

## PLANNING BOARD CITY OF MIAMI BEACH, FLORIDA

**PROPERTY:** 1826 Collins Avenue.

**FILE NO.** PB21-0452, a.k.a. PB File No. 1903

**IN RE:** The Application requesting a modification to a previously issued conditional use permit for a robotic parking system in a commercial main use parking garage to operate the garage after midnight with an accessory use 240-seat restaurant. On April 26, 2022, the Planning Board held a public hearing to consider a revocation, modification, or imposition of additional conditions to the existing Condition Use Permit due to code violations and complaints.

**LEGAL DESCRIPTION:** Lot 4, less the West 25 feet thereof, Block 2, FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the Plat thereof, recorded in Plat Book 2, Page 77 of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** ~~January 27, 2009~~ April 26, 2022

### MODIFIED CONDITIONAL USE PERMIT

The applicant, IC, LLC, is requesting a Conditional Use approval pursuant to Section 118-195 of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the request for a Conditional Use Permit 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 not consistent with the Land Development Regulations.

That the public health, safety, morals, and general welfare will not be adversely affected if the applicant complies with the conditions stated herein;

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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 Conditional Use Permit as requested and set forth above be GRANTED, subject to the conditions below, which have been accepted by the applicants: Underlining = new language; Strikethrough = deleted language.

1. 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 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 IC, LLC as owner of the property. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
3. The applicant shall redesign the driveway to a width of 22 feet in order to conform to the requirements of the City Code, or in the alternative shall apply to the Board of Adjustment to obtain a variance in accordance to Chapter 118, Article VIII, "Procedures for Variances."
4. 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 of the modified plans.
5. 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.
6. The Final Order for File No. 6265 issued by the Historic Preservation Board on January 13, 2009 is hereby adopted and incorporated into this order by reference.
7. Storage of vehicles by valet operators for off-site facilities shall be permitted.
8. ~~The off-street parking requirements for the accessory use restaurant shall be satisfied only within the garage.~~ Required parking for off-site venues shall not be satisfied at this garage.
9. The proposed accessory use restaurant on the site shall not be permitted to use the rooftop. The restaurant seating shall be contained inside the premises and restricted to no more than 208 seats and an occupant load that shall not exceed 240 persons or any lesser number as may be determined by the Chief Fire Marshal. The restaurant shall comply with the following regulations:
  - a. The restaurant shall only be permitted to operate between 11:00 AM and midnight each

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night.

- b. A full kitchen must be open, serving full meals for consumption on premises, during all hours in which the restaurant is open.
- c. Music shall not exceed an ambient volume level (i.e. a volume level that does not interfere with normal conversation). The applicant's house sound system shall be the only sound system utilized. No other speakers shall be utilized to play music. The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system to an ambient volume level (i.e. a volume level that does not interfere with normal conversation) and have password protected security on all controls at all times. Passwords for sound systems shall be provided only to the manager on duty. Only the manager on duty shall have access to house sound system maximum audio level controls.
- d. Entertainment, as defined in Section 114-1 of the Land Development Regulations, shall be prohibited.
- e. Dance halls shall be prohibited.
- f. Use of the balcony shall be prohibited.
- 10. "Entertainment," as defined in the City Code shall be prohibited within the site, inclusive of the accessory use restaurant, rooftop and any outdoor area
- 11. The robotic parking system and vehicle elevators must be inspected and serviced at least once per year with an annual safety report signed by a Licensed Mechanical Engineer submitted to the Planning Department.
- 12. The parking garage shall consist of 139 spaces, ~~of which~~ and up to 52 of these 139 spaces can be used as the required parking for the accessory use restaurant. The garage operation will be 24 hours per day, seven days a week. Accessibility for public use, including the valet parking authorized in Condition No. 7 shall be available at all times. The facility shall be equipped with closed circuit recording monitors to assure the safety and security of the public. There shall be security personnel of at least one person monitoring the garage operation 24 hours a day, seven days a week. The structure, operation, procedures, maintenance, service response procedures, remote technical service team, local, on-site service team, and spare parts inventory shall be in accordance with the four-page letter dated January 16, 2009 from Automotion Parking Systems, LLC of West Hempstead, New York, as proffered by the applicant, except that the reference to the facility being unattended shall be deleted.
- 12. The facility shall ensure that noise or vibration from the operation of the robotic parking system and car elevators shall not be plainly audible or felt by any individual standing outside an apartment or hotel unit at any adjacent or nearby property. Noise and vibration barriers shall be incorporated into the final design to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage. The robotic parking system shall use sound deadening material between all connections from the robotic parking system to the building in order to eliminate all sound transference and

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vibration in the system and the building as well.

