

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: July 27, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB21-0444: 901 Alton Road - Liquor Store.**

An application has been filed requesting a conditional use permit for a Retail store for off-premises consumption, pursuant to Chapter 6, Article I and Chapter 118, Article IV of the City Code.

RECOMMENDATION

Approval with conditions.

ZONING/SITE DATA

Legal Description:

LOT 7 AND 8, BLOCK 123, LENOX MANOR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, AT PAGE 15, OF PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

Zoning District:

CD-2 Commercial Medium Intensity

Surrounding Uses:

See Zoning/Site Map at the end of this report.

North: Mixed-use Commercial and office building

South: Residential multifamily building

West: Commercial uses

East: Residential multifamily building

Lot Size:

20,400 SF

Maximum FAR:

1.5 (30,600 SF)

Proposed FAR:

N/A - Existing building at .48 FAR (9,792 SF)

Gross Floor Area:

1,905 SF for the commercial space on this building.

Historic District:

Flamingo Park Historic District.

Overlays:

Alton Road- Historic District Buffer Overlay.

THE PROJECT

The applicant, J&C Liquor Incorporated, has submitted plans entitled "901 Alton Road – Interior build-out of liquor store in existing shell building. The liquor store is proposed to be located within an existing shopping center that faces Alton Road and 9th Street. This shopping center has two buildings and contains 23 surface parking spaces.

The applicant is proposing to combine two existing commercial bays located at the northeast corner of the property and the size of the proposed liquor store is 1,905 SF.

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 Comprehensive Plan. The CD-2 future land use category allows for the proposed use as both a main permitted and conditional use.

2. **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.**

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 this Ordinance.**

Consistent – Package liquor stores, where permitted, have a minimum distance separation requirement of 1,500 feet from other liquor stores. A conditional use permit for a retail store for off-premises consumption is being requested pursuant to Chapter 6, Article I and Chapter 118, Article IV of the City Code. In order to have a lesser distance separation from an existing package store. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a Certificate of Use (CU).

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

Partially Consistent – The proposed project may adversely affect the general welfare of nearby residents and businesses if hours of operation, delivery, waste removal, and other operations are not controlled. Staff is recommending conditions to mitigate potential negative impacts.

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

Consistent – The existing site has 23 off-street vehicle parking spaces.

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

Consistent – The establishment will have to comply with section 142-1112, related to

package liquor store design guidelines in order to minimize the impacts of the use. Additionally, staff is recommending conditions to mitigate any adverse impacts on the surrounding neighbors.

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

Partially Consistent – The code requires a distance separation of 1,500 feet for retail stores primarily selling alcoholic beverages from an existing store. In this case the distance is lesser (1,365 feet from the closest retail liquor establishment). In this particular instance, the proposed location increases the distance separation from the current location and operational conditions are proposed to ensure that any potential impacts are properly controlled.

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 Structure.

2. **Windows that are proposed to be replaced shall be hurricane proof impact windows.**

Not Applicable – Existing Structure.

3. **Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.**

Not Applicable – Existing Structure.

4. **Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.**

Not Applicable – Existing Structure.

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 – Existing Structure.

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 – Existing Structure.
7. **Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.**

Not Applicable – Existing Structure.
8. **Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.**

Not Applicable – Existing Structure.
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 – Existing Structure.
10. **Where feasible and appropriate, water retention systems shall be provided.**

Not Applicable – Existing Structure.
11. **Cool pavement materials or porous pavement materials shall be utilized.**

Not Applicable – Existing Structure.
12. **The design of each project shall minimize the potential for heat island effects on-site.**

Not Applicable – Existing Structure.

ANALYSIS

The Proposal

The applicant is seeking to relocate a package liquor store (retail store primarily selling alcoholic beverages for consumption off the premises) from the current location at 814 Alton Road to 901 Alton Road. The new location would allow the applicant to provide off-street parking which is not available at the current location.

Pursuant to Chapter 6-4(3) of the City Code, there are distance separation requirements for package liquor stores. The applicant provided a distance separation survey prepared by John Ibarra & Associates, Inc., showing that Total Wine & More is located 1,365 feet from the proposed location. Since the distance between the proposed location at 901 Alton Road and the exiting Total Wine & More package liquor store is less than 1,500 feet, the applicant is requesting conditional use approval from the Planning Board pursuant to Chapter 6-4 (3) of the City Code,

which has the following requirements:

(3) Retail stores for off-premises consumption. *The minimum distance separation between retail stores primarily selling alcoholic beverages for consumption off the premises as a main permitted use shall be 1,500 feet. A retail store primarily selling alcoholic beverages may obtain conditional use approval from the planning board to operate at a lesser distance from an existing store, but in no event shall such a store open at a distance less than 700 feet from an existing store. There shall be no variances from this distance separation requirement.*

Staff is proposing conditions to ensure that the existing location closes before the new location can open. The proposed location has a greater distance separation from the Total Wine & More store than the current location, thereby reducing the degree of the existing nonconformance, as well as the future concentration of package liquor stores along Alton Road.

