

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: October 09, 2015

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **File No. 1933. 875 71st Street – Progress Report**

UPDATE

At the time of the writing of this report, the applicant has applied for a separate CUP for the expansion of the existing convenience store at the same location (File No. 2255) which is scheduled for today's meeting.

BACKGROUND

June 23, 2009

A Conditional Use Permit (CUP) was approved by the Board for Sunshine Gasoline Distributors Inc. to operate a service station with accessory uses.

January 12, 2015

The Planning Department sent a Cure Letter to the operator of the gas station informing them that their current operation is inconsistent with the conditions of approval contained in the CUP from June 23, 2009 and that a Progress Report was scheduled for January 28, 2015.

January 28, 2015

A Progress Report was scheduled and heard due to violations issued by the Code Compliance Department regarding signage and the operation of the car wash facilities. The Board heard an update from the applicant's representative, and requested a subsequent Progress Report to be scheduled.

February 24, 2015

The Board heard an update from the applicant's representative regarding the violations issued by the Code Compliance Department for signage and the operation of the car wash facilities. The Board requested a subsequent Progress Report to be scheduled for the March 24, 2015 meeting.

March 24, 2015

The Board heard an update from the applicant's representative regarding the violations issued by the Code Compliance Department and the operation of the car wash facilities. The Board requested a subsequent Progress Report to be scheduled for the May 26, 2015 meeting.

- May 26, 2015** The Board continued the Progress Report to the June 23, 2015 meeting, which was going to coincide with the modification application for a conditional use for the expansion of the existing convenience store connected to the gas station.
- June 23, 2015** The Board continued the Progress Report to the July 28, 2015 meeting, which was meant to coincide with the modification application for a conditional use for the expansion of the existing convenience store connected to the gas station.
- July 28, 2015** The Board set a revocation and modification hearing for the September meeting that was rescheduled to October 9, 2015.

Since the issuance of the initial violations for signs and the operation of the car wash without a Business Tax Receipt (BTR), the applicant met with staff, and the car wash has been approved provisionally for the hours of 9:00 AM to 7:00 PM.

PROGRESS REPORT

The following is an update on the warnings, violations and open offenses showing in the City's records as of this writing:

JC15000402/CE15006342 03/16/2015 *"Sec.102-367 Failing to comply with the issued Business tax receipt" The description of the code enforcement officer is as follows: "I inspected 875 71 St for operating the car wash after 7:00Pm. During my inspection I witnessed five vehicles using the car wash after 7:00Pm. I spoke to the employee and she advised me that the gate post that blocks the entrance does not close until 7:00Pm. I explained to her that the location should close the gate post much earlier to avoid the unpermitted operation of the car wash. Pictures were taken and updated in case#CE15006342. The case is in the process of going to S/M."*

Additionally, the site does not meet several of the conditions of the Conditional Use Permit attached. The following conditions were imposed by the Planning Board on July 23, 2009 as part of the approval:

2. The applicant shall be responsible for operating this facility in an orderly, clean and quiet manner so that neighboring residents are not disturbed during the hours of operation. This shall include policing all trash from the site not less than twice daily. The sounding of car alarms, automobile horns, playing of radios or any kind of audio system and screeching of tires shall be prohibited. A warning sign (see attached) shall be posted on the property.
3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, and all successors in interest and assigns.
5. The amount of existing paving within the property shall be reduced to an absolute minimum by increasing the landscaped areas in order to enhance the property while still allowing adequate access, parking and services to be provided. A revised site plan, and landscape plan, inclusive of uplighting and irrigation providing 100% coverage shall be submitted for the review

and approval of staff and the work shall be completed prior to the issuance of a Business Tax Receipt. The landscape plan shall also include street trees to be provided in public property as per the City of Miami Beach Master Street Tree Plan.

6. The applicant shall remove all encroachments on to the right-of-way and shall work with staff to recreate the landscape buffer along 71st Street subject to dimensional requirements for driveway widths for gasoline pump service.
7. The applicant shall work with the staff of the Planning and Public Works Departments to explore the ability to reduce the width of the eastern curb cut along 71st Street and possibly remove the westerly curb cut along 71st Street.

In regards to condition two (2), the reduced hours of the car wash operation from 24 hours to 9:00 AM to 7:00 PM was proffered and seems to have reduced the impacts of the noise associated with the car wash, but the location and hours of the self-service vacuums and the hours of the pressure cleaning of the site are still concerns.

