

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

PROPERTY: 4000 Collins Avenue.

FILE NO. PB 17-0101

IN RE: The applicant, Sukkah Miami Beach Acquisitions, LLC, requested Conditional Use Approval for the construction of a new four story parking structure with a commercial/retail space on the ground floor including mechanical parking pursuant to section 118, Article IV and section 130, Article II of the City Code.

LEGAL DESCRIPTION: THE CONTINENTAL COLLINS AV CONDO MIAMI BEACH IMPROVEMENT CO SUB PB 5-7 & 8 LOTS 10 THRU 15 BLK 34 LESS NE CR OF LOT 13 BOUNDED BY THE TANGENTS TO AN ARC OF A CURVE HAVING A C/A OF 90 DEG & A RAD OF 20FT GRANTED TO THE CITY OF M B.

MEETING DATE: September 26, 2017

CONDITIONAL USE PERMIT

The applicant, Sukkah Miami Beach Acquisitions, LLC, requested a Conditional Use approval for the construction of a new (4) four story parking structure with a commercial/retail space on the ground floor including mechanical parking pursuant to section 118, Article IV and section 130, Article II of the City Code. 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:

The property in question is located in the RM-2 – Residential, Medium Intensity Zoning District.

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

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;

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

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

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, that the Conditional Use Permit be GRANTED, as provided below:

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1. This Conditional Use Permit is issued to Sukkah Miami Beach Acquisitions, LLC, to construct a four (4) story parking structure with a commercial/retail space on the ground floor including mechanical parking. Any proposed change to the uses approved in this Conditional Use shall require the review and approval of the Planning Board.
2. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 180 days from the issuance of the business tax receipt (BTR) for the hotel and the accessory use construction approved as part of this CUP, which shall include providing a full revised traffic study outlining the actual transportation operations on-site and in the surrounding initial study area, and including valet operations and loading/servicing of the building.

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).

3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property applicants, 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.
4. The Planning Board shall retain the right to call the owner 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. 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.
5. 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.
6. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
7. As part of the Building Permit plans for the project, the applicant shall submit revised architectural drawings, and landscape drawings, which shall be subject to the review and approval of staff; at a minimum, such plans shall satisfy the following:
 - a. Bike racks shall be located in the front of the building or within enclosed area of the building. Such bike racks shall be located within those areas of the property that are easily accessible, safe, and secure. The final design details, dimensions, location and quantity of exterior bike racks shall be subject to the review and approval of staff. Such plans shall also comply with all applicable regulations and requirements of the City Code.

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- b. An access gate for the proposed passageway along the south side of the property shall be provided, in order to secure the site, subject to the review and approval of staff.
 - c. The floor of the garage shall be designed and constructed to minimize tire noise, in a manner to be approved and certified by a qualified acoustic engineer, subject to the review and approval of staff.
 - d. A permanent generator sufficient to power the vehicular elevators shall be required, in a manner to be reviewed and approved by staff.
 - e. All existing overhead utilities shall be placed underground at the sole expense of the applicant.
8. All new construction over 7,000 square feet or ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
9. The following shall apply to the operation of the proposed parking garage:
- a. There shall be security personnel of at least one person, on-site, monitoring the garage during all hours of operation.
 - b. Signs prohibiting tire-screeching and unnecessary horn-honking shall be posted at the garage entrance.
 - c. Signs to minimize vehicle conflict in the driveways in and out of the property shall be posted in appropriate locations.
 - d. ~~All mechanical parking lifts must be inspected and certified as safe and in good working order by a licensed mechanical engineer at least once per year and the findings of the inspection shall be summarized in a report signed by the same licensed mechanical engineer or firm. Such report shall be furnished to the Planning Director and the Building Official.~~
 - e. All parking lifts shall be maintained and kept in good working order.
 - f. Parking operation shall be by valet attendants only. A contract with a valet operator shall be submitted to staff for review and approval prior to a final Certificate of Occupancy or Business Tax Receipt, whichever occurs first.
 - g. Any off-site valet operation use shall require the review and approval of the Planning Board as a modification to this Conditional Use Permit.
10. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in

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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. As the proposed commercial use within this RM-2 district is only permitted as an accessory use that is incidental to the main permitted hotel use, the following shall apply to the proposed new structure:
 1. A Temporary Certificate of Occupancy (TCO) or a Certificate of Occupancy (CO) for the proposed new accessory structure, shall not be issued prior to the issuance of a CO or Business Tax Receipt (BTR) for the main permitted hotel use on the site.
 2. The accessory structure shall not be operated or utilized at any time while the main permitted hotel use is closed or non-operational.
 3. The physical connection between the existing hotel lobby and the new accessory use shall remain open and operable at all times that the accessory use is open to the public.
- b. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed retail area located on the ground floor with the criteria listed below:
 - i. Hours of operation: 7:00 AM to 10:00 PM.
- c. Delivery trucks shall only be permitted to make deliveries from the designated loading spaces contained within the property.
- d. Delivery trucks shall not be allowed to idle in the loading areas.
- e. The size of all delivery/service vehicles shall be limited to the size of the loading zones provided on-site.
- f. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
- a. Deliveries and waste collections may occur daily between 8:00 AM and 4:00 PM.
- f. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
- g. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.

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- h. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
 - i. Garbage dumpster covers shall be closed at all times except when in active use.
 - j. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day
 - k. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - l. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff.
 - m. Special Events shall not be permitted within the accessory building approved as part of this application.
11. The applicant shall address the following Concurrency and Traffic requirements, as applicable:
- a. Ingress into the garage shall be limited to right turn in only from 41st Street and egress from the garage shall be limited to right turn only onto 41st Street. Ingress and Egress shall be subject to approval from FDOT (Florida Department of Transportation for modifications to the intersection of 41st Street and Indian Creek Drive, including the elimination of the current prohibition on left turns from Indian Creek Drive to 41st Street. Should any required modifications to applicable intersections not be approved by the Transportation Department, the project shall require the further review of the Planning Board prior to the issuance of any building permit for the proposed addition.
 - b. The applicant shall provide a driveway analysis, as well as applicable adjacent intersection data, which shall be subject to the review and approval of the Transportation Department. Should any required modifications to applicable intersections not be approved by the Transportation Department, the project shall require the further review of the Planning Board prior to the issuance of any building permit for the proposed addition.
 - c. A Method of Transportation (MOT) shall be submitted to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.

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- d. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as may be determined as determined by the Concurrency Management Division.
 - e. 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.
 - f. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Business Tax Receipt.
 - g. Valet or loading activities shall not block 41st Street, or surrounding streets at any time.
- 12. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a Building permit.
 - 13. The applicant shall obtain a full building permit within 18 months from the date of approval of this Conditional Use Permit, 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.
 - 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 Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
 - 16. 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.
 - 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.

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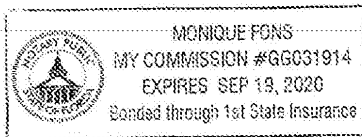
Dated this 9th day of FEBRUARY, 2018.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush
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 9th day of FEBRUARY, 2018, by Michael Belush, Chief of Planning and Zoning for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



Monique Fons
Notary:
Print Name MONIQUE FONS
Notary Public, State of Florida
My Commission Expires: 9/19/2020
Commission Number:

{NOTARIAL SEAL}

Approved As To Form:

Legal Department (Jenifer Boyd) 2/9/18

Filed with the Clerk of the Planning Board on Jenifer Boyd (2/9/18)

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