Parking and Access

Vehicular access to the site is via two driveways located on Alton Road and 9th Street and there are 23 parking spaces on the existing surface parking-lot. Access for pedestrians is available thru the existing sidewalks. The site is also served by Metrobus and City Trolley routes on Alton Road.

The property is located in Parking District No. 6. Since the package store will be located in an existing retail bay, it is not expected that it will necessitate any additional parking than what currently exists.

Operations

The operations plan indicates that there will be a staff of 4 employees and that the store will be open between 10:00 AM and 10 PM. Staff is recommending a condition incorporating those hours and providing that should the City Commission limit hours for package liquor stores in this area in the future, that those modified hours apply to this establishment as well.

Deliveries and Sanitation

The operations plan indicates that deliveries, loading, and trash removal will occur on Monday and Friday at approximately 8:00 AM and recycling pick up occurs once a week on Thursday at approximately 8:00 AM. Deliveries will occur twice a week on Tuesday and Wednesday at approximately 11:00 AM. There is a City loading zone located in front of this building on 9th street.

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



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

PROPERTY: 901 Alton Road

FILE NO. PB21-0444

IN RE: A conditional use permit for a Retail store for off-premises consumption, pursuant to Chapter 6, Article I and Chapter 118, Article IV of the City Code

LEGAL DESCRIPTION: LOT 7 AND 8, BLOCK 123, LENOX MANOR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, AT PAGE 15, OF PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

MEETING DATE: July 27, 2021

CONDITIONAL USE PERMIT

The applicant, J&C Liquor Incorporated, requested a Conditional Use Permit, pursuant to Chapter 6, Article I and Chapter 118, Article IV, for a liquor store for off-premises consumption. 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 CD-2, Commercial Medium 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.

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. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. 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).
2. This Conditional Use Permit is issued to J&C Liquor Incorporated, as tenants and operators of this Liquor store for off-premises consumption. 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 Certificate of Use/Business Tax Receipt.
3. The following shall apply to the operation of the proposed criteria listed below:
 - a. The proposed liquor store shall be limited to the following hours of operation:
Monday to Sunday: 10:00 AM to 10:00 PM, or lesser hours as may be established in the future through the City Code for package liquor stores at this location.
 - b. Deliveries and trash collection shall take place only at the designated areas proposed by the applicant as shown in the plans.
 - c. Trash pick-up may only occur on Monday and Friday between 7:30 AM and 8:30 AM.
 - d. Recycling pick-up may only occur on Thursday between 7:30 AM and 8:30 AM.
 - e. All trash containers shall utilize rubber wheels, as well as a path consisting of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
 - f. Deliveries may only occur on Tuesday and Wednesday between 10:30 AM and 11:30 AM.
 - g. All trash rooms doors shall remain closed and secured when not in use and all trash dumpsters shall be closed at all times except when in use.
 - h. Delivery trucks shall not be allowed to idle in loading areas or driveways.
 - i. Except as may be required for Fire, Building, or Life Safety Code purposes, no speakers of any kind shall be affixed to, installed, or otherwise located on the exterior of the premises.
 - j. The storefront shall comply with the requirements of section 142-1112 of the land development regulations, regarding package liquor store design standards.
4. Prior to issuance of a Certificate of Use/Business Tax Receipt for a package liquor store at 901 Alton Road, evidence that the 814 Alton Road location has been vacated must be provided to the Planning Department.

5. The Planning Board shall retain the right to call the owner or operator back before the Board and make modifications to this Conditional Use Permit should there be valid complaints, as determined by Code Compliance, about loud, excessive, unnecessary, or unusual noise. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.
6. 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.
7. 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.
8. The applicant shall address the following Transportation, Mobility, Concurrency and Parking requirements:
 - a. The applicant shall pay all impact, mobility, and concurrency fees due prior to obtaining a Building Permit, Certificate of Occupancy, or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing.
 - b. Property managers and business operators for all residential and commercial uses shall ensure that deliveries are made as approved in this Conditional Use Permit. At no time shall delivery trucks block traffic flow on the public right-of-way.
9. 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 of the City Code.
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 Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a building permit.
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 City Code, and shall be subject to enforcement procedures set forth in Section 114-8 of the Code and such other enforcement procedures as are permitted by law. 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.

Dated _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Rogelio A. Madan, AICP
Chief of Planning and Sustainability
for Chairman

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Rogelio A. Madan, Chief of Community Planning and Sustainability 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 _____ ()