

Bardales, Cindy

From: Hope Calhoun <hcalhoun@dmblaw.com>
Sent: Monday, October 7, 2019 2:34 PM
To: Dominguez, Christy
Cc: YANA GANDELMAN
Subject: Best Organic Pharmacy/Application V-19-02369

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Good afternoon Christy, please accept this request on behalf of the applicant, to place the above application on the next (October 23, 2019) PZ agenda as a request for the applicant to ask the Board to reconsider its previous motion to deny the variance request. Thank you. Please let me know if you need anything else regarding this request.

Hope Calhoun
Partner
Dunay, Miskel & Backman, LLP
14 S.E. 4th Street, Suite 36
Boca Raton, FL 33432
Tel (direct): 561-405-3324
Tel (main): 561-405-3300
Fax: 561-409-2341
Email: hcalhoun@dmblaw.com



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DRAFT

PLANNING AND ZONING BOARD (PZB) PUBLIC MEETING SUMMARY
WEDNESDAY, AUGUST 28, 2019
CITY HALL, COMMISSION CHAMBERS

Board Member Present: Charles Wu, Chair; Howard Garson, Vice Chair; Danny Kattan, Rick Levinson and Diane Lyon Wead

Alternate Present: Bruce McNamara and Faith Fehr

Board Secretary: Cindy Bardales-Villanueva

City Attorney's Representative: Andre McKenney, Deputy City Attorney

Staff Present: Vanessa Leroy, Christy Dominguez and Cindy Bardales-Villanueva

2018 PZB ATTENDANCE

ATTENDANCE ROLL CALL:

BOARD MEMBERS	1/24	2/28	3/28	4/25	5/23	6/27	7/25	8/22	9/26	10/24	11/26	12/26
Charles Wu- <i>Chair</i>	A	CANCELLED	P	P	P	CANCELLED	P	P	P	P	P	CANCELLED
Howard Garson - <i>Vice Chair</i>	P		P	P	P		P	P	P	P	P	
Rick Levinson			P	P	P		P	P	P	P	P	
Danny Kattan							P	A	P	P	P	
Sheryl Natelson	A											
Terri Dillard	P											
Alexander Lewy	P		P	P	P							
Total Members Present	3		4	4	4		4	3	4	4	4	
Total Members Absent	2		0	0	0		0	1	0	0	0	

2019 PZB ATTENDANCE

BOARD MEMBERS	1/30	2/27	3/27	4/24	5/29	6/26	7/24	8/28	9/25	10/23	11/26	12/26
Charles Wu- <i>Chair</i>	P	CANCELLED	CANCELLED	P	CANCELLED	P	CANCELLED	P				
Howard Garson - <i>Vice Chair</i>	P			P		P		P				
Rick Levinson	P			P		E		E				
Danny Kattan	E			P		P		P				
Diane Lyon Wead				P		P		P				
Faith Fehr- <i>Alternate</i>				PA		S		A				
Bruce McNamara- <i>Alternate</i>				PA		PA		S				
Total Members Present	3			7		6		5				
Total Members Absent	1			0		1		2				

ATTENDANCE ROLL CALL:

Present (P) Present Alternate Member (PA)

Absent: (A)

Alternate Member Substituting during a Full-Time Members Absence (S)

Excused Absence (E)

Tardy: (T)

 Un-appointed

1 **1. CALL TO ORDER**

2
3 Mr. Wu called the meeting to order at 6:31 P.M.

4 **2. ROLL CALL**

5 Mr. Levinson - *excused absence*

6 **3. PLEDGE OF ALLEGIANCE**

7
8 **4. APPROVAL OF MINUTES**

- 9
10 ▪ Draft Minutes for June 26, 2019.

11 Mr. Garson: **Line 42:** remove the word "is".

12 Ms. Wead: **Line 50:** replace the word "send" to read "set" a precedent.

13 **MR. GARSON MOVED TO APPROVE THE MINUTES OF THE JUNE 26, 2019 PLANNING**
14 **AND ZONING BOARD MEETING TO INCLUDE AMENDMENTS.**

15 **MR. KATTAN SECONDED THE MOTION.**

16 **MOTION PASSED BY A ROLL CALL VOTE (5-0).**

17 **5. NEW BUSINESS**

- 18
19 1. Application# DR-19-00669 by Samuel Swerdlow, requesting approval to construct a three-story
20 mixed-use project consisting of 1,750 square feet of commercial space and 6 residential
21 multifamily units. The project site is a vacant lot located at 401 Pembroke Road.

