

Prepared by:

Vanessa Madrid, Esq.
Holland & Knight, LLP
701 Brickell Avenue, Suite 3300
Miami, Florida 33131

(Space reserved for Clerk)

**COVENANT FOR BEAUTIFICATION EASEMENT
AND MAINTENANCE AGREEMENT**

THIS COVENANT FOR BEAUTIFICATION EASEMENT AND MAINTENANCE AGREEMENT (the "Covenant") is dated as of this 28 day of October, 2022, and is made by and between LANDWIRTH REALTY, LLC, a Florida limited liability company (the "Owner"), and the CITY OF DORAL, a Florida municipal corporation (the "City").

RECITALS

WHEREAS, the Owner is the owner of certain real property located in the City of Doral, Florida, which real property is legally described in Exhibit "A" attached hereto and by this reference incorporated herein and made a part hereof (the "Property"); and

WHEREAS, the Owner desires to construct, install, dedicate, and maintain a twenty-five (25)-foot non-exclusive public beautification easement (the "Beautification Easement") in, upon, over, under, through, across and along a portion of the Property's frontage on NW 36 Street ("Doral Boulevard"), as shown on Exhibit "B" and by this reference incorporated herein and made a part hereof, which Beautification Easement is further identified by that certain site plan entitled "Raising Caine's Restaurant #0855" prepared by Kimley-Horn and Associates, Inc., date stamped received February 17, 2022, and consisting of 38 sheets, approved on May 10, 2022, pursuant to Resolution No. 22-45, as may be amended or modified from time to time, and by this reference incorporated herein and made a part hereof (the "RC Site Plan"); and

WHEREAS, the Beautification Easement shall be measured from the right-of-way line, as existing at the time of the RC Site Plan approval, and as shown on Exhibit "B" hereto, Future site plan approvals or modifications, or right-of-way improvements or dedications that may affect the Property shall not trigger an increase or other revision in the Beautification Easement area; and

WHEREAS, the Owner desires to grant the City non-exclusive access upon, over, under, through, along, and across the Beautification Easement for access and use by the public for pedestrian, bicycle and other related uses consistent with the use by Owner and its tenants at the Property.

NOW, THEREFORE, IN ORDER TO ASSURE the City that the representations made herein by the Owner will be abided by the Owner freely and voluntarily the Owner and the City make the following covenants covering and running with the Beautification Easement:

Section 1: Incorporation of Recitals. The foregoing recitals are hereby incorporated into this Covenant as substantive provisions hereof.

Section 2: Grant of Beautification Easements. The Owner hereby grants, conveys, warrants, and dedicates to the City, its successors and assigns, non-exclusive access to and use of the Beautification Easement along Doral Boulevard by the public for pedestrian, bicycle, and other related uses, subject to the terms and conditions hereinafter set forth, in, upon, over, under, through, along, and across the Beautification Easement, together with all reasonable rights of ingress and egress in, upon, over, through, along, and across the Beautification Easement and any adjoining lands of the Owner necessary for the exercise of the rights herein granted.

Section 3: Maintenance of Beautification Easement. The Owner shall make all necessary repairs and replacements to keep the entirety of the Beautification Easement area, in good condition and repair at all times and that all landscaping, pedestrian lighting fixtures, benches and trash receptacles, if any, shall likewise be so maintained in accordance with the City of Doral Code of Ordinances. As further part of this Covenant, any official inspector of the City of Doral Planning and Zoning Department or its other duly authorized agents, at reasonable times and on notice to Owner, where appropriate, may enter and investigate the use of the Beautification Easement, to determine whether the conditions herein agreed to are being complied with. The foregoing improvements concerning the Beautification Easement shall not include any traffic lighting fixtures or street signs.

Section 4: Indemnity. The Owner hereby agrees to indemnify and hold the City harmless from any and all liability, which may arise by virtue of the Owner permitting pedestrian traffic to traverse the Beautification Easement, except as to any condition or incident occurring on the sidewalk or seven (7) foot grassy area adjacent to any roadways on or adjacent to the Beautification Easement, or where caused in whole or in part by the negligence or willful acts of the City or its employees, contractors and agents. Nothing herein shall waive any part of the City's sovereign immunity.

