

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation  
Board

Planning

TO: Chairperson and Members  
Planning Board

DATE: June 23, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 19-0334. 1470 16th Street – Revive Clinic**

An application has been filed requesting a conditional use approval for non-medical office and personal service uses located on the ground floor of the existing multifamily building, pursuant to Chapter 118, Article IV, and Chapter 142, Article II, Division 3, Subdivision IV of the City Code.

### **RECOMMENDATION**

Approval with conditions

### **BACKGROUND**

On *October 30, 2019*, the City Commission adopted Ordinance No. 2019-4313, amending the conditional uses within the West Avenue Bayfront Overlay District, to include non-medical offices and personal service uses for bayfront apartment buildings. As part of the discussion of this ordinance, the City Commission referred a separate ordinance to the Planning Board to amend the existing definition for personal service.

The ordinance modifying the definition for personal service establishment was adopted by the City Commission on May 13, 2020.

This application was initially scheduled for the March 24, 2020 Planning Board meeting. Due to the COVID-19 pandemic, the meeting was cancelled and the application was automatically continued to the next available meeting date.

### **ZONING/SITE DATA**

**Legal Description:**

Parcel 1: Tract A, Villagio Bay I, according to the Plat thereof as recorded in Plat book 166 at page 56 of the public Records of Miami-Dade County, Florida, Less the west 6.00 Feet.

Parcel 2: Tract B, Villagio Bay II, according to the Plat thereof as recorded in Plat book 166 at page 57 of the public Records of Miami-Dade County, Florida, Less the west 6.00 Feet.

**Zoning District:**

RM-2 (Residential Multifamily Medium Intensity District)

**Future Land Use Designation:**

RM-2 (Residential Multifamily Medium Intensity District)

<b>Surrounding Uses:</b>	North:	Residential Multifamily
	South:	Residential Multifamily
	West:	Biscayne Bay
	East:	Residential Multifamily

(See Zoning/Site map at the end of the report)

### **THE PROJECT**

The applicant, Krzysztof Gojdz, has submitted plans entitled “Revive Clinic, LLC”. The proposal is for an operation that occupies the existing commercial space on the ground floor at the Capri South Beach Condominium.

Plans prepared by J.C.D Architect, Inc. provides the proposed ground floor plan and location within the existing building, The proposed clinic is surrounded by the existing building lobby, an interior patio and the exterior terrace that faces the Bay walk.

The clinic is 998 SF and has three consultation rooms, two massage rooms, a reception waiting area and a coffee counter waiting area.

### **COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:**

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

- 1. The Use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

**Consistent** – The request is consistent with the permissible uses in the Residential Multifamily Medium Intensity District (RM-2) as designated on the Future Land Use Map within the Comprehensive Plan.

- 2. The intended Use or construction would not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan**

**Consistent** – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.

- 3. Structures and uses associated with the request are consistent with these Land Development Regulations.**

**Consistent** – Non-medical offices and personal service uses are permitted as conditional uses in this zoning district.

- 4. Public health, safety, morals and general welfare would not be adversely affected.**

**Consistent** – The proposed establishment should not adversely affect the general welfare of nearby residents. The facility would have to comply with all applicable laws and regulations for licensure.

- 5. Adequate off-street parking facilities would be provided.**

**Consistent** – There are four (4) parking spaces allocated for this commercial space in the existing building. Additionally, there is valet parking service available and adequate public parking facilities adjacent to the site.

**6. Necessary safeguards would be provided for the protection of surrounding property, persons, and neighborhood values.**

**Consistent** – Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighbors.

**7. The concentration of similar types of uses would not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.**

**Consistent** – There are no similar uses within the vicinity. Therefore, no negative impact through the concentration of uses is expected.

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

1. A recycling or salvage plan for partial or total demolition shall be provided.  
Not Applicable (Existing Commercial Space)
2. Windows that are proposed to be replaced shall be hurricane proof impact windows.  
Not Applicable (Existing Commercial Space)
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
Not Applicable (Existing Commercial Space).
4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.  
Not Applicable.
5. Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.  
Not Applicable.
6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.  
Not Applicable.
7. Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.  
Not Applicable (Existing Commercial Space)
8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

Not Applicable.

9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable.

10. Where feasible and appropriate, water retention systems shall be provided.

Not Applicable

## **ANALYSIS**

### **Project Description and Operations**

The proposal is for the renovation of the existing commercial space in the building to operate the proposed clinic which includes non-medical office and provide personal service uses. Per Section 142-213 of the Land Development Regulations this requires a Conditional Use approval by the Planning Board. As indicated in the Background section of this report, the City code was recently modified to allow the proposed use as a conditional use:

*142-213(c) West Avenue Bayfront Overlay District. In addition to the conditional uses specified in subsection 142-213(a), the conditional uses within the West Avenue Bayfront Overlay District shall include the following: non-medical offices and personal service uses, either of which may only be located on the lobby level of bayfront apartment buildings.*

The pending definition for personal service establishment is as follows:

*Personal service establishment means a licensed establishment providing non-retail, non-medical services, for persons, such as pedicures, manicures, hair styling, barber services, massages, facials, tailoring services, and similar person-oriented services, as determined by the planning director.*

As per the plans, letter of intent and operational plan, the proposed operations are as follows:

#### **Services provided:**

The applicant has indicated that the massage clinic and spa will include facial cosmetic treatments and body cosmetic treatments.

