

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: December 17, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 18-0203 fka File No. 2216. 1615 Lenox Avenue –Progress Report**

#### **BACKGROUND**

*February 24, 2015* The applicant, Asta Parking, Inc., requested a conditional use permit (CUP) for a surface parking lot in a RM-1 zoning district operating 24 hours a day, pursuant to Section 130, Article III. At the time the Board limited the hours to 7:00 AM to midnight.

*September 27, 2016* A building permit was issued for the permanent parking lot.

*February 17, 2017* A Business Tax Receipt (BTR) was issued for the permanent parking lot (BTR001902-01-2017.)

*April 25, 2017* The applicant appeared before the board for the initial required progress report.

*September 25, 2018* The board approved requested modifications to operate the parking lot 24 hours a day, including added conditions to the CUP.

*September 23, 2019* A Business Tax Receipt (BTR) was issued for the permanent parking lot (BTR001902-01-2019), including the extended hours of operation.

#### **PROGRESS REPORT**

The applicant is before the Board pursuant to Condition No. 3 of the MCUP as follows:

3. Within 90 days of the commencement of the new hours of operation, the owner and/or operator shall be required to appear before the Board for a progress report.

The following conditions were also added to the CUP when the 24-hour operation was approved by the Board on September 25, 2018.

7. A revised site and landscape plan shall be submitted to and approved by staff, in accordance to the following:
  - a. Prior to BTR approval for the change of hours, Planning staff shall perform a site inspection to verify full compliance with the approved landscape plans issued as part of the building permit for the construction of the parking lot. Any damaged or missing plant material shall be replaced, and perpetually maintained as specified on plan.
  - b. Prior to BTR approval for the change of hours, operator shall provide a

maintenance plan inclusive but not limited to trash pick-up, and fertilization, mulching, watering, plant disease prevention, pruning and weeding of landscape areas subject to the review and approval of staff.

- c. In the eventuality of any plant material death, or removal due to natural disaster or theft, operator shall be perpetually responsible for plant material replacement as per originally approved building permit.
- d. Any tree pruning shall only be performed by a Certified Arborist, and as prescribed by City of Miami Beach Code Chapter 46.
- e. On a yearly basis and prior to BTR renewal, operator shall provide a photographic report documenting landscape conditions of the property for the review and approval of staff.

#### **STAFF ANALYSIS**

Prior to the issuance of the BTR for the expanded hours of operation, staff inspected the site as required by the CUP and noted numerous deficiencies in the landscaping. Over the course of several months, including additional inspections, the applicant was able to satisfy the requirements of the CUP. Condition 7.e. as noted above, requires evidence of compliance on an annual basis, which should help ensure that the lot is maintained in an acceptable manner. It should also be noted that even without this condition, the applicant is responsible for the on-going upkeep and maintenance of the site during the entire year.

As of the writing of this report, there are no outstanding code violations related to the CUP for the subject property.

#### **STAFF RECOMMENDATION**

Staff recommends that the Board discuss the progress report and, provided that there are no open violations related to the CUP at the time of the meeting, suspend further progress reports at this time.

**PLANNING BOARD  
CITY OF MIAMI BEACH, FLORIDA**

**PROPERTY:** 1615 Lenox Avenue

**FILE NO.** PB 18-0203 fka File No. 2216

**IN RE:** The application for Conditional Use approval to operate a surface parking lot 24 hours a day, pursuant to Section 130, Article III.

**LEGAL DESCRIPTION:** Lot 15, Block 47, Lincoln Subdivision, According to the Plat Thereof, as Recorded in Plat Book 9, Page 69, of the Public Records of Miami-Dade County, Florida

**MEETING DATE:** February 24, 2015, September 25, 2018

**MODIFIED CONDITIONAL USE PERMIT**

The applicant, Asta Parking, Inc., requested Conditional Use approval to operate a surface parking lot 24 hours a day, pursuant to Section 130, Article III. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the RM-1, Commercial Low Intensity District zoning district; and

That the use is consistent with the Comprehensive Plan for the area in which the property is located; and

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan; and

That structures and uses associated with the request are consistent with the Land Development Regulations; and

That the public health, safety, morals, and general welfare will not be adversely affected; and

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

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**IT IS THEREFORE ORDERED**, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, as approved by the Planning Board, and accepted by the applicant, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