Section 5: Reservation of Rights. The Owner hereby reserves the right to use the Property, inclusive of the Beautification Easement, in any manner that will not prevent or interfere in any way with the exercise by the City or the public of the non-exclusive rights granted hereunder; provided, however, that the Owner shall not permanently or temporarily improve, disturb, damage, destroy, injure, or obstruct the Premises, nor permit the Premises to be permanently or temporarily improved, disturbed, damaged, destroyed, injured, or obstructed, at any time whatsoever, without the express prior written consent of the City. The Owner shall have the right to grant other non-exclusive easements over, along, upon, or across any portion of the Beautification Easement; provided, however, that any such other easements shall be subject to and consistent with this Covenant and the rights granted hereby; and provided further, however, that the City shall have first consented in writing to the terms, nature, and location of any such other easements, which consent shall not be unreasonably withheld or delayed.

Section 6: Further Assurances. The Owner hereby represents and warrants that all necessary action will be taken so that the Beautification Easement shall be released from all liens, including but not limited to, the lien of all mortgages, mechanics' lien claims, security agreements, and assignments of rents and leases, and shall execute all such documents as may be

reasonably necessary to perfect the City's easement rights, title, and interest in the Beautification Easement.

Section 7: Covenant Running with the Land. This Covenant shall run with the lands described herein, and shall be binding upon the Owner and City and shall inure to and be for the benefit of the Owner and City and their respective successors and assigns. The provisions of this instrument shall become effective upon their recordation in the Public Records of Miami-Dade County, Florida, and, subject to the provisions of Section 9, shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless terminated in writing by Owner and the City as provided for herein.

Section 8: Notices. All notices and other communications in connection with this Covenant shall be in writing and shall be deemed delivered to the addressee thereof (a) when delivered in person and receipted for on a business day at the address set forth below; or (b) on the receipt or refusal of the party to which such notice has been addressed after being deposited in any main or branch United States post office, for delivery by properly addressed, first class, United States mail, postage prepaid, certified or registered mail, return receipt requested, at the address listed below; or (c) when delivered to the address listed below by any nationally recognized courier service.:

If to OWNER:

LANDWIRTH REALTY, LLC
20039 Waters Edge Drive
Boca Raton, FL 33434

and a copy to:

Vanessa Madrid, Esq.
Holland & Knight, LLP
701 Brickell Avenue, Suite 3300
Miami, FL 33131

Tracy R. Slavens, Esq.
LSN Law, P.A.
3800 NE 1st Avenue, Suite 200
Miami, Florida 33137

Paul A. Lester, Esq.
Law Offices of Paul A. Lester, P.A.
9150 S. Dadeland Blvd, Suite 1400
Miami, FL 33156

If to CITY:

City of Doral
Office of the City Attorney
8401 NW 53rd Terrace
Doral, FL 33166

By five days' prior notice in the manner aforesaid, each party shall have the right to change the addressee, the address of the addressee, or both for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received or refused.

Section 9: Amendment. This Covenant may be modified, amended, or annulled independently by the Owner but only with the written consent of the City, such consent not to be unreasonably withheld or delayed.

Section 10. Entire Agreement. This Covenant constitutes the entire agreement as to the Beautification Easement granted by Owner hereby and supersedes all other written and oral agreements as to the subject matter hereof, if any, between the parties.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned have caused this Covenant to be signed in several counterparts, each of which shall be deemed an original, but all constituting only one agreement.

WITNESSES:

[Signature]
Signature
Dora Martinez
Print Name
[Signature]
Signature
Jeffrey Teng
Print Name

LANDWIRTH REALTY, LLC,
a Florida limited liability company

By: [Signature]
Print Name: Donald M. Landwirth
Title: Manager

STATE OF FLORIDA)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ___ day of _____, 2022, by Donald M. Landwirth, as Manager of Landwirth Realty, LLC, a Florida limited liability company (the "Company"), on behalf of the Company, who is personally known to me or who has produced _____ as identification.

[NOTARIAL SEAL]

Print Name: _____
Notary Public, State of Florida
Commission #: _____
My Commission Expires: _____

ATTACHED
INSTRUMENT/JURAT
FROM NOTARY PUBLIC

PLEASE SEE ATTACHED
ACKNOWLEDGMENT/JURAT
FROM NOTARY PUBLIC

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.


