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HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

PLANNING BOARD CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 730-814 1st Street

FILE NO. 2014

IN RE: The application for modifications to a previously issued Conditional Use approval, pursuant to Section 118-195 of the Miami Beach City Code, for the construction a new 7-story mixed use building, with mechanical parking. Specifically, the applicant is requesting to expand the building and site to the west on an additional parcel, modify the previously proposed uses, modify the names of the owners, and modify previously approved conditions limiting the number of restaurants on the site.

LEGAL

DESCRIPTION:

Lots 4, 5, and 6 and the east 22 feet of Lot 7 Block 52 "Ocean Beach Florida Addition No. 3", according to the Plat thereof as recorded in Plat Book 2, page 81 of the Public Records of Miami-Dade County, Florida;

and the west 8 feet of Lot 7 and all of Lots 8, 9, 10, 11 & 12, Block 52, "Ocean Beach, Florida according to the Plat thereof as recorded in Plat Book 2, Page 81 of the Public Records of Miami-Dade County, Florida.

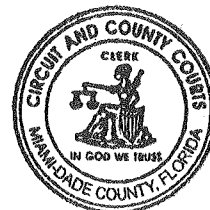
MEETING DATES: June 28, 2011, July 24, 2012, February 6, 2014

MODIFIED CONDITIONAL USE PERMIT

The applicants, NF First Street LLC and BK First Street LLC, BK First Street Development, LLC, and 814 Property Holdings, LLC filed an application with the Planning Director for modifications to a Conditional Use Permit.

The City of Miami Beach Planning Board 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 record for this matter:

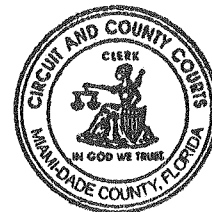
- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is consistent with Planning Board Conditional Use Review Guidelines in Section 118-192(a), is not consistent with review criteria No. 6 for New Structures 50,000 square feet and over in Section 118-192(b), and is not consistent with review criteria Nos. 1, 4 & 6 for Neighborhood Impact Establishments in Section 142-1362 of the Miami Beach Code.
- B. The project would remain consistent with the criteria and requirements of Sections 118-192(a), 118-192(b) and 142-1362, subject to the modified conditions listed below:



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Double Underscored denotes new language and ~~double strikethrough~~ denotes stricken language from the previously approved modified Conditional Use Permit.

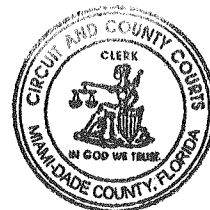
1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Conditional Use Permit is issued to ~~730 1st St Associates, LLC and First Street Development, LLC~~ NF First Street LLC and BK First Street LLC, BK First Street Development, LLC, and 814 Property Holdings, LLC as owners of the property. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
3. The Conditional Use Permit approved for this project shall be contingent upon meeting the requirements of the "Concept Plan," as determined by the Planning Director and City Attorney's Office, which "Concept Plan" is included as part of the Alaska Parcel Settlement Agreement previously approved by the City Commission.
4. Substantial modifications to the plans submitted and approved as part of this current modification application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.
5. All necessary variances for the entire project shall be applied for and obtained prior to applying for a Building Permit.
- ~~6. The floor plan for the new construction shall be revised to identify the space where the only restaurant on the site will be located. The proposed use for the second commercial space proposed on the site shall be identified on the plan as well. Subject to applicable parking requirements, proposed plans for the new construction shall be revised to identify the two commercial spaces with not more than one of them becoming a restaurant space.~~
6. The applicant shall build and operate the facility in accordance with the plans reviewed by the Design Review Board, File No. 22858.
7. An operation plan for the restaurants within the new construction, and commercial uses shall be submitted to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy for any new restaurant or commercial use, Certificate of Completion or Business Tax Receipt for any new restaurant or commercial use, whichever occurs first.
8. A security plan for the property and operation of the ~~robotic~~ mechanical system parking facility shall be submitted to Planning Department staff for review and



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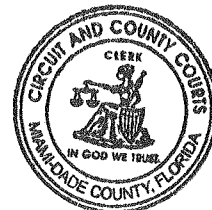
approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion or Business Tax Receipt, whichever occurs first.

9. 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.
10. Parking operation shall be by valet attendants only, except for owner's vehicles. A valet station for vehicle pickup and drop off shall be within the structure as depicted on the revised site plan dated ~~4-25-2014~~ 5-22-2012 from Jonathan Cardello of ADD, Inc. Arriving vehicles shall enter the on-site driveway and exiting vehicles shall be through the alley. A mirror shall be installed at the exit in order to monitor oncoming traffic. 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.
11. Storage of vehicles by valet operators for off-site facilities shall not be permitted.
12. The off-street parking requirements for the accessory commercial space shall be satisfied within the garage. Required parking for off-site venues shall not be satisfied at this garage.
13. The outdoor areas shown on the upper levels of the structure, forming part of the single family residence shall not be permitted to be used for commercial activity.
14. A covenant running with the land restricting the use of the single family residence to such use shall be executed by the owner of the property, approved as to form and content by the city attorney and the planning director, recorded in the public records of Miami-Dade County and shall be submitted prior to the issuance of a building permit. The declarations within the this covenant are shall not be severable. The covenant for the single family use shall also include a stipulation that in the event that valet parking spaces are utilized for required parking for the single-family residence use, a valet service or operator must be provided for such parking for so long as the use continues. ~~any required parking spaces for the residence that a valet service or operator must be provided for such parking for so long as the use continues.~~
15. Should a change of use be applied for at a later date, the city shall not issue a certificate of use and occupancy for a new use until the property owner satisfies the then applicable development regulations of the City Code.
16. "Entertainment," as defined in the City Code shall be prohibited within the site, inclusive of the accessory use restaurant, rooftop and any outdoor area.
17. The ~~robotic~~ mechanical parking system and vehicle elevators must be inspected and serviced at least once per year with an annual safety report signed by a Licensed Mechanical Engineer submitted to the Planning Department.