22
23 **Polling of Ex Parte Communications (Board Secretary)**

24
25 *Mr. Wu advised that he had no Ex-Parte Communications regarding this matter. He advised he*
26 *would base his decision solely on the testimony being presented.*

27
28 *Mr. Garson advised that he had no Ex-Parte Communications regarding this matter. He advised*
29 *he would base his decision solely on the testimony being presented.*

30
31 *Mr. Kattan advised that he had no Ex-Parte Communications regarding this matter. He advised*
32 *he would base his decision solely on the testimony being presented.*

33
34 *Ms. Wead advised that she had no Ex-Parte Communications regarding this matter. She advised*
35 *she would base his decision solely on the testimony being presented.*

36
37 *Mr. McNamara advised that he had no Ex-Parte Communications regarding this matter. He*
38 *advised he would base his decision solely on the testimony being presented.*

39
40 **Swearing in of Witnesses (Assistant City Attorney)**

41
42 Ms. Dominguez provided a Power Point presentation and gave a summary of the item.

43
44 Mr. Wu: opened the floor for discussion from the Board to staff.

45
46 Mr. Samuel Swerdlow, Applicant (North Miami Beach, FL): applicant introduced himself and
47 explained that to include a modern design mix use project was their client's choice. The project is

geared toward the City's vision for the area. He added that project will serve as a model development for projects along Pembroke Road in the future.

Mr. Kattan: asked applicant was receiving assistance from the Community Redevelopment Agency (CRA)?

Mr. Swerdlow: stated no.

Mr. McNamara: pointed out that the applicant had proposed a substantial amount of landscaping than is required by the City. He asked if the applicant will be maintaining the landscaping being proposed.

Mr. Swerdlow: stated that their intent is to maintain the landscaping as that will bring value to the project and the area.

Mr. McNamara: further asked if the applicant had decided on the species of trees going on the site.

Mr. Swerdlow: stated that the landscaping plans were provided and discussed during the Development Review Committee (DRC) meeting with the City's Landscaping architect.

Mr. Wu: asked to let the record show that the landscaping plans were provided at the meeting. He further asked if the plans include irrigation.

Mr. Swerdlow: pointed out where the irrigation was located on the site plan.

Mr. Garson: congratulated the applicant on the project and stated that the project was what he imagine as being built on the corridor.

Mr. Garson: stated he advocates for all new projects in the City to make their project as environmentally sustainable as possible. He added maybe including solar hot water heaters or rainwater harvesting, which can be costly at first but will save them developer money in the end.

Ms. Wead: asked what the implications of the change from the density?

Ms. Dominguez: stated that the permitted range is determined by the zoning district. The range permitted at this location is 18 units per acre. The district also permits them to go above with City Commission approval.

Ms. Dominguez: clarified that the applicant is going through the City Commission approval process to request to build at the maximum permitted by the district which is 25 unit per acre and will allow them to build two additional units for a total of 6 units.

Ms. Wead: asked if the applicant would need to go before the City Commission for final approval?

Ms. Dominguez: stated yes.

Ms. Wead: asked the applicant if they would be a rental or selling the units?

Mr. Swerdlow: stated that at the moment they are looking to rent the units.

Mr. Wu: asked staff if the applicant was providing some sort of barrier to the west side of the property from the adjacent property?

Ms. Dominguez: stated no physical barrier is required and is providing landscaping on the west side of the property.

Mr. Wu: suggested placing a fence or gate to avoid elements entering the property and having a single point of control.

Mr. Swerdlow: agreed.

Mr. Wu: stated he had concerns with the elevation between the sidewalk and the front door, to ensure there is no disconnect between the public entering a commercial establishment.

Mr. Swerdlow: stated that he did not feel they would have that issue but will take his comment into consideration.

Mr. Wu: stated that there were inconsistencies on the parking spaces some flush and some indentations that would require to move a tree to include a two or three foot notch.

