

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: February 26, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



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.

### **UPDATE**

The applicant sent an email on February 11, 2019 to staff saying that the gates have been repaired. On the morning of February 12, 2019, a code officer observed the front gate open at 12:45 AM (see attached emails.)

### **PROGRESS REPORT**

Since the January 22, 2019 board hearing, staff research of city records found that the following violations are showing in the city's records as of this writing:

1. Case No. **ZV2018-02304** 11/28/2018 Failure to operate your business in accordance with your conditional use permit. *2nd offense (recurring violation.)*
2. Case No. **ZV2018-02293** 11/17/2018 Failure to operate your business in accordance with your conditional use permit. *1st offense. (Appealed to Special Master)*

Both of these violations are related to the gates at the front and rear of the property being open after midnight.

### **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.

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.

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

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.
    1. 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 light of the inconsistencies with the above CUP conditions, as well as the attached documentation of continued non-compliance, staff recommends the Board discuss the matter and continue the progress report to a future date.

### **STAFF RECOMMENDATION**

Staff recommends that the Planning Board discuss the issue of non-compliance and continue the progress report to a date certain of March 26, 2019, to allow time for corrective measures to be implemented.

TRM/MAB/TUI

## Munday, Tui

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**From:** Andrew Mirmelli <andrewmirmelli@gmail.com>  
**Sent:** Monday, February 11, 2019 2:00 PM  
**To:** Munday, Tui  
**Cc:** Gene West  
**Subject:** Re: 427 Collins Ave

Yes the gates have been repaired

On several occasions we've taken pictures of gates closed after midnight

I wanted to get more before I vouch for job as often they go bad after a few days so we will continue to monitor

Andrew

Sent from my iPhone

On Feb 11, 2019, at 1:50 PM, Munday, Tui <[TuiMunday@miamibeachfl.gov](mailto:TuiMunday@miamibeachfl.gov)> wrote:

Andrew,

I hope this email finds you well. I am about to write the progress report for the parking lot. Has there been progress?

<image001.jpg>

**Tui Munday**, *Senior Planner*

PLANNING DEPARTMENT

1700 Convention Center Drive, Miami Beach, FL 33139

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## Munday, Tui

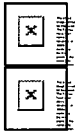
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**From:** Maharaj, Vijma  
**Sent:** Tuesday, February 12, 2019 12:53 AM  
**To:** Munday, Tui  
**Cc:** Villar, Manny; Thomas, Rianne; Varela, Kenneth  
**Subject:** Re: 427 Collins Ave  
**Attachments:** image2.jpeg; image1.jpeg

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Ms. Munday,

I conducted a follow-up inspection on 02/12/19 at 12:45 AM at 427 Collins Ave, and the front gate was open. The back gate was closed and I also tried to call Mr. Mirmelli and I was unable to establish contact. Please see the photos below and have a wonderful day.



Thank you,  
V.Maharaj  
Sent from my iPad

On Feb 11, 2019, at 1:48 PM, Munday, Tui <[TuiMunday@miamibeachfl.gov](mailto:TuiMunday@miamibeachfl.gov)> wrote:

Vijma,

Hope all is well with you. I am about to write a progress report for the parking lot. I am not sure if you are working nights or not. But can you give me an update on whether they fixed the gate and it is closed (front and back) at midnight?

I am also going to email Andrew Mirmelli separately, just to see if he has an update, but I would like independent verification.

<image001.jpg>

**Tui Munday**, Senior Planner  
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