

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

PROPERTY: 929 Alton Road

FILE NO. PB0616-0051

IN RE: The application for a Conditional Use Permit for the construction of a new 4-story commercial development exceeding 50,000 square feet, including a parking garage, pursuant to Chapter 142, Article II and Chapter 118, Article IV of the City Code.

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 DATE: January 24, 2017

CONDITIONAL USE PERMIT

The applicant, Alton Sobe, LLC, filed an application with the Planning Board for a Conditional Use Permit pursuant to Chapter 142, Article II and Chapter 118, Article IV 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-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;

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;

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 a

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

1. This Conditional Use Permit is issued to Alton SoBe, LLC, to construct a five (5) story commercial project, inclusive of an accessory parking garage. Any proposed change to the uses approved in this Conditional Use shall require the review and approval of the Planning Board.
2. When BTR's are issued for at least 75% of the building area, but no later than six (6) months from the issuance of the first BTR, the applicant shall appear before the Planning Board for a progress report specific to traffic, including providing a full revised traffic study outlining the actual transportation operations on-site and in the surrounding initial study area, and including loading/servicing of the building.

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 owner or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
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, may require the applicant to return to the Board for approval.
6. 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.
7. 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. At a minimum, 20% of the main roof area shall be designed to be a green roof inclusive of irrigation subject to the review and approval of staff.

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- b. Bike racks shall be located in the front of the building or within enclosed area of the building. Such bike racks shall be located within those areas of the property that are easily accessible, safe, and secure. The final design details, dimensions, location and quantity of 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.
 - c. An access gate for the proposed passageway along the south side of the property shall be provided, in order to secure the site, subject to the review and approval of staff.
 - d. Pervious pavers shall be required for all exterior walkways and access paths located on the east side of the building, subject to the review and approval of staff.
 - e. 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.
 - f. Sound mitigation measures shall be incorporated into the east wall of the 3rd level parking deck, in a manner to be approved by a qualified acoustic engineer, subject to the review and approval of staff.
8. 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. Entrance of cars into the garage shall be prohibited after midnight. Controlled access into and out of the garage shall be required in order to ensure compliance with this requirement, in a manner to be reviewed and approved by staff.
 - c. The open to the sky parking located on the 3rd level shall not be utilized after 9pm; a physical mechanism shall be required to ensure compliance with this requirement, subject to the review and approval of staff.
 - d. Any off-site valet operation use shall require the review and approval of the Planning Board as a modification to this Conditional Use Permit.
 - e. Deliveries and pickups shall be managed to ensure no disruption of traffic on Alton Road and the surrounding neighborhood.

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- f. 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.
- g. 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.
- h. 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.
- i. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
- j. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Alton Road and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
- k. "Entertainment," as defined in the City Code shall be prohibited within the site, including the rooftop and any outdoor area.
- l. No commercial uses shall be permitted to use any roof-top portions of the site.
- m. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
- n. The applicant shall obtain a Certificate of Occupancy or a Certificate of Completion prior to the issuance of a Business Tax Receipt.
- o. 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.
- p. "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."

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9. 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 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.
10. 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.
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. 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. Within a reasonable time after applicant's 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 applicant's expense and then return the recorded instrument to the Planning

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Department. No building permit, certificate of use, certificate of occupancy, certificate of completion, or occupational license shall be issued until this requirement is satisfied.

- 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 8th day of FEBRUARY, 2017.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush
Michael Belush, AICP
Chief of Planning and Zoning
For Chairman

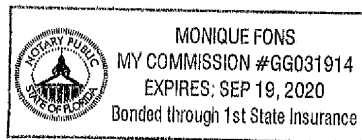
STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 8th day of February, 2017, by Michael Belush, Planning and Zoning Manage of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

Monique Fons

Notary:
Print Name: MONIQUE FONS
Notary Public, State of Florida
My Commission Expires: 9/19/2020
Commission Number:

[NOTARIAL SEAL]



Approved As To Form:
Legal Department

Monique Fons, 2/6/17

Filed with the Clerk of the Planning Board on 2/8/2017 (MB)

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