Mr. Swerdlow: stated that he did not have his civil plans before him but the architectural plans do show a five feet turn around which they will assure civil plans are revised.

Mr. Wu: asked where was the mailbox? Would all the postal service have to visit all the apartments?

Mr. Swerdlow: stated that they are proposing a small lobby and a small mailroom in the lobby.

Mr. Wu: asked who would be responsible to install a restroom should a restaurant establishment like to come into the property.

Mr. Swerdlow: stated that at this time their intent is to keep the project for general retail rather than a restaurant.

Mr. Wu: asked staff if Public Works and Engineering Department agreed to allow on street parking so close to the intersection.

Ms. Dominguez: stated yes.

Mr. Wu: opened the public hearing.

Mr. Wu: closed the public hearing

MR. KATTAN MOVED THAT BASED ON THE COMPETENT AND SUBSTANTIAL EVIDENCE PRESENTED TODAY, I MOVE THAT THE PLANNING AND ZONING BOARD APPROVE APPLICATION# DR-19-00669 BY SAMUEL SWERDLOW, REQUESTING APPROVAL TO CONSTRUCT A THREE-STORY MIXED-USE PROJECT CONSISTING OF 1,750 SQUARE FEET OF COMMERCIAL SPACE AND 6 RESIDENTIAL MULTIFAMILY UNITS. THE PROJECT SITE IS A VACANT LOT LOCATED AT 401 PEMBROKE ROAD, SUBJECT TO THE CONDITIONS RECOMMENDED BY THE PLANNING AND ZONING BOARD, WHICH INCLUDES CONDITIONS:

- 1. A NOTCH BACK ON THE SITE PLAN TO FOR CARS BACKING OUT.**
- 2. THE APPLICANT WILL CONSIDER A GATE AT THE WEST EDGE OF THE PROJECT.**

151
152 **MR. GARSON SECONDED THE MOTION.**

153
154 **MOTION PASSED BY ROLL CALL VOTE (5-0).**

- 155
156 2. *Application# V-19-02369 by Yana Gandelman, requesting a variance from Section 32-778(c) of*
157 *the Zoning and Land Development Code, minimum distance requirement of 1,000 feet from a*
158 *pharmacy to another legally established pharmacy. The proposed new pharmacy, Best Organic*
159 *Pharmacy, will be located at 409 W. Hallandale Beach Boulevard.*
160

161 **Polling of Ex Parte Communications (Board Secretary)**

162
163 *Mr. Wu advised that he had no Ex-Parte Communications regarding this matter. He advised he*
164 *would base his decision solely on the testimony being presented.*

165
166 *Mr. Garson advised yes he had Ex-Parte Communications regarding this matter. He advised had*
167 *attended an earlier meeting in where Mr. Jose Quevas was in attendance at during the event he*
168 *asked him what the procedure to speak at the meeting. He advise him that he would simply need*
169 *to sign up to speak. He agreed to base his decision solely on the testimony being presented.*
170

171 *Mr. Kattan advised that he had no Ex-Parte Communications regarding this matter. He advised*
172 *he would base his decision solely on the testimony being presented.*

173
174 *Ms. Wead advised that she had no Ex-Parte Communications regarding this matter. She advised*
175 *she would base his decision solely on the testimony being presented.*

176
177 *Ms. Fehr advised that she had no Ex-Parte Communications regarding this matter. She advised*
178 *she would base his decision solely on the testimony being presented.*
179

180
181 **Swearing in of Witnesses (Assistant City Attorney)**

182
183 Ms. Dominguez provided a Power Point presentation and gave a summary of the item.

184
185 Mr. Wu: opened the floor for discussion from the Board to staff.

186
187 Ms. Wead: asked how the existing pharmacies were allowed to open closer previously, was there
188 some sort of criteria put in place?
189

190 Ms. Dominguez: explained the distance separation requirement was adopted in September 2018,
191 the Walgreen and Medica First Pharmacy were preexisting and are considered non-conforming.
192

193 Mr. Kattan: questioned what was the procedure is when someone comes to the City in hopes of
194 opening a pharmacy. He advised how our City's Code can be very hard for a regular citizen to
195 interpret.
196

197 Mr.Kattan: further questioned why the applicant was not advised from the first day that the use of
198 a pharmacy establishment was not permitted at this location which would have saved the
199 applicant time, money, and trouble.
200

201 Ms. Dominguez: stated that she did have a discussion with Ms. Sandra Sewell, Business Tax
202 Specialist and her recollection and the sequence of events were not the same as the applicant.

