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HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 929 Alton Road

FILE NO. 2130

IN RE: The application for a Conditional Use Permit, pursuant to Chapter 130, Article II, Chapter 142, Article II and Chapter 118, Article IV of the Miami Beach City Code to build a mixed use development project exceeding 50,000 square feet, containing residential units and ground level commercial space, as well as a mechanical parking system.

LEGAL DESCRIPTION: Lots 9 and 10, Block 123 "Lenox Manor", according to the Plat thereof recorded in Plat Book 7, page 15 of the Public Records of Miami-Dade County, Florida.

MEETING DATES: February 25, 2014

CONDITIONAL USE PERMIT

The applicant, Alton Sobe LLC, filed an application with the Planning Board for a Conditional Use Permit pursuant to Chapter 130, Article II, Chapter 142, Article II and Chapter 118, Article IV of the Miami Beach City Code to build a mixed use development project exceeding 50,000 square feet, containing residential units and ground level commercial space, as well as a mechanical parking system.

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-2, Commercial Medium 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;

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That structures and Uses associated with the request are consistent with the Ordinance;

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

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 recommendation, that the modifications to the Conditional Use Permit as requested and set forth above be GRANTED, subject to the conditions below, which have been accepted by the applicants:

1. 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.

2. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.

3. The subject parking garage shall consist of the minimum number of parking spaces to fully satisfy the parking requirements of the project, in accordance with the requirements of Parking District No. 6.

4. 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. The rear setback shall be a minimum of sixty (60') feet for those portions of the building greater than twenty-three (23') feet in height, subject to the review and approval of staff.

    b. A continuous landscape buffer shall be required along the east side of the second level terraces, in a manner to be reviewed and approved by staff.

    c. The applicant shall install any sound attenuating design devices that may be required, throughout the property, in order to minimize any spillover of sound to adjacent properties, which may be generated by the mechanical parking system, in a manner consistent with the requirements of the City Code and subject to the review and approval of staff.

    d. The site plan shall clearly indicate the location, design and quantity of all exterior bike racks. Such bike racks shall be located within those areas of the property that are easily accessible. The final design details, dimensions, location and quantity of

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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.

e. A perimeter fence/gate to secure access to the property shall be installed along the north and south sides of the property, including parallel to Alton Road between the north and south property lines and the building, in a manner to be reviewed and approved by staff. Access to the loading area shall remain closed when not in active use.

5. The Applicant agrees to the following operational conditions for all permitted 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. The hours of operations for any commercial use shall not exceed the following:
Sunday – Thursday: 8 a.m. – 11:00 p.m.
Friday – Saturday and Holidays: 8 a.m. – 12:00 a.m.

b. Deliveries and garbage pickup shall be conducted from the loading zone on the south side of the property, or from within an on-street loading area if a variance is granted to eliminate the requirement for an on-site loading zone for the proposed retail use, in an a manner to be reviewed and approved by staff. 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 Alton Road and the surrounding neighborhood.

c. 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.

d. Adequate trash room space, air conditioned and noise baffled, and sufficient in size to accommodate enough dumpsters so that no more than one pick up of garbage per day will be necessary, 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.

e. Commercial outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors will be contained within the premises. All commercial kitchens and other venting shall be chased to the highest roof and venting systems shall be employed as necessary to minimize or dissipate smoke, fumes and odors.

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f. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.

g. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Commerce Street and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.

h. "Entertainment," as defined in the City Code shall be prohibited within the site, including the rooftop and any outdoor area.

i. No commercial uses shall be permitted to use any roof-top portions of the site.

j. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.

k. The applicant shall obtain a Certificate of Occupancy or a Certificate of Completion prior to the issuance of a Business Tax Receipt.

l. The applicant shall satisfy outstanding liens and past due City bills, if any, as well as any outstanding code and building violations, including any fines, to the satisfaction of the City prior to the issuance of an occupational license to operate the proposed restaurant.

m. "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 based upon the design review or appropriateness criteria, and/or directions received from the board."

6. The following shall apply to the construction and operation of the proposed mechanical parking system:

a. The noise or vibration from the operation of mechanical parking lifts, car elevators, or robotic parking systems shall not be plainly audible to or felt by any individual standing outside an apartment or hotel unit at any adjacent or nearby property. In addition, noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage.

b. For mechanical lifts, the parking lift platform must be fully load bearing, and must be sealed and of a sufficient width and length to prevent dripping liquids or debris onto the vehicle below.

c. All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the

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event of a power outage; vehicle elevators must have backup generators sufficient to power the system.

d. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift.

e. The ceiling heights of any parking level with parking lifts within the parking garage shall be a minimum of 11 feet by six inches.

f. All mechanical parking systems, including lifts, elevators and robotic systems, 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.

g. All parking lifts shall be maintained and kept in good working order.

h. 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.

i. Valet storage for off-site facilities shall not be permitted.

j. There shall be security personnel of at least one person, on-site, 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.

k. Signs prohibiting tire-screeching and unnecessary horn-honking shall be posted at the garage entrance (see attached).

7. The Planning Board shall retain the right to call the owner or operator, both now and in the future, back before the Board and modify this Conditional Use Permit, including the hours of operation and/or the occupant load of the accessory restaurant, as well as modifications to the parking operations, should there be valid complaints or violations (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise.

8. The applicant shall address the following Concurrency and Parking 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

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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. Prior to the issuance of a Building Permit, calculations for required parking for the project shall be determined by the Planning Department. A final determination for the required parking shall be conducted prior to the issuance of a Certificate of Occupancy or Business Tax Receipt, whichever comes first. If required, a one-time fee in lieu of providing the required parking on site or in combination with an annual fee, as determined by staff, shall be paid prior to the issuance of the Certificate of Occupancy.

9. The applicant, operator and/or owner, both now and in the future, shall abide by all the documents and statements submitted with this application, as well as all conditions of this Order.

10. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board. 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 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).

11. Any substantial modifications to the plans submitted and approved as part of this application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans.

12. 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.

13. The applicant shall resolve all outstanding violations and fines on the property, if any, prior to the issuance of a building permit for the project.

14. 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, of the City Code.

15. 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.

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16. Within a reasonable period of time after receipt of the executed Conditional Use Permit, the applicant, at its sole expense, shall record it in the Public Records of Miami-Dade County, and 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. 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 City Code, and shall be subject to enforcement procedures set forth in Section 114-8 of the Code and such other enforcement procedures as are permitted by law. 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.

18. 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 19th day of NOVEMBER, 2015

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush
Michael Belush, Planning and Zoning Manager
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 19th day of November, 2015, 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.

{NOTARIAL SEAL]

STEVEN GREENE
MY COMMISSION EXPIRES: JUL 26, 2017
#FF039517
Bonded through 1st State Insurance
NOTARY PUBLIC, STATE OF FLORIDA

Notary:
Print Name STEVEN GREENE
Notary Public, State of Florida
My Commission Expires: 07-26-2017
Commission Number:

Approved As To Form:
Legal Department on (11/20/2015)

Filed with the Clerk of the Planning Board on 11/20/2015

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