State of California
County of San Mateo)

On 10/21/22 before me, Kierin A. Haller, Notary Public
(insert name and title of the officer)

personally appeared Donald M Landwirth,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



PLEASE SEE
ACKNOWLEDGMENT
FROM NOTARY

ATTEST:

[Signature]
City Clerk

CITY:

CITY OF DORAL, FLORIDA
A Florida municipal corporation

By: [Signature]
Print name: Hernan Organvidez
Title: City Manager

WITNESSES:

[Signature]
Signature

Yamileth Percyra-Diaz
Print Name

This 3rd day of November, 2022

Approved as to form and legality
By office of City Attorney for

[Signature], City of Doral, Florida

[Signature]
Signature

Stephanie Puglia
Print Name

STATE OF FLORIDA)
) ss:
COUNTY OF Miami-Dade)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 3rd day of November, 2022 by Hernan U. Organvidez as City Manager of City of Doral, a _____, on behalf of the _____, who is personally known to me or who has produced _____ as identification.

[NOTARIAL SEAL]



[Signature]
Print Name: Vilmar Villafane
Notary Public, State of Florida
Commission #: GG 982951
My Commission Expires: 7/8/2024

EXHIBIT "A"

PROPERTY LEGAL DESCRIPTION

That portions of the West 1/2 of the Tract 14, "FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1", in Section 27, Township 53 South, Range 40 East, Miami Dade County, Florida, according to the Plat thereof, as recorded in Plat Book 2, at Page 17, of the Public Records of Miami-Dade County, Florida, lying South of Northwest 36 Street Extension Right-of-Way, and lying East of a line 353.16 feet East of and parallel with the West line of the Northeast 1/4 of Section 27.

Property Address: 8050-8080 NW 36 Street Doral, Florida 33166
Tax Folio Number: 35-3027-001-0091

EXHIBIT "B"

BEAUTIFICATION EASEMENT LEGAL DESCRIPTION

The North 25 feet of the following described parcel:

That portion of the West 1/2 of Tract 14, FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION No. 1, in Section 27, Township 53 South, Range 40 East, Miami-Dade County, Florida, according to the Plat thereof, as recorded in Plat Book 2, at Page 17, of the Public Records of Miami-Dade County, Florida, lying South of Northwest 36 Street Extension Right-of-Way, and lying East of a line 353.16 feet East of and parallel with the West line of the Northeast 1/4 of Section 27.

Containing 7,840 Square Feet, more or less, by calculations.