13. When construction has been completed, but before the commencement of the garage operations authorized by this Conditional Use Permit and before the issuance of a Business Tax Receipt, the garage operations shall be fully tested under the supervision of Mr. Donald J. Washburn, President of The Audio Bug, Inc. to ensure that all aspects of the garage operation fully comply with the Parking Garage Noise Impact Study by The Audio Bug, Inc., dated November 8, 2008 as amended by The Audio Bug, Inc. letter dated January 20, 2008, all as submitted by the applicant. The garage shall not begin operating until staff has received and approved in writing a final written report by Mr. Washburn stating that as tested, all aspects of the garage operation fully comply with the Parking Garage Noise Impact study as amended. Thereafter, all aspects of the garage operation shall fully and continuously comply with the aforementioned Noise Study as amended.
14. The parking platforms must be sealed and of a sufficient width and length (minimum of 7.5' by 16') to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below.
15. The facility must maintain adequate backup generators sufficient to power the car elevators. The generator shall be maintained in proper operating condition. The location of the generators shall be submitted for the review and approval by staff to ensure that any negative impacts associated with the operation or testing of the equipment are minimized. The generators shall be installed in accordance with Code requirements regarding minimum floodplain criteria.
16. Deliveries and garbage pickup shall be conducted directly on site and not on the street. The trash/garbage container shall have rubber wheels and shall not be permitted to be wheeled to curbside for pick-up. Deliveries and pickups shall be handled and managed by a dock master supervisor who shall be responsible for controlling traffic when these activities are scheduled in order to minimize the disruption of traffic on Collins Avenue. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
17. Plans shall be modified to reflect on site service of trash removal and deliveries in order to maintain a free-flow of the right of way, including the public sidewalk.
18. The applicant shall submit an MOT (Method of Transportation) 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.
19. The applicant shall increase the driveway turning radii at Collins Avenue to at least 10 feet, and place double yellow lines and a stop bar/stop sign on the driveway in order to clearly delineate the inbound and outbound lanes, as per the recommendations of the Traf Tech traffic impact analysis report dated November 6, 2008.
20. A landscape plan for the entire site, prepared by a Professional Landscape Architect, inclusive of street trees as per the City of Miami Beach Master Street Tree Plan, shall be submitted to and approved by staff before a building permit is issued for construction. The landscaping that may be proposed for the edge along the sidewalk shall not exceed a

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maximum of two feet in order to provide adequate sight distance at the project driveway.

21. 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 by the Concurrency Management Division.
22. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit.
23. 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.
24. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the parking facility.
25. 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 of the accessory restaurant should there be valid complaints about loud, excessive, unnecessary, or unusual late night noise.
26. 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, Code of the City of Miami Beach, Florida.
27. 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.
28. 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 Building Permit
29. 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.
30. The applicant agrees and shall be required to provide access to areas subject to this Conditional Use Permit (not private residences or hotel rooms) 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

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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

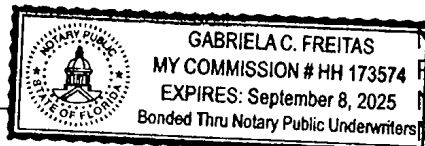
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BY: Rogelio Madan  
Rogelio A. Madan, AICP  
Chief of Community Planning and Sustainability  
for Chairman

STATE OF FLORIDA  
)

COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of June, 2022, 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: Gabriela C. Freitas  
Print Name: Gabriela C. Freitas  
Notary Public, State of Florida  
My Commission Expires: Sept 8, 2025  
Commission Number: HH 173574

Approved As To Form:  
Legal Department

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Filed with the Clerk of the Planning Board on

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