Ms. Dominguez: pointed out that what is being considered was whether the application met the criteria for a variance or not.

Mr. Wu: added that government has sovereign immunity for any mistake that a government official makes being on both sides. He advised that it is the responsibility and is incumbent upon the applicant to know fully well the laws of the City.

Mr. Wu: further added that his intent is not to cover blame but nobody is perfect and for that reason we need to get past the blame. The applicant is before the Board today to either grant or deny her of what she wants through a variance application process.

Ms. McKenney: stated that when Business Tax Receipt (BTR) application is submitted to the City, the application needs to be filled out completely. The applicant can be required to provide any state requisite issued licenses depending on the business, documents of leasing a structure needed to be included along with a landlord authorization form.

Ms. McKenney: further added that until an application is fully completed and submitted for review to the appropriate personnel, the application is not considered final. She advised that a BTR issued by error are to be withdrawn or cancelled, because you cannot go against code even on mistaken information of staff.

Mr. McNamara: stated that his concern was the proximity of Gulfstream Middle School, if they're going to be selling medical marijuana.

Mr. Wu: interjected and stated that the applicant will not be selling medical marijuana that is a different process.

Mr. Wu: asked staff if their intent of the 1,000 foot distance separation was to address the concern of medical marijuana being close to each other or was it to separate establishments that sold control substances?

Ms. Dominguez: stated that it was to separate establishments that sold control substances including pharmacies. She added that state statute does not allow cities to treat pharmacies different than medical marijuana centers.

Ms. Yana Gandelman, Applicant (Hollywood, FL): provided a brief background of her career history and described her operations as making products that are not commercially available, using natural supplements, vitamins and organic ingredients.

Ms. Gandelman: approached the dais with picture of the existing business (Exhibit A). She added that the nature of her business is totally different from any other pharmacy.

Ms. Gandelman: stated that she planned to dispense regular drugs but not primarily. She advised that 50% of the business would be compounding, 20% is going to be over the counter, such as, organic natural products, vitamins, supplements, cosmetics, organic snacks, coffee, tea, and everything natural and organic. Another 10% will be dispensing regular prescription medications, and less than 5% is going to be dispensing of control substances.

Ms. Gandelman: added that she was certified in nutrition and as a pharmacist, and would also be having health coaching session, anti-aging management and weight loss therapy.

Mr. Wu: asked if the picture provided was the existing interior of the business?

Ms. Dominguez: interjected and stated that the applicant was provided a merchant license with the restriction that there would be not pharmacy.

Mr. Wu: stated that the sign shown in the picture shows "Best Organic Pharmacy".

Ms. Gandelman: stated that she was not operating the pharmacy it was only the window sign and that the main sign for the business has not been installed.

Ms. Dominguez: clarified that a permit was not obtained for the sign on the windows.

Mr. Wu: asked the applicant what kind of pharmacy was the Medica First Pharmacy?

Ms. Gandelman: confirmed that Medica First Pharmacy was also a compounding pharmacy and advised that her current location was previously a pharmacy.

Mr. Wu: asked staff to confirm that in fact the previous tenant was a pharmacy?

Ms. Dominguez: stated no. She was not aware of any pharmacy at that location.

Mr. Wu: asked staff to clarify that if the variance is approved if the applicant were to move from this location can another business owner be allowed to operate a pharmacy at this site based on the zoning approved variance?

Ms. McKenney: stated the variance approval runs with the land.

Mr. Wu: pointed out to the Board that if the applicant were to leave this space, the zoning would not revert back and the approved variance would remain.

Mr. Kattan: asked if there was a previous pharmacy at this location would that mean that the applicant could also operate as a pharmacy?

Mr. Wu: clarified that due to the current code approval of distance separation the applicant would be required to follow the new code requirements.

Mr. Garson: gave an example what would happen if the variance was approved and the applicant moved out and a toy store came in to the space. After 20 years, the toy store decided to also move would the variance still stand?

Ms. Dominguez: stated no. The use would be discontinued.