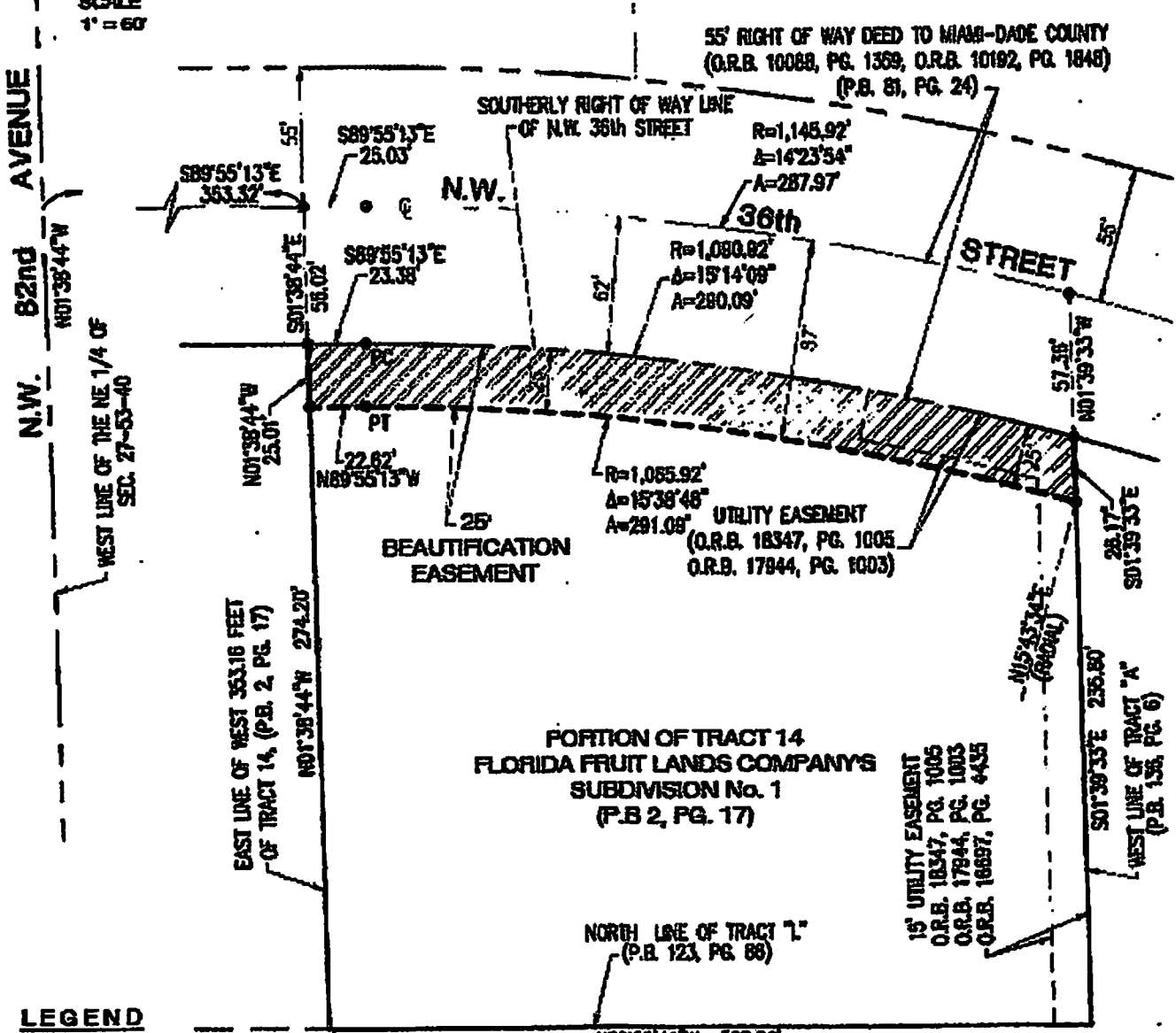
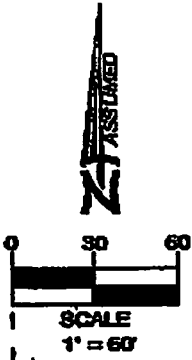
SKETCH TO ACCOMPANY LEGAL DESCRIPTION
prepared by:



LAND SURVEYOR AND MAPPERS
BY LASER SCANNING
UTILITY COORDINATION
SURFACE UTILITY ENGINEERING

EXHIBIT "B"

**8050-8080 NW 36th Street SITE
25' BEAUTIFICATION EASEMENT**



LEGEND

- P.B. = PLAT BOOK
- PG. = PAGE
- SEC. = SECTION
- P.O.C. = POINT OF COMMENCEMENT
- P.O.B. = POINT OF BEGINNING
- O.R.B. = OFFICIAL RECORDS BOOK
- R = RADIUS CURVE
- Δ = CENTRAL ANGLE
- A = ARC LENGTH

Supporting Document

RESOLUTION No. 22-45

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE SITE PLAN FOR RAISING CANE'S RESTAURANT FOR THE PROPERTY LOCATED AT 8080 NW 36 STREET, PURSUANT TO SECTION 53-184(F) OF THE CITY'S LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on November 2, 2016, the City of Doral (the "City") adopted Ordinance No. 2016-29 amending the City's Land Development Code to establish procedures for Mayor and City Council site plan review and approval process; and

WHEREAS Raising Cane's Restaurants, LLC (the "Applicant") has submitted an application for Mayor and Council site plan review and approval for Raising Cane's Restaurant for the property located at 8080 NW 36 Street, further identified by folio number 35-3027-001-0091, as legally described in "Exhibit A"; and

WHEREAS, a zoning workshop was held on January 20, 2022, at which meeting the public was afforded an opportunity to examine the project and provide feedback; and

WHEREAS, the City of Doral staff finds that the proposed site plan complies with the requirements and standards of the City's Land Development Code; and

WHEREAS, after notice of public hearing duly published and notifications of all property owners of record within 500-foot radius, a public hearing was held before the Mayor and City Council of the City of Doral on March 23, 2022, at which hearing all interested persons were afforded the opportunity to be heard; and

WHEREAS, the Mayor and City Council of the City of Doral find the adoption of this Resolution is in the best interest of the health, safety and welfare of the residents of the City of Doral.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are confirmed, adopted, and incorporated herein and made as part hereof by this reference.

