

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

**PROPERTY:** 120 MacArthur Causeway

**FILE NO.** PB20-0352

**IN RE:** A conditional use permit for a new 5-story office development exceeding 50,000 gross square feet, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

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

**MEETING DATE:** January 26, 2021

**CONDITIONAL USE PERMIT**

The applicant, Miami Beach Port, LLC, requested a Conditional Use Permit, pursuant to Chapter 118, Article IV, for a for a new 5-story office development exceeding 50,000 gross square feet, pursuant to Chapter 118, Article IV and Chapter 142, 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 I-1 Light Industrial 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

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Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

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 Miami Beach Port, LLC (collectively the applicant) and owner of the property. Any changes in ownership or 50% (fifty percent) or more stock ownership, or the equivalent, shall require the new owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt.
3. The following shall apply to the operation of the entire project:
  - a. Warning signs prohibiting horn honking, tire-screaching, or car alarm sounding shall be posted prominently by the applicant in the parking area.
  - b. A delivery and refuse plan, including all delivery access points and routes, as well as the location of all trash and refuse areas, shall be provided and shall be subject to the review and approval of staff.
  - c. Deliveries and trash collection shall take place only at the designated areas proposed by the applicant as shown in the plans.
  - d. Deliveries or trash pick-up shall only be permitted between 10:00 AM and 4:00 PM.
  - e. All trash containers shall utilize rubber wheels, as well as a path consisting of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
  - f. All trash rooms shall be air conditioned and sound-proofed in a manner to be approved by staff. The doors to the trash rooms shall remain closed and secured when not in use and all trash dumpsters shall be closed at all times except when in use.
  - g. Delivery trucks shall not be allowed to idle in loading areas or driveways.
  - h. There shall be no queuing of delivery, garbage, or moving trucks in the public right of way.
  - i. The property and adjacent rights-of-way shall be maintained clean and free from debris.
  - j. No patrons shall be allowed to queue on public rights-of-way.
  - k. Video surveillance shall be provided throughout the premises. The video surveillance shall be monitored during all hours in which the building is open.
  - l. Except as may be required for Fire, Building, or Life Safety Code purposes, no speakers of any kind shall be affixed to, installed, or otherwise located on the exterior of the

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- premises within the boundaries of the project, except for a distributed sound system, subject to the review and approval of staff.
- m. No exterior bar counters or accessory outdoor bar counters shall be permitted anywhere on the premises.
  - n. The rooftop on the eastern building (identified as Block B in the approved plans) shall be subject to the following:
    - i. Use of the rooftop shall be limited to tenants and their invited guests.
    - ii. Recorded background music or sound from televisions or motion picture devices shall only be permitted at an ambient level (i.e. at a volume that does not interfere with normal conversation), and shall cease by midnight and commence no earlier than 10:00 AM each day.
  - o. A restaurant shall only be permitted on the rooftop of the western building (identified as Block A in the approved plans) subject to the following:
    - i. The restaurant shall be limited to 120 seats.
    - ii. The restaurant shall have a maximum occupant content of 299 persons.
    - iii. The restaurant shall only serve alcoholic beverages during hours when food is served.
    - iv. Recorded background music or sound from televisions or motion picture devices shall only be permitted at an ambient level (i.e. at a volume that does not interfere with normal conversation), and shall cease by midnight each night on Sunday through Thursday, and by 3:00 AM each night on Friday through Saturday. Music shall commence no earlier than 10:00 AM each day.
    - v. The restaurant may only operate between 7:00 AM and 3:00 AM each day.
    - vi. The restaurant operator shall be return to the Planning Board for a progress report 90 days after obtaining a business tax receipt (BTR).
  - p. Entertainment shall be prohibited on the premises.
- 4. The development shall obtain approval from the Miami-Dade County Biscayne Bay Shoreline Development Review Committee prior to obtaining a building permit.
  - 5. The Planning Board shall retain the right to call the owner or operator back before the Board and make modifications to this Conditional Use Permit should there be valid complaints, as determined by Code Compliance, 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.
  - 6. 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.