Mr. Wu: opened the public hearing.

Mr. Jose Cueva, Resident (Hallandale Beach, FL): introduced himself and added that he was also an active member of Hallandale Beach Chamber of Commerce. He stated that he believes there was an anomaly in the applicant's case.

Mr. Cueva: further added that the Ordinance 2018-24 on line 476 the definition was falling by the wayside. He advised that according to the ordinance pharmacy retail shall be in a retail

establishment, primarily offering goods for retail sales, and on site dispensing of prescription drugs prescribed by the health care practitioner.

Mr. Cueva: pointed out the key word was primary offering, which the applicant from the beginning, she explained that distribution of control substance is not her line of business, it simply what was required of her to become a pharmacy and be able to distribute to even dispense things like ibuprofen, aspirin.

Mr. Cueva: asked the Board to focus on this pharmacy and the description, which does not meet the standard as described in the Ordinance.

Mr. Wu: closed the public hearing.

Discussion ensued.

MS. WEAD MOVED THAT BASED ON THE COMPETENT AND SUBSTANTIAL EVIDENCE PRESENTED TODAY, I MOVE THAT THE PLANNING AND ZONING BOARD DENY THE PROPOSED VARIANCE APPLICATION# V-19-02369 BY YANA GANDELMAN, AND FIND THAT IT WOULD RESULT IN THE VIOLATION OF THE STANDARDS ESTABLISHED IN CHAPTER 32. OTHER APPLICABLE LAWS, ORDINANCES OR REGULATIONS SPECIFICALLY BEING THE VARIANCE APPLICATION FAILS TO MEET THE MINIMUM OF 1000 FEET DISTANCE REQUIRED FROM ONE PHARMACY TO ANOTHER LEGALLY ESTABLISHED PHARMACY.

MR. KATTAN SECONDED THE MOTION.

MOTION PASSED BY ROLL CALL VOTE (3-2). (Mr. Garson & Mr. McNamara-No)

3. An Ordinance of the Mayor and City Commission of the City of Hallandale Beach, Florida, Amending Chapter 32, Zoning and Land Development Code, Article III, Zoning, Division 3, Form-Based Zoning Districts, Amending Section 32-193, Table 32-193(A), Allowable Uses By Subdistrict, Amending Section 32-199, Fashion/ Art/ Design Subdistrict Dimensional Requirements, Including Density and Building Height; Creating Provisions for Parking Location and Design for the Subdistrict; Providing for Conflict; Providing for Severability; Providing for Codification; and Providing an Effective Date. (This Ordinance is the Result of Application # LDC-19-2271 by the City of Hallandale Beach)

Swearing in of Witnesses (Assistant City Attorney)

Ms. Dominguez provided a Power Point presentation and gave a summary of the item.

Mr. Wu: opened the floor for discussion from the Board to staff.

Mr. Kattan: recommended extending the area all the way from 2nd Avenue and Hallandale Beach Boulevard to facilitate for people that want to come in and develop. He added that extending the district all the way to the casino would create a bigger playground.

Ms. Dominguez: stated that is something that separate from the ordinance before you, staff is going to be reviewing whether to expand the boundaries of the district and will be considered as a rezoning which would come before the Board for approval.

Mr. Garson: asked who would determine that the display is in fact art?

Ms. Dominguez: stated that the art would be subject to approval by the Community Redevelopment Agency (CRA) and the Development Service Director to review and approve administratively.

Ms. Wead: asked why was staff asking for approval of the ordinance?

Ms. Dominguez: stated that staff's intent is to revitalize the area by allowing additional uses of entertainment nature in hopes that it would bring new revitalization to the area.

Glendon Hall, Economic Development Manager: introduced himself and advised the Board that the Community Redevelopment Agency (CRA) have been working on trying to obtaining approval of projects coming in. He advised that a number of projects have already been approved and you can now begin to sense the change in the area.

Mr. Kattan: stated that he was excited about this prospect and appreciated staff's initiative to push projects forward.

Mr. Wu: opened the public hearing.

Ms. Luciana Preguerman, Business Owner (Hallandale Beach, FL): stated that she was very excited with the changes happening and is wonderful to see the start of the revitalization of the area and the new positive energy is bringing.

