

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 25, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 18-0203 fka File No. 2216. 1615 Lenox Avenue –Parking lot hours**

The applicant, Asta Parking, Inc., is requesting modifications to a previously issued conditional use approval for a surface parking lot in a residential zoning district pursuant to Chapter 118, Article VII. Specifically, the applicant is requesting the use of the parking lot after midnight.

RECOMMENDATION

Denial of the proposed extended hours

BACKGROUND

February 24, 2015

The applicant, Asta Parking, Inc., requested a conditional use permit (CUP) for a surface parking lot in a RM-1 zoning district operating 24 hours a day, pursuant to Section 130, Article III. At the time the Board limited the hours to 7:00 AM to midnight.

September 27, 2016

A building permit was issued for the permanent parking lot.

February 17, 2017

A Business Tax Receipt (BTR) was issued for the permanent parking lot (BTR001902-01-2017.)

April 25, 2017

The applicant appeared before the board for the initial required progress report and the board suspended all further progress reports until which time there are any violations related to the CUP.

ZONING/SITE DATA

Legal Description:

Lot 15, Block 47, Lincoln Subdivision, According to the Plat Thereof, as Recorded in Plat Book 9, Page 69, of the Public Records of Miami-Dade County, Florida

Zoning:

RM-1, Residential Multifamily Low Intensity Zoning District

Future Land Use:

RM-1, Residential Multifamily Low Intensity Zoning District

Surrounding Land Uses:

North: Apartment Building
South: Apartment Building
East: Apartment Building
West: Apartment Building

Number of Spaces:

15 spaces

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 proposed parking lot is consistent with the objectives of the Comprehensive Plan in providing additional off-street parking in the City.

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 proposed use is not anticipated to degrade the LOS for the surrounding area below the thresholds that have been established.

3. **Structures and uses associated with the request are consistent with this Ordinance.**

Consistent – A parking lot is a conditional use in the RM-1 zoning district. In addition, because of the proximity to residential uses, the use of the parking lot after midnight is also subject to a conditional use approval.

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

Not Consistent – The proposed extended hours has the strong potential to negatively impact the quality of life of the abutting residential properties.

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

Not Applicable

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

Not consistent – Extended the hours of operation has the strong potential to negatively impact abutting residential properties and lower property values.

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.**

Consistent – This lot has is intended to service the businesses on Lincoln Road, which is in close proximity to the site. While there are other parking lots and garages in close proximity, a further negative impact due solely to the concentration of similar types of uses is not expected.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development Regulations 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
Such plan has not been submitted for the demolition of the parking lot.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Not Applicable
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Not Applicable
- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.
The applicant states in its LOI that the landscaping installed is comprised of resilient native Florida-friendly plants.
- (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

STAFF ANALYSIS

The applicant is seeking conditional use approval in order to operate a surface parking lot 24 hours a day. The existing lot is currently used as a self-parking lot for patrons of the surrounding businesses on Lincoln Road.

The plans submitted with the application show 15 spaces including one (1) accessible space. The lot consists of 8,000 square feet measuring 50 feet fronting on Lenox Avenue. The plans indicate that vehicular ingress and egress to the site is through a 20 foot wide driveway on Lenox Avenue.

At the time of the original application, staff recommended that the lot be limited to a midnight closing time due to the strong residential character of the surrounding area. Although it appears that the operator has had a good operational history at this location and has not had any residential complaints nor code violations, staff has serious concerns with the proposed operation after midnight. The parking lot is sandwiched between two low-scale historic residential buildings with ground floor units directly facing the parking lot. Continued activity over night has an increased potential to disrupt these abutting residents, lower their quality of life, and reduce property values. As such staff recommends denial of the modification. However should the Board approve the proposed 24 hour operation, staff would recommend such approval be in accordance with the attached draft order.

Code Violations

As of the writing of this report there are no open violations related to the subject property.

RECOMMENDATION:

In view of the forgoing analysis, and inconsistency with the aforementioned Conditional Use Review Guidelines, staff recommends that the modified Conditional Use Permit be DENIED. However, should the Board approve the extended hours of operation, staff recommends that such approval be in accordance with the conditions in the attached draft MCUP.

TRM/MAB/TUI

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ZONING/SITE MAP



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

PROPERTY: 1615 Lenox Avenue

FILE NO. PB 18-0203 fka File No. 2216

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 15, Block 47, Lincoln Subdivision, According to the Plat Thereof, as Recorded in Plat Book 9, Page 69, of the Public Records of Miami-Dade County, Florida

MEETING DATE: February 24, 2015, September 25, 2018

MODIFIED CONDITIONAL USE PERMIT

The applicant, Asta Parking, Inc., 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 RM-1, Commercial Low 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. This conditional Use Permit is issued to Asta Parking, Inc., 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.
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. 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).
3. Within 90 days of the commencement of the new hours of operation, the owner and/or operator shall be required to appear before the Board for a progress report.
4. The Planning Board shall retain the right to call the applicant 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, or if code violations have been issued to the property. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the applicant or operator for other reasons and for other modifications of this Conditional Use Permit.
5. 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. 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.
6. The hours of operation for the parking lot shall be ~~from 7:00 AM to Midnight~~ twenty-four (24) hours per day.
7. A revised site and landscape plan shall be submitted to and approved by staff, in accordance to the following:
 - a. ~~All existing and proposed lighting shall be noted on the site plan, subject to the review and approval of staff.~~
 - b. ~~The applicant shall provide a revised landscape plan that includes irrigation.~~

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- c. ~~The applicant shall obtain an approved building permit for resurfacing, striping and landscaping, and complete all work on site associated with such permit prior to the issuance of the Certificate of Use/Business Tax Receipt for the extended hours.~~
 - a. Prior to BTR approval for the change of hours, Planning staff shall perform a site inspection to verify full compliance with the approved landscape plans issued as part of the building permit for the construction of the parking lot. Any damaged or missing plant material shall be replaced, and perpetually maintained as specified on plan.
 - b. Prior to BTR approval for the change of hours, operator shall provide a maintenance plan inclusive but not limited to trash pick-up, and fertilization, mulching, watering, plant disease prevention, pruning and weeding of landscape areas subject to the review and approval of staff.
 - c. In the eventuality of any plant material death, or removal due to natural disaster or theft, operator shall be perpetually responsible for plant material replacement as per originally approved building permit.
 - d. Any tree pruning shall only be performed by a Certified Arborist, and as prescribed by City of Miami Beach Code Chapter 46.
 - e. On a yearly basis and prior to BTR renewal, operator shall provide a photographic report documenting landscape conditions of the property for the review and approval of staff.
 - f. All vehicles shall be parked in marked spaces, and there shall not be any tandem parking.
 - 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 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.
 - 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 design, material and location of such sign shall be part of the revised site plan, and shall be subject to the review and approval of staff. The maximum size of such sign shall not exceed that permitted by the City Code.
8. The applicant shall obtain a full building permit within 18 months from the date of the meeting at which the original Conditional Use permit was issued 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.

9. The applicant shall resolve all outstanding code violations and fines for the subject property prior to the issuance of a Business Tax Receipt/Certificate of Use for this parking facility.
10. 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.
11. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
12. Compliance with the aforesaid conditions shall be a prerequisite to obtaining a Certificate of Use/Business Tax Receipt.
13. 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.
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 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.
16. Within a reasonable time after applicant's receipt of this Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
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.

Dated this _____ day of _____, 2018.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Michael Belush, Chief of Planning and Zoning
For Chairman

