

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: October 29, 2024

FROM: Thomas R. Mooney, AICP
Planning Director



for TRM

SUBJECT: **PB24-0704, f.k.a. PB 1083 - 1343 Alton Road.**

An application has been filed requesting modifications to a previously Conditional Use Permit for the operation of a Day Care center. Specifically, the applicant is requesting to change the owner/operator, and update the conditions of approval, pursuant to Chapter 2, Article V, Section 2.5.2. of the Miami Beach Resiliency Code.

RECOMMENDATION

Approval with conditions.

ZONING/SITE DATA

Legal Description:

LOT 14, BLOCK 108, OF OCEAN BEACH, FLORIDA, ADDITION NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 81 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Zoning:

RO, Residential Office District

Future Land Use Designation:

RO, Residential Office District

Surrounding Uses:

North	Commercial (medical office)
East:	Two- Story Single-Family Residence
South:	Commercial (medical office)
West:	Residential Multi-Family

HISTORY

On August 27, 1991, the Planning Board granted a conditional use permit to operate a day care center at the subject property, which was zoned CD-1 and not located in an historic district at the time. The former operators, A to Z Kids Inc., had paid a fee-in-lieu for one parking space as stipulated in the original final order (PB 1083). However, as the subject structure is now a contributing building within the Flamingo Park Historic District, there are no parking requirements for the existing structure.

THE PROJECT

The applicant, JLSP Holdings LLC., submitted a survey and color photographs for “1343 Alton Road, Miami Beach, FL 33139”. The survey is signed on May 29th, 2024, as prepared by Juan C. Careaga from Exacta Land Surveyors, LLC.

The applicant is seeking to change the owner/operator and revise the conditions of approval in accordance with Chapter 2, Article V, Section 2.5.2 of the Miami Beach Resiliency Code. Specifically, the applicant is requesting to modify the conditions of the loading zone that was previously approved as part of the conditional use permit.

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the Miami Beach Resiliency Code Chapter 2, Article V, 2.5.2.2:

1. **The use shall be consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

Partially Consistent – While the existing use is now non-conforming in the RO Residential/Office Zoning District (RO), such use may continue provided that there has not been a lapse of more than 183 days.

2. **The intended Use or construction shall not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan**

Consistent – The proposed use is not anticipated to degrade the Levels of Service (LOS) for the surrounding area below the thresholds that have been established.

3. **Structures and uses associated with the request shall be consistent with these land development regulations.**

Partially Consistent – While the existing use is now non-conforming in the RO Residential/Office Zoning District (RO), such use may continue provided that there has not been a lapse of more than 183 days.

4. **The public health, safety, morals and general welfare shall not be adversely affected.**

Consistent – The proposed establishment may not adversely affect the general welfare of nearby residents. Staff is recommending measures so that any resulting adverse impact is mitigated.

5. **Adequate off-street parking facilities will be provided.**

Consistent – The development has no parking requirements as it is associated with a building that existed prior to October 1, 1993 within the Flamingo Park Historic District. However, there is an existing driveway that can be utilized for staff parking and guests to pick up and drop off children.

6. **Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.**

Consistent – There are existing conditions the CUP to mitigate any adverse impacts on the surrounding neighbors.

7. **The concentration of similar types of uses shall not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.**

Consistent – There are several commercial establishments in the area. Adverse impacts are not anticipated. Additionally, the day care center provides a service to the families that are located in Miami Beach.

8. **The structure and site comply with the sea level rise and resiliency review critical in Chapter 7, Article I, as applicable.**

Not applicable, this is an existing building.

9. **Appropriate consideration is given to the safety of and friendliness to pedestrian traffic; passageways through alleys is encouraged where feasible and driveways shall be minimized to the extent possible.**

Not applicable, this is an existing building that contains a driveway which fronts Alton Road.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4 of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

1. A recycling or salvage plan for partial or total demolition shall be provided.

Not applicable. The proposed Project is limited to a change of owner/operator and modifications to the existing CUP.

2. Windows that are proposed to be replaced shall be hurricane proof impact windows.

Not applicable. The proposed Project is limited to a change of owner/operator and modifications to the existing CUP.

3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Not applicable. Changes are not proposed to the storefront.

4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

Not applicable. Changes are not proposed.

5. Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.

Not applicable. Changes are not proposed.

6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.

Not applicable. Changes are not proposed.

7. Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

Not applicable. Changes are not proposed.

8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

Not applicable. Changes are not proposed.

9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not applicable. Changes are not proposed.

10. Where feasible and appropriate, water retention systems shall be provided.

Not applicable. Changes are not proposed.

11. Cool pavement materials or porous pavement materials shall be utilized.

Not applicable. Changes are not proposed.

