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MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: May 28, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

DS for TRM

SUBJECT: **File No. 2119. 427 Collins Ave. Parking Lot - Progress Report**

BACKGROUND

April 28, 2015: M&M Parking South Beach, LLC, requested Conditional Use approval, pursuant to Section 130-69.5 of the City Code to operate the existing surface lot after midnight. The applicant was granted a Conditional Use Permit (CUP) for the limited use of the parking lot after midnight with operational conditions.

December 27, 2018: The Planning Department sent a cure letter to the applicant, M&M Parking South Beach, LLC, and the owner of the lot, Ocean Washington Associates LTD, in response to outstanding code violations related to the conditions of the CUP. The cure letter advised the applicant that a progress report was scheduled for the January 22, 2019 meeting.

January 22, 2019: The applicant appeared before the Board and explained that the gate timer had been malfunctioning and that it was in the process of be repaired or replaced. The Board continued the progress report to the February 26, 2019 meeting, so that there could be enough time to allow for the gate repairs to be completed.

February 26, 2019: The Board continued the progress report to the March 26, 2019 meeting.

March 26, 2019: The Board was satisfied with the corrective actions that were made and suspended future progress reports.

May 2 2024: The Planning Department sent a cure letter to Ocean Washington Associates LTD and to the operator, M&M Parking South Beach, LLC, in response to two (2) violations that were issued regarding the operation of the parking lot after midnight. The cure letter advised the applicant that a progress report was scheduled for the May 28, 2024 Planning Board meeting.

PROGRESS REPORT

It has come to the Planning Department's attention that violations have been issued by the Code Compliance Department regarding the operation of the parking lot. The following warnings, violations and open offenses are showing in the City's records as of this writing:

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1. Case No. **ZV2024-05211** *3/15/2024* Failure to operate your business in accordance with your conditional use permit. *3rd offense.*

   Failure to follow the conditions set forth on the conditional use permit by not closing the parking lot access at 12:00 midnight and by having working parking meter/ pay station after 12:00 Midnight.

2. Case No. **ZV2023-04678** *3/18/2023* Failure to operate your business in accordance with your conditional use permit.

   Failure to follow the conditions set forth on the conditional use permit by not closing the parking lot access at 12:00 midnight and by having working parking meter/ pay station after 12:00 Midnight.

The following conditions of approval contained in the Conditional Use Permit are applicable to the above noted violations:

1. 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 at a future date. 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).

5. The operation of the subject parking lot shall comply with the following:

   a. The parking lot access gates shall be closed every day from 12:00 midnight until 7:00 am.

   b. No meter parking shall be permitted from 12:00 midnight until 7:00 am, 7 days a week.

   * * *

   d. Only remote clicker access, for pre-approved users, shall be permitted from 12:00 midnight until 7:00 am, 7 days a week.

11. 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.

STAFF ANALYSIS

The subject surface parking lot is situated between two low-rise residential buildings. The Planning Board approved the CUP for the limited use of the lot after midnight after much discussion with the neighbors. The operator agreed to not use the lot for valet storage, and to implement a program for residents and their guests to access the lot with a prepaid pass program and electronic entry and exit for those individuals after midnight.

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If either of the front or back gates are not functioning and being left open between 12:00 AM and 7:00 AM, the parking lot would not be in compliance with the requirements of the CUP. Further, the CUP prohibits meter parking between Midnight and 7am.

Below are the conditions of the CUP that are related to the warnings, violations and open offenses:

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 at a future date. 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).

6. The operation of the subject parking lot shall comply with the following:

   c. The parking lot access gates shall be closed every day from 12:00 midnight until 7:00 am.

   d. No meter parking shall be permitted from 12:00 midnight until 7:00 am, 7 days a week.

   * * *

   e. Only remote clicker access, for pre-approved users, shall be permitted from 12:00 midnight until 7:00 am, 7 days a week.

   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 permit.

STAFF RECOMMENDATION

Staff recommends that the Planning Board discuss the progress report and continue the item to the June 25, 2024 meeting, in order to monitor the operations of the parking lot.

MIAMIBEACH
PLANNING DEPARTMENT
City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139
Tel: (305) 673-7550

May 9, 2024

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ocean Washington Associates LTD
C/O SRC Properties LLC
230 5th Street
Miami Beach, FL 33139

M&M Parking South Beach, LLC
1210 Michigan Avenue
Miami Beach, FL 33139

Re: **Planning Board File No. 2119 –427 Collins Avenue**

Dear Sir/Madam:

A Conditional Use Permit (CUP) to operate a parking lot after midnight was issued to M&M Parking South Beach, LLC on April 28, 2015. It has come to the Planning Department's attention that violations have been issued by the Code Compliance Department regarding the operation of the parking lot. The following warnings, violations and open offenses are showing in the City's records as of this writing:

1. Case No. **ZV2024-05211** *3/15/2024* Failure to operate your business in accordance with your conditional use permit. *3rd offense.*

   Failure to follow the conditions set forth on the conditional use permit by not closing the parking lot access at 12:00 midnight and by having working parking meter/ pay station after 12:00 Midnight.

2. Case No. **ZV2023-04678** *3/18/2023* Failure to operate your business in accordance with your conditional use permit.