Handwritten signature/initials.

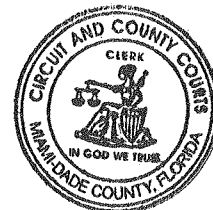
18. There shall be security personnel of at least one person monitoring the garage operation during hours of operation seven days a week. The structure, operation, procedures, maintenance, service response procedures, remote technical service team, local, on-site service team, and spare parts inventory shall be in accordance with the requirements of the manufacturer, ~~Boomerang Automated Parking Systems~~.
19. The facility shall ensure that noise or vibration from the operation of the ~~robotic~~ mechanical parking system and car elevators shall not be plainly audible or felt by any individual standing outside. Noise and vibration barriers shall be incorporated into the final design to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage. The ~~robotic~~ mechanical parking system shall use sound deadening material between all connections from the ~~robotic~~ parking system to the building in order to eliminate all sound transference and vibration in the system and the building as well.
20. When construction has been completed, but before the commencement of the garage operations authorized by this Conditional Use Permit and before the issuance of a Business Tax Receipt, the garage operations shall be fully tested under the supervision of one of the noise consultants currently approved by the City to ensure that all aspects of the garage operation fully comply with applicable codes and this approval with respect to noise. The garage shall not begin operating until staff has received and approved in writing a final written report the noise consultant stating that as tested, all aspects of the garage operation fully comply with the Parking Garage Noise Impact study as amended. Thereafter, all aspects of the garage operation shall fully and continuously comply with the parameters of said testing.
21. The facility must maintain adequate backup generators sufficient to power the car elevators. The generator shall be maintained in proper operating condition. The location of the generators shall be submitted for the review and approval by staff to ensure that any negative impacts associated with the operation or testing of the equipment are minimized. The generators shall be installed in accordance with Code requirements regarding minimum floodplain criteria.
22. Deliveries and garbage pickup shall be conducted from the alley and directly within the structure and not on the street. Trash/garbage containers shall have rubber wheels; deliveries and pickups shall be handled and managed by a dock master supervisor who shall be responsible for controlling traffic when these activities are scheduled in order to minimize the disruption of traffic on the alleyway and the surrounding neighborhood. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility; time of service for trash pickup and deliveries of merchandise shall be restricted to not before & 10:00 a.m. and not after 6 p.m., to avoid creating a nuisance.
23. The applicant shall submit an MOT (Method of Transportation) to Public Works Department staff for review and approval prior to the issuance of a building



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permit. The MOT shall address any traffic flow disruption due to construction activity on the site.

24. A landscape plan for the entire site, prepared by a Professional Landscape Architect, inclusive of street trees as per the City of Miami Beach Master Street Tree Plan, shall be submitted to and approved by staff before a building permit is issued for construction.
25. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), by paying its fair share cost, as may be determined by the Concurrency Management Division.
26. The required fees in lieu of providing the required parking shall be paid at the time of application for a building permit.
27. The applicant shall obtain a full building permit within 18 months from the date of the meeting, 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.
28. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the structure.
29. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load of the accessory restaurant should there be valid complaints about loud, excessive, unnecessary, or unusual late night noise.
30. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
31. 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.
32. Within a reasonable time after 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 the expense of the applicant. No building permit, certificate of use, certificate of occupancy, certificate of completion or business tax receipt shall be issued until this requirement has been satisfied.
33. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a



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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.

34. 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.

IT IS HEREBY 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 staff recommendations, as modified by the Planning Board, that the Application for Conditional Use approval is GRANTED for the above-referenced project, subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-34, inclusive) hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Planning Board, as determined by staff, entitled "Radio Bar and Residence at 800-814 First Street", as prepared by ADD Inc., dated December 12, 2013, modified in accordance with the conditions set forth in this Order and staff review and approval.


No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance as set forth in this Order have been met. The issuance of Conditional Use Approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required.

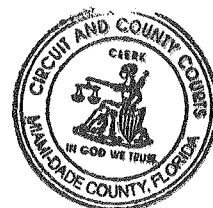
When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

Dated this 19th day of MARCH, 2014.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY:


Thomas R. Mooney, AICP, Acting Planning Director
For The Chairman

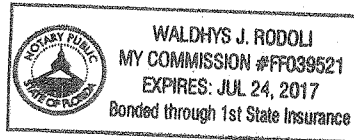


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STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 19th day of March, 2014, by Thomas R. Mooney, AICP, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



Waldhys J. Rodoli
Notary: Waldhys J. Rodoli
Print Name:
Notary Public, State of Florida
My Commission Expires: 7-24-17
Commission Number: FF039521

Approved As To Form:
Legal Department (9/13-17-14)

Filed with the Clerk of the Planning Board on 03/20/2014 (JS)

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STATE OF FLORIDA, COUNTY OF DADE
HEREBY CERTIFY that this is a true copy of the
original filed in this office on APR 04 2014 day of _____, A.D. 20____
WITNESS my hand and Official Seal.
HARVEY RUWEN, CLERK, of Circuit and County Courts
By [Signature] #12847 D.C.



JS