Section 2. Approval. The Mayor and City Council hereby approve the site plan for Raising Cane's Restaurant for the property located at 8080 NW 36 Street, further identified by folio number 35-3027-001-0091, as legally described in "Exhibit A." The site plan consists of a 3,584 square-foot Raising Cane's Restaurant with a drive-through. A copy of the site plan is provided in "Exhibit B." The approval of the site plan is subject to the following conditions. Violation of these conditions may result in a code compliance citation or the revocation of this Resolution.

1. The proposed project shall be built in substantial compliance with the plans entitled "Raising Cane's Restaurant #0855," prepared by Kimley-Horn and Associates, Inc., dated stamped received February 17, 2022.
2. The project shall be landscaped in accordance with the landscape plan, prepared by Benjamin Van Johnson, dated stamped received February 17, 2022 as amended, and included with the site plan submittal.
3. Compliance with Ordinance No. 2015-09 "Public Arts Program" will be required at the time of building permit. No final approval, such as a final inspection or a certificate of occupancy, for development projects subject to the City's public arts program requirements shall be issued unless one or more of the following has been achieved:
 - I. The approved art has been installed in a manner that is [in] compliance with the requirements set forth in this ordinance and the public arts program guidelines; or
 - II. All in-lieu art fees have been paid; or
 - III. Financial security (including but not limited to a performance bond, letter of credit, or similar instrument) in an amount equal to the acquisition and installation costs of an approved art selection, has been provided to the City in a form approved by the City Attorney and the City Manager, or his/her designee and placed into escrow account; or
 - IV. Donation of art which have been approved by the board are delivered by the applicant to the City and are accepted by the City in accordance with this ordinance.

For purposes of the art program, "artwork" does not include the following:

- a. Directional elements, such as signage or graphics.
 - b. Objects that are mass produced in standard designs.
 - c. Landscape gardening, unless substantially comprising durable.
4. That the Applicant comply with the City's Floodplain Management regulations (Chapter 23, Article II, Floodplain Management) of the Land Development Code.
 5. That the Applicant provide the City a certified drainage inspection report prior to the issuance of a certificate of occupancy.
 6. That the property owner maintains the public rights-of-way adjacent to the property. Maintenance includes trees, plants, sod, and sidewalks within the rights-of-way.
 7. A Stormwater Pollution Prevention Plan (SWPPP) must be submitted by the Applicant at time of building permit. The Plan should provide guidelines for implementing an erosion and sedimentation control program before the site is cleared or graded, including areas where topsoil will be removed, and contours of slopes will be cleared. The Plan shall also include location and type of erosion control measures, storm water and sediment management systems, and a vegetative plan for temporary and permanent stabilization. The Plan shall remain on-site for the duration of the construction activity.
 8. If more than one (1) acre of land is disturbed during construction the Contractor/Developer is responsible to obtain NPDES Stormwater permit coverage through the Florida Department of Environmental Protection (FDEP), Construction Generic Permit (CGP). If the project is less than one (1) acre, but part of a larger common plan of development or sale that will ultimately disturb one or more acres, permit coverage is also required. Instruction to request and obtain a CGP can be found at: <http://www.dep.state.fl.us/water/stormwater/npdes/docs/cgp.pdf>. Contractor/Developer should submit the Notice of Intent (NOI) with the appropriate processing fees to the NPDES Stormwater Notices Center. Contractor/Developer must apply for permit coverage at least two (2) days before construction begins.
 9. Construction shall be permitted only during the hours set forth in Ordinance No. 2011-01 "Noise Ordinance."
 10. That the Applicant comply with all applicable conditions and requirements of the Miami-Dade County Department of Regulatory and Economic Resources.
 11. That the Applicant comply with all applicable conditions and requirements of the Miami-Dade County Fire Rescue Department.
 12. All applicable local, state and federal permits must be obtained before commencement of the development.

13. Issuance of this development permit by the City of Doral does not in any way create any right on the part of an Applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the City of Doral for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by Councilmember Cabrera who moved its adoption. The motion was seconded by Councilmember Puig-Corve and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Digna Cabral	Yes
Councilman Pete Cabrera	Yes
Councilwoman Claudia Mariaca	Yes
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED this 23 day of March, 2022.




JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



LUIS FIGUEREDO, ESQ.
CITY ATTORNEY