STAFF RECOMMENDATION

Due to the excessive amount of continuations (6), staff recommends that if the Board does not approve the conditional use under Planning Board File No. 2255, the Board should consider a suspension of the operation of the car wash and the vacuum cleaners until such time that the applicant is approved for a CUP for the convenience store. Additionally, if the Board has not already done so during the review of File No. 2255, the staff recommends that the Board should review and make recommendations as to the future layout of the site and consolidate the operational conditions of the car wash and vacuums.

TRM/MB/TUI

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

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

PROPERTY: 875 71st Street

FILE NO: 1933

IN RE: The application by Sunshine Gasoline Distributors Inc., requesting Conditional Use approval to operate a service station in a CD-2, Commercial Medium Intensity zoning district.

LEGAL DESCRIPTION: Lots 9, 10, 11 & 12 in Block 28 of Fishers First Sub of Alton Beach, as recorded in Plat Book 2, page 77, of Public Records of Miami-Dade County, Florida.

MEETING DATE: June 23, 2009

CONDITIONAL USE PERMIT

The applicant, Sunshine Gasoline Distributors Inc., filed an application with the Planning Director for a Conditional Use Permit pursuant to Section 118-193 of the Land Development Regulations 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 record for this matter:

- That the property in question is located in the CD-2, Commercial Medium Intensity zoning district;
- That the intended 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 Ordinance;
- That the public health, safety, morals, and general welfare will not be adversely affected when the conditions of approval are in compliance;
- That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values if the following conditions are met.

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 the Conditional Use Permit be **GRANTED**, subject to the conditions enumerated below:

1. The Planning Board shall maintain jurisdiction on this Conditional Use Permit. If deemed necessary, at the request of the Planning Director or a Board member, the applicant shall present a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of the 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. The applicant shall be responsible for operating this facility in an orderly, clean and quiet manner so that neighboring residents are not disturbed during the hours of operation. This shall include policing all trash from the site not less than twice daily. The sounding of car alarms, automobile horns, playing of radios or any kind of audio system and screeching of tires shall be prohibited. A warning sign (see attached) shall be posted on the property.
3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, and all successors in interest and assigns.
4. Prior to the issuance of a Business Tax Receipt the applicant shall:
 - a. resolve outstanding violations and fines, if any;
 - b. pay the appropriate after-the-fact application fee to the Planning Department;
 - c. provide proof to the Planning Department that all applicable environmental permits, including but not limited to the removal and installation of underground tanks, have been issued by the appropriate governmental agencies.
5. The amount of existing paving within the property shall be reduced to an absolute minimum by increasing the landscaped areas in order to enhance the property while still allowing adequate access, parking and services to be provided. A revised site plan, and landscape plan, inclusive of uplighting and irrigation providing 100% coverage shall be submitted for the review and approval of staff and the work shall be completed prior to the issuance of a Business Tax Receipt. The landscape plan shall also include street trees to be provided in public property as per the City of Miami Beach Master Street Tree Plan.
6. The applicant shall remove all encroachments on to the right-of-way and shall work with staff to recreate the landscape buffer along 71st Street subject to dimensional requirements for driveway widths for gasoline pump service.
7. The applicant shall work with the staff of the Planning and Public Works Departments to explore the ability to reduce the width of the eastern curb cut along 71st Street and possibly remove the westerly curb cut along 71st Street.

- 8. Compliance with the aforesaid conditions shall be a prerequisite to obtaining a Certificate of Use or Business Tax Receipt, whichever may occur first.
- 9. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a Certificate of Use, Certificate of Occupancy or Business Tax Receipt, whichever occurs first.
- 10. 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.
- 11. The establishment and operation of this Conditional Use Permit 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 permit.

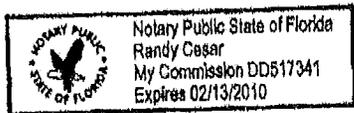
Dated this 22 day of July, 2009

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
Jorge G. Gomez, AICP, Planning Director
For the Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 22 day of July, 2009, by Jorge G. Gomez, AICP, 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 OR STAMP}

[Signature]
Notary:
Print Name Randy Cesar
Notary Public, State of Florida
My Commission Expires: 2-13-2010
Commission Number:

Approved As To Form:
Legal Department (8/17-15-09)