Ms. Preguerman: further stated that new businesses are starting to open which are providing a nice platform for the community to come together. She stated that the process has been extensive and expressed how her neighboring business owners and herself were very grateful to everyone in staff for helping improve the area in a greater way.

Mr. Wu: recommended for staff to have an architect to test these regulations. He added that the problem is the size of the lots are very narrow and restricted in terms of the width and depth.

Mr. Wu: added that it is helpful to go through the exercise and test to avoid projects coming in and not being able to proceed due to regulations.

Mr. Wu: stated that the architect would look at allowing going above the fourth floor and make sure that you can actually have a hotel or residential project.

Mr. Kattan: pointed out from an investor and developer's view, you need to expand and mentioned previously to make this work.

Mr. Hall: agreed.

Mr. Wu: asked if there were any guidelines at all for what constitutes public art?

Mr. Hall: stated that the concept of Art in Public Places Program was approved by the City Commission and staff is now moving forward with developing a committee that would review public art. He added that the committee would be completed by key individuals who are experts and are from the area.

Mr. Wu: recommended that the committee not be strictly for public art but also city wide and not limit them to only CRA projects.

Mr. Hall: clarified that the concept is for the committee to do as other cities and appoint the committee to review all art within the City.

Mr. Wu: pointed out that language provided is not clear that the committee would be responsible for reviewing all public art not only CRA projects.

Ms. Dominguez: agreed and advised that staff would modify the language to make it more general.

Mr. Wu: suggested making the following changes:

Line 96: modify to add "up" to eight stories.

Line 94: add "at all times" at the end of the sentence.

Line 148: add "that does not reduce existing number of parking spaces".

Ms. Dominguez: clarified that the intent is to allow reduction of existing parking even though there is a deficiency.

Ms. Wead: added that it is staff intent to make the area more pedestrian friendly for bicycling and move away from automobile and parking.

Ms. Dominguez: added that the City has made a true effort in providing additional public parking and on-street public parking for the area.

Ms. Dominguez: further stated that the CRA was currently building a parking lot which is under construction on NE 2nd Avenue which would accommodate 56 parking spaces. Also, in addition to existing public parking on the NE 1st Avenue, additional on street parking is being proposed north of NE 3rd Street.

Mr. Garson: asked if there is a cut back on parking, if a new business coming into the area be required to get approval?

Ms. Dominguez: clarified that approval would be an administrative process reviewed and approved by the Development Services Director and our City Engineer. She added that wherever it would be feasible, they would be required to put parking on the street.

Mr. Wu: stated that his concern with considering taking away onsite parking which in turn can possibly defeat the successful rate of commercial businesses coming in and not having anywhere to park.

Ms. Dominguez: stated that the CRA has also considered that and for that reason were currently constructing public parking and seeking additional locations for public parking.

Mr. Wu: recommended modifying the following:

Line: 150 at the end of sentence add the words: "and that such expansion does not unduly impact the traffic circulation on the surrounding streets."

He consolidated three paragraphs from paragraph D for staff consideration. Paragraph read:

d. First floor garage area fronting any right of way must be screened at the ground level by minimum 20 feet of habitable space occupied by retail, office or other permitted uses. Upper

levels of the garage shall have architectural treatment to reflect a building façade or screened by an art installation approved by the CRA and DS Director. (in place of d.e.)

e. Provide street/streetscape improvements consistent with the City's Complete Street efforts on both sides of adjacent right of way as determined by the DS Director. (no change)

Mr. Wu: closed the public hearing

MR. GARSON MOVED THAT BASED ON THE COMPETENT AND SUBSTANTIAL EVIDENCE PRESENTED TODAY, I MOVE THAT THE PLANNING AND ZONING BOARD APPROVE APPLICATION # LDC-19-2271 AMENDING CHAPTER 32, ZONING AND LAND DEVELOPMENT CODE, ARTICLE III, ZONING, DIVISION 3, FORM-BASED ZONING DISTRICTS, AMENDING SECTION 32-193, TABLE 32-193(A), ALLOWABLE USES BY SUBDISTRICT, AMENDING SECTION 32-199, FASHION/ ART/ DESIGN SUBDISTRICT DIMENSIONAL REQUIREMENTS, INCLUDING DENSITY AND BUILDING HEIGHT; CREATING PROVISIONS FOR PARKING LOCATION AND DESIGN FOR THE SUBDISTRICT; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE AND SUBJECT TO THE RECOMMENDATIONS BY THE PLANNING AND ZONING BOARD.