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7. 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.
8. The applicant shall address the following Transportation, Mobility, Concurrency and Parking requirements:
  - a. The applicant shall pay all impact, mobility, and concurrency fees due prior to obtaining a Building Permit, Certificate of Occupancy, or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing.
  - b. Property managers and business operators for all residential and commercial uses shall ensure that deliveries are made as approved in this Conditional Use Permit. At no time shall delivery trucks block traffic flow on the public right-of-way.
  - c. The applicant shall submit an MOT (Maintenance of Traffic) plan to Public Works Department and Transportation 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.
  - d. The developer shall coordinate with the Transportation Department to develop an acceptable Transportation Demand Management Plan and Traffic Study, prior to the issuance of a building permit.
  - e. The applicant shall provide on-site bicycle parking facilities to accommodate a minimum of 160 short-term bicycle parking spaces and 165 long-term bicycle parking spaces.
  - f. The applicant shall use reasonable best efforts to consult with the US Coast Guard, Fisher Island Community Association, Fisher Island Club, and Palm, Hibiscus, Star Islands Association to mitigate any traffic or noise issues.
  - g. The applicant shall further refine the design of the driveway to minimize stacking, in a manner to be reviewed and approved by staff.
9. The development shall comply with the "Green Buildings" requirements in Chapter 133, Article I of the City Code.
10. 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.
11. 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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12. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a building permit.
13. 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.
14. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.
15. 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.

3/16/2021 | 2:47 PM EDT

Dated \_\_\_\_\_

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:

BY: \_\_\_\_\_

Rogelio Madan

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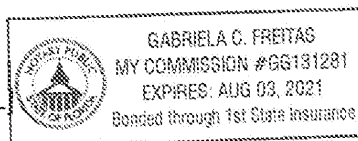
Rogelio A. Madan, AICP  
Chief of Planning and Sustainability  
for Chairman

STATE OF FLORIDA )

COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of March, 2021, by Rogelio A. Madan, Chief of Community Planning and Sustainability for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



Notary: \_\_\_\_\_

Print Name: Gabriela C. Freitas

Notary Public, State of Florida

My Commission Expires: Aug. 3, 2021

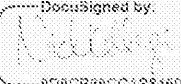
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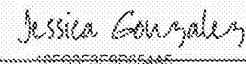
Approved As To Form:  
Legal Department

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( 3/16/2021 | 2:42 ) PM EDT

Filed with the Clerk of the Planning Board on

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( 3/16/2021 | 2:52 ) PM EDT

**EXHIBIT "A"****LEGAL DESCRIPTION**

COMMENCING AT A POINT 1580 FEET NORTH AND 2015 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 4, TOWNSHIP 54 SOUTH, RANGE 42 EAST, SAID POINT BEING AT THE INTERSECTION OF THE CENTERLINE OF THE ROADWAY OF THE ORIGINAL MIAMI COUNTY CAUSEWAY VIADUCT AND THE FACE OF THE WEST BRIDGE ABUTMENT, RUN SOUTH 67 DEGREES 05 MINUTES 00 SECONDS WEST, ALONG THE CENTERLINE OF SAID ROADWAY PRODUCED, A DISTANCE OF 58.70 FEET TO A POINT; THENCE RUN SOUTH 31 DEGREES 43 MINUTES 00 SECONDS EAST A DISTANCE OF 64.75 FEET TO A POINT, SAID BEING THE POINT OF BEGINNING (1). THENCE RUN SOUTH 67 DEGREES 05 MINUTES 00 SECONDS WEST, ALONG THE SOUTHERLY LINE OF THE MIAMI COUNTY CAUSEWAY, A DISTANCE OF 117.78 FEET TO THE POINT OF BEGINNING OF CUT-OUT PARCEL OF LAND HEREIN DESCRIBED,

