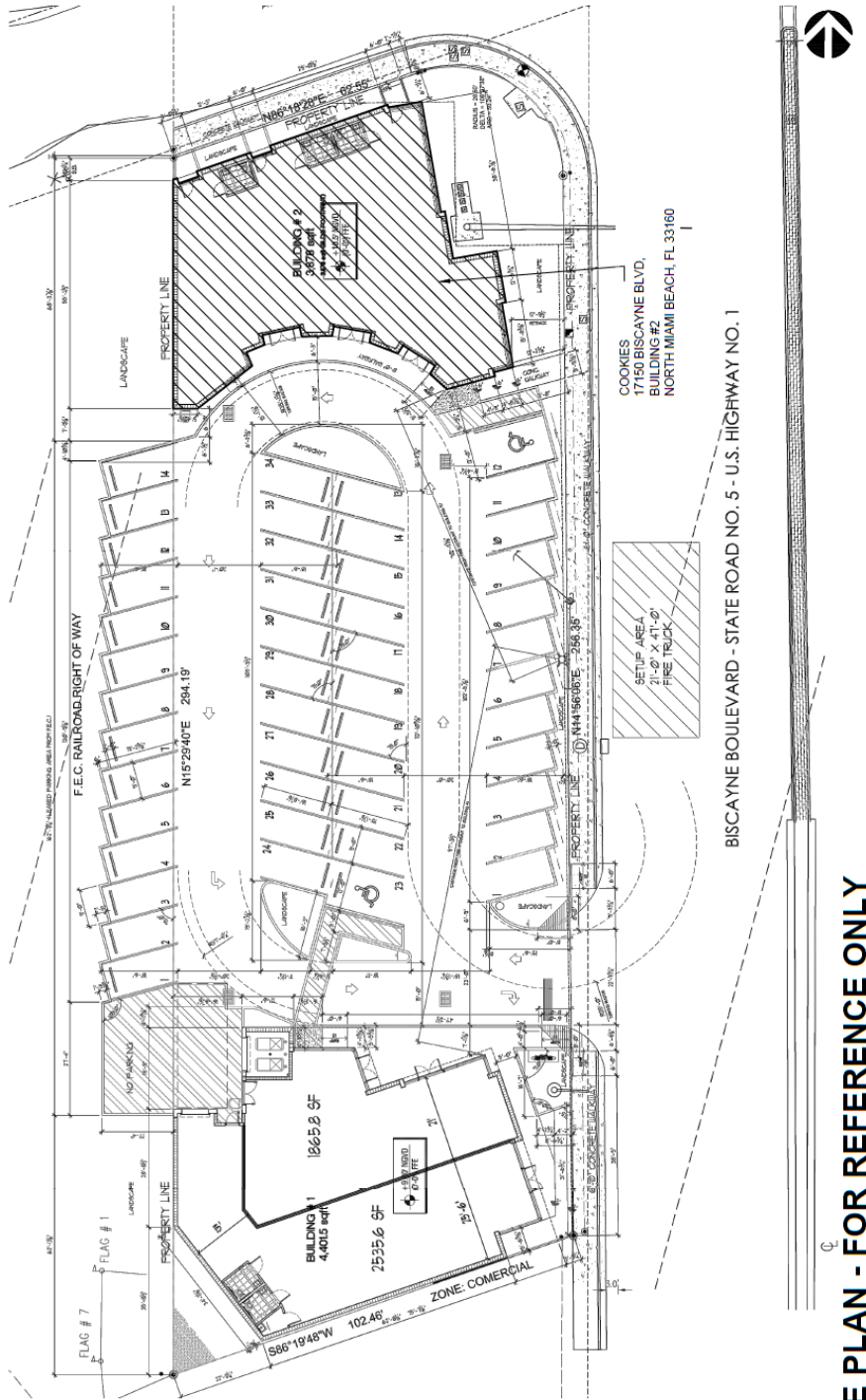
Tax Folio: 07-2209-009-0042

A/K/A

17150 Biscayne Blvd.

North Miami Beach, Florida

Exhibit "B"
SITE PLAN-REFERENCE ONLY



SITE PLAN - FOR REFERENCE ONLY

1



CLIENT
COOKIES FLORIDA INC.
MEDICAL MARIJUANA DISPENSARY
CONDITIONAL USE APPLICATION

PROJECT
COOKIES FLORIDA INC.
17150 BISCAIYNE BLVD. BLDG. #2
NORTH MIAMI BEACH, FL 33160

SITE PLAN

A1.01
05/05/2021