

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

PROPERTY: 2901-2911 Indian Creek Drive

FILE NO. PB20-0341

IN RE: An application has been filed requesting a conditional use permit for a new residential multifamily development including the use of a mechanical parking, pursuant to Chapter 118, Article IV, and Chapter 130, Article II of the City Code.

LEGAL DESCRIPTION: 16 and 17, in Block 12, of Ocean Front Amended, according to the Plat thereof, as recorded in Plat Book 5, at pages 7 and 8, of the Public Records of Miami-Dade County, Florida.

MEETING DATE: April 27, 2021

CONDITIONAL USE PERMIT

The applicant, 29 ICD, LLC, requested a Conditional Use approval for the construction of a new residential multifamily development including the use of a mechanical parking, pursuant to Chapter 118, Article IV and Chapter 130, 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:

The property in question is located in the RM-2, Residential Multifamily, Medium Intensity Zoning District;

The use is consistent with the Comprehensive Plan for the area in which the property is located;

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;

The structures and uses associated with the request are consistent with the Land Development Regulations;

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

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,

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and the staff report and analysis, which is adopted herein, including the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

1. This Conditional Use Permit is issued to 29 ICD, LLC, as owner/operator of the property, Any change of operator or fifty percent (50%) or more stock ownership shall require the new owners or operators to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owners and/or operators and acknowledging acceptance of all conditions established herein, prior to the issuance of a new Business Tax Receipt.
2. Prior to the issuance of any building permit associated with the construction approved herein, a Unity of Title or a covenant in lieu for lots 16 and 17 shall be submitted in a format acceptable to the City Attorney.
3. The applicant, and/or owner of any property containing a mechanical lift, 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.
4. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners of any property containing a mechanical lift, operators, and all successors in interest and assigns. 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.
5. 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.
6. 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. A retractable door shall be installed to screen parking garage and lifts from exterior view. The gate shall remain closed between the hours of 10 PM and 7 AM, except when a vehicle is entering or leaving the garage.
 - b. A wall or fence that is at least 50% solid with screening materials shall be located at the opening in the northern end of the garage, to minimize the impact of noise and light on the neighboring property.
7. All new construction over 7,000 square feet or ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
8. The Applicant agrees to the following operational conditions for all permitted and

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accessory 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. That the garage shall be in operation 24 hours per day, seven days a week, as proposed by the applicant.
 - b. Valet parking shall be provided 24 hours per day, seven days a week. A sufficient number of valet attendants shall be provided on site to ensure that queuing onto 29th Street does not occur at any time.
 - c. The facility shall maintain adequate backup generators sufficient to power the vehicle lifts. The generators shall be maintained in proper operating condition. The generators shall be installed in accordance with Code requirements regarding minimum flood plain criteria.
 - d. 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.
 - e. Garbage dumpster covers shall be closed at all times except when in active use.
 - f. 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.
 - g. Backing into or out of the site shall not be permitted.
9. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a Building permit.
10. The applicant shall address the following Concurrency and Parking requirements, as applicable:
- 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.

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- 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.
- 11. 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.
 - 12. 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).
 - 13. 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. 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.
 - 14. 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.
 - 15. 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
 - 16. The applicant shall obtain a full building permit within 18 months from the date of approval of this Conditional Use Permit, 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.
 - 17. 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.
 - 18. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

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19. 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.
20. 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.
21. The applicant agrees and shall be required to provide access to areas subject to this Conditional Use Permit for inspection by the City (i.e. Planning Department, Code Compliance Department, Building Department, and Fire Department staff), to ensure compliance with the terms and conditions of this Conditional Use Permit. Failure to provide access may result in revocation of the Conditional Use Permit.

Dated 6/22/2022 | 2:24 PM EDT.PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:

Rogelio Madan

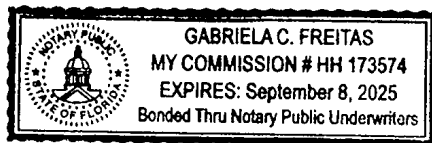
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BY: _____

Rogelio Madan, AICP

Chief of Chief of Community Planning & Sustainability
For ChairmanSTATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 22nd day of June, 2022, by Michael Belush, Chief of Planning and Zoning for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



Gabriela C. Freitas
Notary
Print Name *Gabriela C. Freitas*
Notary Public, State of Florida
My Commission Expires: *Sep. 8, 2025*
Commission Number: *HH 173574*

{NOTARIAL SEAL}

Approved As To Form:
Legal Department

DocuSigned by:

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6/28/2022 | 11:59 AM EDT

Filed with the Clerk of the Planning Board on

DocuSigned by:

Jessica Gonzalez

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6/28/2022 | 2:14 PM EDT

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