

## **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 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

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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.
  - k. The Applicant shall cause the gate located in the alley behind the store to remain locked at all times during the permitted hours of operation except as required for Life Safety Code purposes, for deliveries/trash, and for access required for utility and repair personnel.

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- I. The security camera to be installed by the Applicant to monitor the rear of the store shall be installed and kept in a manner that does not capture the private, adjacent residential property directly to the east, which the adjacent homeowner(s) can verify.
4. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR. Prior to the progress report, the applicant shall meet with the Flamingo Park Neighborhood Association to discuss the store's operations and any operational concerns (if any) by the Flamingo Park Neighborhood Association shall be addressed at the progress report.
5. Prior to issuance of a 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.
6. 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.
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 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.
10. 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.
11. 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.

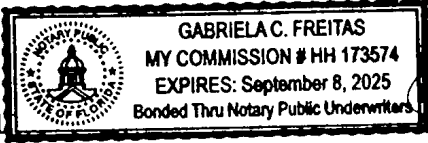
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12. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a building permit.
13. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; 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.
14. 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 11/15/2021 | 11:28 AM ESTPLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDADocuSigned by:  
Rogelio Madan  
BY: Rogelio A. Madan, AICP  
Chief of Planning and Sustainability  
for ChairmanSTATE OF FLORIDA  
)  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of November, 2021, 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]  Gabriela C. Freitas  
Notary:  
Print Name: Gabriela C. Freitas  
Notary Public, State of Florida  
My Commission Expires: Sept. 8, 2025  
Commission Number: HH 173574

Approved As To Form: Legal Department ( 11/15/2021 | 11:26 AM ESTDS  
RM

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

DocuSigned by:

Jessica Gonzalez

( 11/15/2021 | 11:40 AM EST

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