#### **Hours of operation:**

Monday to Friday from 10 AM- 8 PM and Saturdays from 10 AM to 6 PM.

#### **Access:**

Spa access will be provided through the entrance on the Bay Walk at 1470 16<sup>th</sup> Street.

#### **Staffing:**

The applicant expects to have four employees staffed at any point in time.

**Security:** There is security and valet staff in front of the building, and security cameras and security system are provided.

**Parking and valet service:** There are multiple parking facilities along West Avenue and Alton Road. Additionally, the applicant has use of four valet parking spaces in the building, and valet services will be available all times while the spa is operational.

Based upon the types of services provided, the minimal staffing and minimal cliental serviced within the business at any given time, as well as the largely daytime hours of operations from 10am – 8pm, staff has no concerns with the applicant's request.

**STAFF RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the application be approved subject to the conditions enumerated in the attached Draft Order.

### ZONING/SITE MAP



0 25 50 100 150 200 250 Feet





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

**PROPERTY:** 1470 16th Street

**FILE NO.** PB 19-0334

**IN RE:** An application for a conditional use permit for non-medical office and personal service uses located on the ground floor of the existing multifamily building, pursuant to Chapter 118, Article IV, and Chapter 142, Article II, Division 3, Subdivision IV of the City Code

**LEGAL DESCRIPTION:** Parcel 1: Tract A, Villagio Bay I, according to the Plat thereof as recorded in Plat book 166 at page 56 of the public Records of Miami-Dade County, Florida, Less the west 6.00 Feet.  
Parcel 2: Tract B, Villagio Bay II, according to the Plat thereof as recorded in Plat book 166 at page 57 of the public Records of Miami-Dade County, Florida, Less the west 6.00 Feet.

**MEETING DATE:** June 23, 2020

**CONDITIONAL USE PERMIT**

The applicant, Krzysztof Gojdz, requested a Conditional Use Permit, pursuant to Chapter 118, Articles IV, to operate a massage clinic with non-medical office and personal service uses. 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-2, Residential Multifamily Medium Intensity 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.

**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 Krzysztof Gojdz, as owner/operator of Revive Clinic. Any change of operator or fifty percent (50%) or more stock ownership shall require the new owners or operators to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owners and/or operators and acknowledging acceptance of all conditions established herein, prior to the issuance of a new Business Tax Receipt.
2. The Board hereby imposes and the Applicant agrees to the following operational conditions for all permitted and accessory uses, and the applicant shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
  - a. The applicant shall operate in accordance with the approved business/operation plan specified in the operational plan submitted.
  - b. Hours of operation shall be limited to 9:00 AM to 8:00 PM daily.
  - c. Deliveries may only occur between 8:00 AM and 5:00 PM, daily.
  - d. Exterior speakers for fire and life safety purposes, and background ambient music played at a volume that does not interfere with normal conversation may be permitted during the hours of operation.
  - e. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
  - f. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the boardwalk, sidewalks, curb and gutter and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.



3. The Planning Board shall retain the right to call the owner or operator, both now and in the future, back before the Board and modify this Conditional Use Permit, including the hours of operation, should there be valid complaints or violations (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise.
4. The applicant shall address the following Concurrency and Parking requirements, as applicable:
  - a. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.
  - b. Prior to the issuance of a Building Permit, calculations for required parking for the project shall be determined by the Planning Department. A final determination for the required parking shall be conducted prior to the issuance of a Certificate of Occupancy or Business Tax Receipt, whichever comes first. If required, a one-time fee in lieu of providing the required parking on site, as determined by staff, shall be paid prior to the issuance of the Certificate of Occupancy.
5. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
6. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR. The Board reserves the right to modify the Conditional Use approval at the time of a 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 is also subject to modification or revocation under City Code Sec. 118-194 (c).
7. 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.
8. 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.
9. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
10. 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.
11. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant and returned to the Planning

Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.

- 12. 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.
- 13. 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.
- 14. The applicant agrees and shall be required to provide access to areas subject to this Conditional Use Permit (not private residences or hotel rooms) for inspection by the City (i.e. Planning Department, Code Compliance Department, Building Department, and Fire Department staff), to ensure compliance with the terms and conditions of this Conditional Use Permit. Failure to provide access may result in revocation of the Conditional Use Permit.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
Michael Belush, AICP  
Chief of Planning and Zoning  
for Chairman

STATE OF FLORIDA )

COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Michael Belush, Chief of Planning & Zoning for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]

\_\_\_\_\_  
Notary:  
Print Name:  
Notary Public, State of Florida  
My Commission Expires:  
Commission Number:

Approved As To Form:  
Legal Department \_\_\_\_\_ ( )

Filed with the Clerk of the Planning Board on \_\_\_\_\_ ( )