MR. MCNAMARA SECONDED THE MOTION.

MOTION PASSED BY ROLL CALL VOTE (5-0).

6. REMARKS BY THE CHAIR

Mr. Wu: requested a reconsideration of the variance case by Yamilka Cordovi they heard at the last meeting. He asked for someone on the Board on prevailing side. He added that his concern is when the variance was approved, the Board was not specific to indicate that it remain a patio. Therefore, that person would be allowed to fill it in as a building.

Mr. Wu: further added that the Board also did not make it clear for future owners of the property that would potentially be allowed to enclose the patio area.

Mr. Wu: asked for the condition to be considered and a covenant to be recorded, stating that the patio cannot be filled in accordance with the setbacks requirements which would apply to current and future owners of the property.

Ms. McKenney: further added that the Board uses parliamentary rules of procedure from Robert's Rules book. She added should there be a motion to for consideration, the item would come before you for review as a new item.

Ms. McKenney: recommended that the Board motion the reconsideration and to bring it back at the next duly scheduled meeting where the applicant would be present and before the Board and be accorded due process.

MR. KATTAN MADE A MOTION TO CONSIDER BRING BACK THE ITEM FROM THE JUNE 2019 PLANNING AND ZONING BOARD MEETING BACK FOR RECONSIDERATION.

MR. GARSON SECONDED THE MOTION.

MOTION PASSED BY ROLL CALL VOTE (5-0).

Ms. McKenney: requested that the Planning and Zoning staff contact the applicant and apprised her of this matter which has been brought before the Board.

Ms. McKenney: stated on the record that building permit has not been acted upon, so action has not taken place which ensures there is no issue with an action.

Mr. Wu: stated that it would be sufficient if the applicant voluntarily agrees to include this condition in the final order and voluntarily agrees to a covenant approved by the City Attorney. He added that would dispense the hearing from her.

Ms. McKenney: further explained she did not see any reason why that action cannot be brought before the Board for consent without the applicant being present, provided that she advises staff that she agrees to waive making a change to final order.

Mr. Wu: asked staff to modify the final order and prepare a covenant and administrative order to be recorded into the public records. He further added that if the applicant has an objection she would need to come before the Board.

7. NEXT SCHEDULED MEETING

MEETING ADJOURNED AT 7:45 P.M.

Recording of this meeting can be made available to any member of the public upon request. Requests to hear a taping of the Planning and Zoning Board meeting, summarized above, should be submitted to the Planning & Zoning Division at or can be mailed to 400 South Federal Highway, Hallandale Beach, Florida 33009

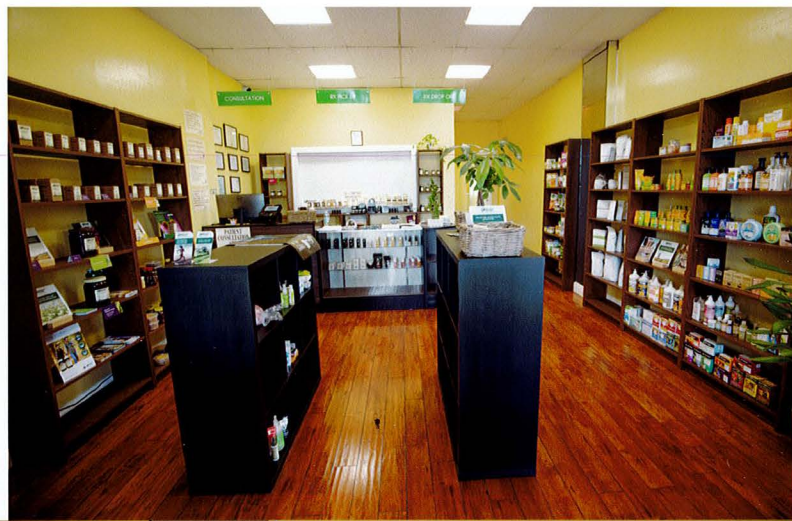


EXHIBIT "A"