

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

PROPERTY: 2318-2340 Collins Avenue

FILE NO. PB 18-0221

IN RE: The applicant, North Bay Owner, LLC, requested Conditional Use approval for a commercial structure over 50,000 SF, and Conditional Use approval to include mechanical parking lifts in the project, pursuant to Chapter 118, Article IV, Chapter 130, Article II and Chapter 142, Article II of the City Code.

**LEGAL
DESCRIPTION:** See "Exhibit A"

MEETING DATE: November 27, 2018

CONDITIONAL USE PERMIT

The applicant, North Bay Owner, LLC, requested Conditional Use approval for the construction of a mixed-use building exceeding 50,000 square feet, including a mechanical parking garage, pursuant to Chapter 118, Article IV, Chapter 142, Article II and Chapter 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:

That the property in question is located in the CD-3 – Commercial, High Intensity Zoning District.

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

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;

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

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

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1. This Conditional Use Permit is issued to North Bay Owner, LLC, to construct a mixed-use office building with commercial spaces on the ground floor including a mechanical parking garage. Any proposed change of 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 BTR. The progress report shall include, but not be limited to, updated information on traffic conditions surrounding the site. 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 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 Business Tax Receipt.
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, shall 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, which shall be subject to the review and approval of staff; at a minimum, such plans shall satisfy the following:
 - a. 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.
 - b. A permanent generator sufficient to power the mechanical lifts or other means to allow mechanical lifts to be lowered and cars removed manually without the use of power shall be required, in a manner to be reviewed and approved by staff.
 - c. All existing overhead utilities abutting the subject site shall be placed underground at the sole expense of the applicant.

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- d. The widths of all public sidewalks along the perimeter of the site shall be maintained or widened. This minimum width may include sidewalk located on private property for unencumbered public use, provided a perpetual access easement and maintenance agreement is provided in a form acceptable to the City Attorney's office.
8. The following shall apply to the operation of the proposed parking garage:
- a. There shall be 24-hour video surveillance of all portions of the parking garage.
 - 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 passenger drop-off/pick up proposed in an off-street area on Liberty Avenue shall not result in a reduction in width of the current sidewalk, and any new curb cuts and/or passenger drop-off/pick up areas on Liberty Ave shall be coordinated and approved by the Parking Department, Public Works, and the Planning Department.
9. 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 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. 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.
 - b. Adequate air-conditioned and noise baffled trash room space shall be provided, in a manner to be approved by the Planning staff. Doors shall remain closed and secured when not in active use.
 - c. Trash dumpster covers shall be closed at all times except when in active use.

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- d. Delivery trucks shall not be allowed to idle in the loading areas.
 - e. Delivery and trash trucks shall only be permitted to park in the designated loading bays.
 - f. Deliveries and trash pick-ups only may only take place between 7:00 AM and 7:00 AM, seven (7) days per week.
 - g. As proffered by the applicant, entertainment as defined by the City Code shall not be permitted on the rooftop.
10. The applicant shall address the following Concurrency and Traffic requirements, as applicable:
- a. 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.
 - b. 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.
 - c. 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.
 - d. The applicant shall provide the Transportation Department with a plan for ride-share pick-up and drop-off operations, to be located on Liberty Avenue, including the number of spaces required during peak periods and the location where the ride share operations will be performed, either within the project site or parking lane. Further the applicant shall work with the Transportation Department to submit a comprehensive Transportation Demand Management (TDM) Plan to the Transportation Department for review and approval prior to receiving a Temporary Certificate of Occupancy for the development. At a minimum the following shall be required as part of the ride-share plan:
 - i. The coordination of creating a Geo Fence for the project with Uber, Lyft and similar ride-share in-app services to direct passengers to the correct pick-up location on Liberty Avenue, and set designated drop off locations on Liberty Avenue for drivers in the application.
 - ii. Communication procedures to Uber, Lyft and similar ride-share services that drivers picking-up and dropping-off anywhere other than designated areas may result in ticketing and disciplinary action, to the extent reasonably possible.
 - iii. Providing wayfinding and demarcation signage to guide ride-share users to the designated rideshare pick-up and drop-off locations on the property.

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- iv. Procedures for monitoring and taking corrective actions for rideshare patterns at the property, to the extent reasonably possible.
11. 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.
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.

Dated this 10th day of DECEMBER, 2018.

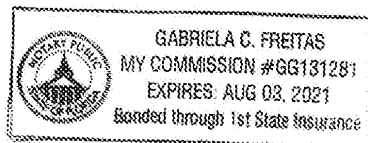
PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush
Michael Belush,
Chief of Planning & Zoning
For Chairman

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STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 10th day of December, 2018, 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.



Gabriela Freitas
Notary:
Print Name Gabriela Freitas
Notary Public, State of Florida
My Commission Expires:
Commission Number:

{NOTARIAL SEAL}

Approved As To Form:
Legal Department

(Gert Sant) 12/10/18

Filed with the Clerk of the Planning Board on Jessie Gentry 12/11/18)

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Exhibit "A"

Legal Description

LEGAL DESCRIPTION

Beginning at the Northeast corner of Lot 12, in Block 3, of the amended Plat of the Ocean Front Property of the Miami Beach Improvement Company, according to the plat thereof recorded in Plat Book 5 at Pages 7 and 8, of the Public Records of Miami-Dade County, Florida; Thence Southerly along the Westerly line of Collins Avenue a Distance of 45 feet to a point; Thence Westerly, Parallel to the North line of Atlantic Avenue (now known as 23rd St.) for a distance of 285 feet to a point on the Easterly line of Palm Avenue (now known as Liberty Avenue); Thence Northerly along the said Easterly line of said Palm Avenue (now known as Liberty Avenue) a distance of 145 feet to a point; Thence run Easterly, parallel to said 23rd Street a distance of 285 feet; Thence Southerly along the Westerly line of Collins Avenue a Distance of 100 feet to the POINT OF BEGINNING.

AND

Begin at the Northeasterly corner of Lot 1, Block 3, MIAMI BEACH IMPROVEMENT COMPANY SUB, OCEAN FRONT PROPERTY, according to the Plat thereof, recorded in Plat Book 5, pages 7 and 8, Dade County Records; thence Westerly along the Northern boundaries of Lots 1, 2, 3, 4, 5 and 6 of said Block 3, to the Northwestern corner of Lot 6; thence Northerly along the Eastern right-of-way line of Liberty Avenue for a distance of 26 feet to a point; thence Easterly and parallel to the Northern boundaries of Lots 1, 2, 3, 4, 5 and 6 of said Block 3, to a point on the Westerly right-of-way line of Collins Avenue; thence Southerly a distance of 26 feet to the Point of Beginning;

AND

The South 14 feet of Lot 12, Block 3, MIAMI BEACH IMPROVEMENT COMPANY SUB., OCEAN FRONT PROPERTY, according to the Plat thereof, recorded in Plat Book 5, pages 7 and 8, Public Records of Dade County, Florida.

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