FROM SAID POINT OF BEGINNING; THENCE RUN SOUTH 67 DEGREES 05 MINUTES 00 SECONDS WEST, ALONG THE SAID SOUTHERLY LINE OF THE MIAMI COUNTY CAUSEWAY, A DISTANCE OF 40.43 FEET; THENCE RUN ALONG THE ARC OF A CIRCULAR CURVE DEFLECTING TO THE RIGHT, HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 06 DEGREES 15 MINUTES 30 SECONDS AND A RADIUS OF 243.86 FEET, A DISTANCE OF 26.64 FEET TO A POINT, SAID POINT BEING THE POINT OF COMPOUND CURVATURE OF A CIRCULAR CURVE; THENCE RUN ALONG THE ARC OF A CIRCULAR CURVE DEFLECTING TO THE RIGHT, AND HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 01 DEGREES 25 MINUTES 44 SECONDS AND A RADIUS OF 1,566.95 FEET, A DISTANCE OF 39.08 FEET TO A POINT; THENCE RUN SOUTH 31 DEGREES 43 MINUTES 00 SECONDS EAST A DISTANCE OF 403.80 FEET TO A POINT; THENCE RUN SOUTH 25 DEGREES 29 MINUTES 00 SECONDS WEST A DISTANCE OF 97.46 FEET TO A POINT; THENCE RUN NORTH 64 DEGREES 31 MINUTES 00 SECONDS WEST A DISTANCE OF 120.00 FEET TO A POINT; THENCE RUN SOUTH 25 DEGREES 29 MINUTES 00 SECONDS WEST A DISTANCE OF 100.00 FEET TO A POINT; THENCE RUN SOUTH 64 DEGREES 31 MINUTES 00 SECONDS EAST, ALONG A LINE PARALLEL TO THE MUNICIPAL CHANNEL A DISTANCE OF 832.55 FEET (RECORD AND LEGAL DESCRIPTION) 832.55 FEET (CALCULATE) TO A POINT; THENCE RUN NORTH 31 DEGREES 43 MINUTES 00 SECONDS WEST A DISTANCE OF 583.57 FEET; THENCE SOUTH 58 DEGREES 17 MINUTES 00 SECONDS WEST FOR A DISTANCE OF 175.85 FEET; THENCE NORTH 32 DEGREES 27 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 59.61 FEET; THENCE NORTH 32 DEGREES 00 MINUTES 10 SECONDS WEST FOR A DISTANCE OF 61.22 FEET; THENCE NORTH 31 DEGREES 57 MINUTES 07 SECONDS WEST FOR A DISTANCE OF 59.87 FEET; THENCE NORTH 31 DEGREES 45 MINUTES 47 SECONDS WEST FOR A DISTANCE OF 99.47 FEET; THENCE NORTH 32 DEGREES 00 MINUTES 04 SECONDS WEST FOR A DISTANCE OF 109.79 FEET; THENCE NORTH 58 DEGREES 01 MINUTES 56 SECONDS EAST FOR A DISTANCE OF 19.00 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES NORTH 87 DEGREES 07 MINUTES 46 SECONDS EAST, A RADIAL DISTANCE OF 71.65 FEET; THENCE NORTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 43 DEGREES 56 MINUTES 24 SECONDS, A DISTANCE OF 54.95 FEET; THENCE NORTH 31 DEGREES 06 MINUTES 33 SECONDS WEST FOR A DISTANCE OF 10.00 FEET, TO THE SOUTHEASTERLY CORNER OF AN EXISTING ONE-STORY C.B.S. BUILDING; THENCE CONTINUE NORTH 31 DEGREES 06 MINUTES 33 SECONDS WEST, NORTHWESTERLY ALONG THE FACE OF THE SAID EXISTING C.B.S. BUILDING LINE, A DISTANCE OF 39.60 FEET, TO THE NORTHEASTERLY CORNER OF SAID EXISTING ONE-STORY C.B.S. BUILDING; THENCE CONTINUE NORTHWESTERLY, NORTH 31 DEGREES 06 MINUTES 33 SECONDS WEST, FOR A DISTANCE OF 30.28 FEET, TO THE POINT OF BEGINNING OF THE CUT OUT PARCEL OF LAND.

CONTAINING 161,716 SQUARE FEET OR 3.71 ACRES, MORE OR LESS.

LYING AND BEING IN SECTION 4, TOWNSHIP 54 SOUTH, RANGE 42 EAST, CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.