1. This conditional Use Permit is issued to Asta Parking, Inc., Subsequent owners and/or operators shall be required to appear before the Board within 90 days of the change of ownership or operator to affirm their understanding of the conditions listed herein and to obtain a Modification to this Conditional Use Permit.
2. The Planning Board shall maintain jurisdiction on this Conditional Use Permit. If deemed necessary, at the request of the Planning Director or a Board member, the applicant shall present a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of the progress report in a non-substantive manner, to impose additional conditions to address possible problems, and to determine the timing and need for future progress reports. This Conditional Use Permit is also subject to modification or revocation under City Code Sec. 118-194 (c).
3. Within 90 days of the commencement of the new hours of operation, the owner and/or operator shall be required to appear before the Board for a progress report.
4. The Planning Board shall retain the right to call the applicant or operator back before them and make modifications to this Conditional Use Permit should there be valid complaints about loud, excessive, unnecessary, or unusual noise, or if code violations have been issued to the property. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the applicant or operator for other reasons and for other modifications of this Conditional Use Permit.
5. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board, in advance, to affirm their understanding of the conditions listed herein.
6. The hours of operation for the parking lot shall be ~~from 7:00 AM to Midnight~~ twenty-four (24) hours per day.
7. A revised site and landscape plan shall be submitted to and approved by staff, in accordance to the following:
  - a. ~~All existing and proposed lighting shall be noted on the site plan, subject to the review and approval of staff.~~
  - b. ~~The applicant shall provide a revised landscape plan that includes irrigation.~~

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- c. ~~The applicant shall obtain an approved building permit for resurfacing, striping and landscaping, and complete all work on site associated with such permit prior to the issuance of the Certificate of Use/Business Tax Receipt for the extended hours.~~
  - a. Prior to BTR approval for the change of hours, Planning staff shall perform a site inspection to verify full compliance with the approved landscape plans issued as part of the building permit for the construction of the parking lot. Any damaged or missing plant material shall be replaced, and perpetually maintained as specified on plan.
  - b. Prior to BTR approval for the change of hours, operator shall provide a maintenance plan inclusive but not limited to trash pick-up, and fertilization, mulching, watering, plant disease prevention, pruning and weeding of landscape areas subject to the review and approval of staff.
  - c. In the eventuality of any plant material death, or removal due to natural disaster or theft, operator shall be perpetually responsible for plant material replacement as per originally approved building permit.
  - d. Any tree pruning shall only be performed by a Certified Arborist, and as prescribed by City of Miami Beach Code Chapter 46.
  - e. On a yearly basis and prior to BTR renewal, operator shall provide a photographic report documenting landscape conditions of the property for the review and approval of staff.
  - f. All vehicles shall be parked in marked spaces, and there shall not be any tandem parking.
  - g. The applicant shall be responsible for operating this facility in an orderly, clean and quiet manner so that neighboring residents are not disturbed during the hours of operation. This shall include removing all trash from the lot not less than twice daily. The sounding of car alarms, automobile horns, playing of radios or any kind of audio system and screeching of tires shall be prohibited. Two signs, one addressing City Code provisions regarding car alarms, and one prohibiting the screeching of tires and sounding of horns, shall be posted on the site so they are plainly visible by, and legible to, users of the facility.
  - h. The applicant shall install a sign indicating the name and phone number of the operator to report complaints, as well as the phone number for Code Compliance. The design, material and location of such sign shall be part of the revised site plan, and shall be subject to the review and approval of staff. The maximum size of such sign shall not exceed that permitted by the City Code.
8. The applicant shall obtain a full building permit within 18 months from the date of the meeting at which the original Conditional Use permit was issued and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.

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9. The applicant shall resolve all outstanding code violations and fines for the subject property prior to the issuance of a Business Tax Receipt/Certificate of Use for this parking facility.
10. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.
11. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
12. Compliance with the aforesaid conditions shall be a prerequisite to obtaining a Certificate of Use/Business Tax Receipt.
13. A Conditional Use Permit which lists the aforementioned conditions shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a Business Tax Receipt /Certificate of Use, or Certificate of Occupancy, whichever may occur first.
14. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
15. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use permit.
16. Within a reasonable time after applicant's receipt of this Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
17. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

Dated this 3<sup>rd</sup> day of OCTOBER, 2018.

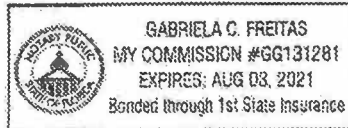
PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush  
Michael Belush, Chief of Planning and Zoning  
For Chairman

*MB*

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of October, 2018, by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



  
Notary:

Print Name Gabriella C. Freitas



Notary Public, State of Florida

My Commission Expires: 8-3-21

Commission Number: 99131281

[NOTARIAL SEAL]

Approved As To Form:  
Legal Department

 9/28/18  
Filed with the Clerk of the Planning Board on  (10/3/18)

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