

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: January 7, 2025

FROM: Thomas R. Mooney, AICP  
Planning Director



DS for TRM

SUBJECT: **PB24-0720, f.k.a. PB File No. 1746, 101 Ocean Drive – Parking Garage**

An application has been filed requesting modifications to a previously Conditional Use Permit for the use of underutilized parking spaces on a 24-hour basis. Specifically, the applicant is requesting to change the owner/operator, pursuant to Chapter 2, Article V, of the Miami Beach Resiliency Code.

### **RECOMMENDATION**

Approval

### **BACKGROUND**

November 22, 2005: The Planning Board approved the use of underutilized parking spaces on a 24-hour basis. The underutilized spaces will be used to accommodate patrons of nearby restaurants.

January 23, 2007: The Planning Board approved a change of the owner/operator.

### **STAFF ANALYSIS**

The applicant is requesting a modification to the conditions of an existing Conditional Use Permit for a change to the ownership/operator. Specifically, the applicant is seeking to amend condition No. 1 to allow any future change of owners or operators to submit an affidavit, as noted below. This is consistent with recently approved CUP's and staff is supportive of the proposed change.

1. The Planning Board shall maintain jurisdiction on this Modified Conditional Use Permit is issued to Unity Parking LLC as the owner/operator of the property. 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). Any change of owners or operator or 50% (fifty percent) or more stock ownership, partnership interest, or the equivalent, 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. A progress report shall be scheduled within 60 days followed by the submission and acceptance of the affidavit. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.

*PB24-0721, f.k.a. PB File No. 2000, 49 Collins Avenue – Parking Garage.  
January 7, 2025*

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The proposed condition has been incorporated into a revised CUP (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:** 101 Ocean Drive

**FILE NO.** PB24-0720, f.k.a. PB File No. 1746

**IN RE:** An application has been filed requesting modifications to a previously Conditional Use Permit for the use of underutilized parking spaces on a 24-hour basis. Specifically, the applicant is requesting to change the owner/operator, pursuant to Chapter 2, Article V, of the Miami Beach Resiliency Code.

**LEGAL  
DESCRIPTION:**

Lot 7, less the west 15 feet thereof, and Lot 8, less the west 15 feet thereof, in Block 113 of Ocean Beach Addition No. 4, according to the Plat thereof as recorded in Plat Book 3, at Page 151 of the Public Records of Miami-Dade County, Florida, together with that land lying east of the easterly boundary line of Lots 7 and 8 in block 113 of Ocean Beach Addition No. 4 and west of the Erosion Control Line and south of the easterly prolongation of the north line of Lot 7, and north of the easterly prolongation of the south line of Lot 8, in Block 113 of Ocean Beach Addition No. 4, according to the Plat thereof, as recorded in Plat Book 3 at Page 151 of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** January 23, 2007; January 7, 2025

**MODIFIED CONDITIONAL USE PERMIT**

The applicant, ~~Double Park LLC~~ Unity Parking, LLC filed an application with the Planning Director to modify a previously approved Conditional Use Permit pursuant to Chapter 2, Article V, Section 2.5.2 of the Miami Beach Resiliency Code ~~to for the~~ use of underutilized parking spaces on a 24-hour basis to accommodate patrons of nearby restaurants. Notice of the request for Conditional Use 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 R-PS4, Residential High Density 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 staff recommendations, as may have been modified by the Planning Board, that a Modified Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed:

Underlining denotes new language and ~~strike through~~ denotes stricken language from the previous Order.

1. ~~The Planning Board shall maintain jurisdiction on this~~ Modified Conditional Use Permit ~~is issued to Unity Parking LLC as the owner/operator of the property. 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 (e).~~ Any change of owners or operator or 50% (fifty percent) or more stock ownership, partnership interest, or the equivalent, 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. A progress report shall be scheduled within 60 days followed by the submission and acceptance of the affidavit. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
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 lot not less than twice daily. The sounding of car alarms, automobile horns, playing of radios or any kind of audio system (including by the valet attendants) and screeching of tires shall be prohibited. Two signs, one addressing City Code provisions regarding car alarms, and one prohibiting the screeching of tires and sounding of horns, shall be posted on the site so they are plainly visible by, and legible to, users of the facility (see attached examples).
3. Periodic evaluation of the under-utilized spaces shall be conducted by staff as new uses come on line, and the use of the underutilized spaces shall be adjusted depending on the hours of operation.
4. All parking spaces associated this under-utilized parking approval have been identified on site with a yellow "C" and corresponding space number, physically painted on the pavement. These are the only spaces that can be used to store vehicles.
5. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a modified Occupational License for this parking facility.

- 6. The under-utilized parking spaces in this facility shall be operated as a valet-only; no self-parking shall be permitted.
- 7. 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.
- 8. This Modified Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant.
- 9. 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 144-8-1.3.6 of said Code the Land Development Regulations (LDRs), entitled "ENFORCEMENT", 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 \_\_\_\_\_.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
Michael Belush, AICP  
Planning & Design Officer  
For Chairman

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Michael Belush, Planning & Design Officer of 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: \_\_\_\_\_ ( )