   Failure to follow the conditions set forth on the conditional use permit by not closing the parking lot access at 12:00 midnight and by having working parking meter/ pay station after 12:00 Midnight.

The following conditions of approval contained in the Conditional Use Permit are applicable to the above noted violations:

1. 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 at a future date. 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).

5. The operation of the subject parking lot shall comply with the following:

a. The parking lot access gates shall be closed every day from 12:00 midnight until 7:00 am.

b. No meter parking shall be permitted from 12:00 midnight until 7:00 am, 7 days a week.

* * *

d. Only remote clicker access, for pre-approved users, shall be permitted from 12:00 midnight until 7:00 am, 7 days a week.

11. 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.

In accordance with Condition No. 1 of the CUP, **you are requested to appear at the May 28, 2024 Planning Board hearing** for a verbal progress report.

Please be advised that at the time of the progress report, in accordance with the provisions of Section 2.5.2.5 of the Land Development Regulations of the City Code (LDR's), the Planning Board may consider setting a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings.

Should the Planning Board consider setting a public hearing for the purpose of examining the noncompliance issues noted herein, and initiate modification/revocation proceedings, this matter may be placed on the July 30, 2024 agenda of the Board as a modification/revocation hearing. If a future public hearing is set, the board may consider the issue of noncompliance and the possible modification or revocation of the approval. Based on substantial competent evidence, the board may consider revoking the approval, modifying the conditions thereof, or imposing additional or supplemental conditions.

If you have any questions, please do not hesitate to contact Michael Belush at (305) 673-7000 ext. 26258 or via email at MichaelBelush@MiamiBeachFL.gov.

Sincerely,

Thomas R. Mooney, AICP
Planning Director

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RECORDED 07/07/2015 10:34:48
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 427 Collins Avenue

FILE NO. 2119

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 13, Block 5 of Ocean Beach FLA, according to the Plat thereof, as recorded in Plat Book 2, Page 38, of the Public Records of Miami-Dade County, Florida.

MEETING DATE: April 28, 2015

CONDITIONAL USE PERMIT

The applicant, M&M Parking South Beach, LLC, 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 CPS-2, Commercial Performance Standard 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

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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 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 at a future date. 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).

2. The applicant shall present a Progress Report to the Board within 60 days of the issuance of a modified Business Tax Receipt (BTR) for the expanded hours of operation.

3. This conditional Use Permit is issued to M&M Parking South Beach, LLC. 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.

4. A revised site plan shall be submitted. The contents of such plan shall be reviewed and approved by staff, as well as, installed and inspected prior to the issuance of a BTR. At a minimum, such plan shall include the following:

    a. Hedges or similar plant material shall be installed along the north and south property lines to mitigate light and sound spillage onto the neighboring properties, in a manner subject to the review and approval of staff.

    b. Light baffling covers shall be installed to minimize light spillage onto the neighboring properties and still meet any State and County regulations for minimum lighting required for life safety, subject to the review and approval of staff.

    c. Vinyl coating shall be applied to the existing chain link fences on the subject property, in a manner subject to the review and approval of staff.

5. The operation of the subject parking lot shall comply with the following:

    a. The parking lot access gates shall be closed every day from 12:00 midnight until 7:00 am.

    b. No meter parking shall be permitted from 12:00 midnight until 7:00 am, 7 days a week.

    c. Valet parking and any other type of transient parking shall be prohibited from 12:00 midnight until 7:00 am, 7 days a week.

    d. Only remote clicker access, for pre-approved users, shall be permitted from 12:00 midnight until 7:00 am, 7 days a week.

    e. Vehicles shall be parked in marked spaces only. Tandem parking of any kind shall be prohibited.

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f. Car alarm systems shall not be used as a way of identifying a vehicle.

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 (including by the valet attendants) 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 (see attached examples).

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 maximum size of such sign shall not exceed five square feet per 50 feet of street frontage, as permitted by the City Code.

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. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a Business Tax Receipt/Certificate of Use for this parking facility.

8. Compliance with the aforesaid conditions shall be a prerequisite to obtaining a Certificate of Use/Business Tax Receipt.

9. 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.

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 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.

12. 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.

13. Within a reasonable period of time after receipt of the executed Conditional Use Permit, the applicant, at its sole expense, shall record it in the Public Records of Miami-Dade County, and return the recorded instrument to the Planning Department. No building

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permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.

Dated this 13th day of MAY, 2015.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush
Michael Belush, Planning and Zoning Manager
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 13th day of May, 2015, by Michael Belush, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

WALDHYS J. RODOLI
MY COMMISSION #FF039521
EXPIRES: JUL 24, 2017
Bonded through 1st State Insurance

Waldhys J. Rodoli
Notary:
Print Name: Waldhys J. Rodoli
Notary Public, State of Florida
My Commission Expires: 7/24/2017
Commission Number: FF039521

[NOTARIAL SEAL]

Approved As To Form:
Legal Department (5/7/2015)

Filed with the Clerk of the Planning Board on 05/15/15 ( )

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NOTICE

Section 46-161 of the Code of the City of Miami Beach permits your car to be towed or fines imposed if your car alarm system is activated improperly.

NOTICE

NO HORN HONKING -or- TIRE SCREECHING