12. The design of each project shall minimize the potential for heat island effects on-site.

Not applicable. Changes are not proposed.

STAFF ANALYSIS

Project Description and Operations

The previous owner and operator was 'A to for Z Kids, Inc'. The business will now be owned and operated by Little Beach House Montessori, LLC, which will offer a preschool for children between the ages of 15 months to 6 years. The school will operate Monday to Friday from 7:00 a.m. to 6:00 p.m. and will have the capacity for up to 30 children in four classrooms. Families will provide their own meals, as no food will be prepared or catered on-site.

Additionally, the reconstruction of Alton Road resulted in the removal of on-street parking, including an on-street loading zone that was required by the original CUP. The applicant is requesting to remove the condition that originally required an on-street loading zone in front of the property.

In order to be consistent with recent CUP approvals, staff is also recommending the following additional conditions:

- 1. That the requirement for change of ownership be modified to require that any change of operator or 50% (fifty percent) or more stock ownership shall require the new operator or owner*

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to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt. A progress report shall be scheduled prior to the applicant's submission and staff's acceptance of the affidavit.

2. That 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 Conditional Use Permit.

All of the revised and proposed new conditions have been incorporated into a revised MCUP (see attached). The rest of the conditions remain the same.

STAFF RECOMMENDATION

In view of the foregoing analysis, staff recommends that the application be approved subject to the conditions enumerated in the attached Draft Order.

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

PROPERTY: 1343 Alton Road

FILE NO. PB24-0704 , f.k.a. PB File No. 1083.

IN RE: An application has been filed requesting modifications to a previously Conditional Use Permit for the operation of a Day Care center. Specifically, the applicant is requesting to change the owner/operator, and update the conditions of approval, pursuant to Chapter 2, Article V, Section 2.5.2. of the Miami Beach Resiliency Code.

LEGAL DESCRIPTION: LOT 14, BLOCK 108, OF OCEAN BEACH, FLORIDA, ADDITION NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 81 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

MEETING DATE: July 16th, 1991; October 29th, 2024

MODIFIED CONDITIONAL USE PERMIT

The applicant, JLSP Holdings LLC, filed an application with the Planning Director for a Modification to a previously issued Conditional Use Permit for a Neighborhood Impact Establishment. Specifically, the applicants are requesting to change the name of the owner/operator, pursuant to Chapter 2, Article V, Section 2.5.2 of the Miami Beach Resiliency 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 RO, Residential Office 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 recommendations, that modifications to the Conditional Use Permit be GRANTED, as provided below: Underlining denotes new language and ~~strike through~~ denotes stricken language from the previous order:

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. 2.5.2.5.
2. This Modified Conditional Use approval is granted to Little Beach House Montessori, LLC, as the owner/operator of the Neighborhood Impact Establishment consisting of a restaurant. Any change of owners or operators shall require the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR.
3. The applicant shall receive HRS approval prior to the issuance of an Occupational License.
4. The applicant shall redesign the parking lot so that it is perpendicular to the south lot line.
5. There shall be a minimum 5 ft. landscape strip along the south and north property line and a minimum 8 ft. landscape strip along the front.
6. All bars on windows shall be removed.
7. The applicant shall receive Design Review Board approval prior to the issuance of a building permit. This approval shall include the revised landscape plan, surface treatment of the front facade and all other issues deemed appropriate by that Board.
8. The applicant shall comply with all of the Fire Department comments prior to the issuance of an Occupational License.
9. ~~The applicant shall pay, on a yearly basis, the parking impact fee for one (1) space.~~
10. ~~A loading zone in front of the facility shall be created to facilitate the pick-up and drop-off of children; said zone shall be approved by the Planning and Zoning Department and the Parking Department.~~

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11. All fireplace doors in the facility shall remain secured and locked while the premises are used as a day-care center.
 12. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, and all successors in interest and assigns.
 13. 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.
 14. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
 15. The Applicant agrees to the following operational conditions for the entire facility:
 - A. Equipment and supplies shall not be stored in areas visible from streets, alleys, or nearby buildings.
 - B. Garbage dumpster covers shall be closed at all times except when in active use.
 16. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this entertainment establishment.
 17. 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 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.
 18. 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.
 19. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
 20. The establishment and operation of this Conditional Use shall comply with all the 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.
 21. Nothing in this order authorizes a violation of the Miami Beach Resiliency Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the Miami Beach Resiliency Code.

22. That 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.

Dated: _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____

Michael Belush, AICP
Planning and Design Officer
for the Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Michael Belush, Planning and Design Officer for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

Notary:
Print Name
Notary Public, State of Florida
My Commission Expires:
Commission Number:

{NOTARIAL SEAL}

Approved As To Form:
Legal Department: _____ ()

Filed with the Clerk of the
Planning Board on: _____ ()