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## **VIA EMAIL**

Michael Belush  
Planning Department  
City of Miami Beach  
1700 Convention Center Drive, 2nd Floor  
Miami Beach, Florida 33139

Re: State Extension Letter for Files HPB22-0523, PB22-0530.

Dear Michael:

This firm represents 29 ICD, LLC (the "Owner"), the successor in interest to the original applicant and owner of the property located at 2901-2911 Indian Creek Drive, Miami Beach, Florida (the "Property"). Please consider this letter the Applicant's notification of its intent to exercise State Statutory tolling and extension for the HPB and PB approvals for the site pursuant to the State of Emergencies for Hurricane Ian and Hurricane Nicole.

In 2011, the Florida Legislature enacted Florida Statute Section 252.363, which serves to toll and extend permits and other government authorizations when the Governor issues a declaration of state of emergency. Section 252.363 of the Florida Statutes provides, in relevant part, that development orders issued by local governments, building permits, Department of Environmental Property or water management district permits issued pursuant to Part IV of Chapter 373, and DRI buildout dates are tolled during the declaration of a state of emergency issued by the Governor and are extended for a period of twenty-four (24) months following the end of the state of emergency.

*Hurricane Ian.* On September 23, 2022 Governor DeSantis issued Executive Order No. 22-218, which declared a State of Emergency regarding Tropical Depression Nine, which would go on to become Hurricane Ian. Then, on November 21, 2022, January 19, 2023, March 17, 2023, May 15, 2023, July 13, 2023, September 8, 2023, and January 4, 2024, March 1, 2024, and April 29, 2024, Governor DeSantis issued Executive Order Nos. 22-268, 23-21, 23-60, 23-104, 23-139, 23-176, 24-02, 24-36, and 24-80

respectively, each of which extended the State of Emergency for Hurricane Ian for an additional sixty (60) days. As such, the State of Emergency for the Hurricane Ian in Miami-Dade County ends on June 28, 2024 (645 days from September 23, 2022). Permits and development orders are therefore tolled during the State of Emergency by 647 days (or as applicable based on date of approval) and extended for twenty-four (24) months following the end of the State of Emergency for Hurricane Ian. Pursuant to Section 252.363(1)(b), the deadline to file an extension notification is presently September 26, 2024, for Hurricane Ian Extension Notifications (90 days from the expected end date of the State of Emergency).

*Hurricane Nicole.* On November 7, 2022, Governor DeSantis issued Executive Order No. 22-253, which declared a State of Emergency regarding Subtropical Storm Nicole, which later developed into Hurricane Nicole. Then, on January 5, 2023, March 3, 2023, May 1, 2023, June 29, 2023, August 25, 2023, October 23, 2023, December 19, 2023, February 19, 2024, and April 18, 2024, Governor DeSantis issued Executive Order Nos. 23-02, 23-48, 23-87, 23-133, 23-170, 23-211, 23-243, 24-32, and 24-72 respectively, which extended the State of Emergency for Hurricane Nicole for an additional sixty (60) days each. As such, the State of Emergency for Hurricane Nicole in Miami-Dade County ends on June 17, 2024 (467 days from November 7, 2022). Permits and development orders are therefore tolled during the State of Emergency by 467 days (or as applicable based on date of approval or concurrent emergency) and extended for twenty-four (24) months following the end of the State of Emergency for Subtropical Storm Nicole. Pursuant to Section 252.363(1)(b), the deadline to file an extension notification is presently September 15, 2024, for Hurricane Nicole Extension Notifications (90 days from the expected end date of the State of Emergency).

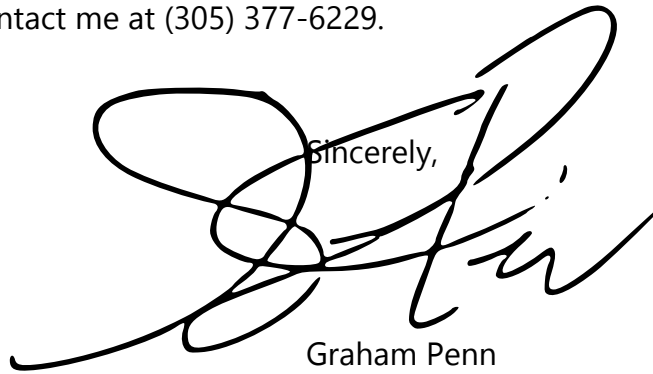
Please consider this letter to be our notification that the Applicant will be availing themselves of the statutory tolling and extensions for application files HPB22-0523 and PB22-0530 (copies attached). The Applicant reserves the right to amend this notification in the event that the Governor further extends the State of Emergency and/or to notify the City of any other valid extensions.

<b>Historic Preservation Board</b>	<b>HPB22-0523</b>
<b>Issued Date</b>	7/12/22
Current Expiration Date (including any previous extensions)	7/12/23
Section 252.363 Tolling Tolling - 645 days (Hurricane Ian) Tolling – 0 days (Hurricane Nicole)	4/15/25
Plus 24 months (Hurricane Ian)	4/15/27
Plus 24 months (Hurricane Nicole)	4/15/29
<b>New Expiration Date</b>	<b>4/15/29</b>

<b>Planning Board</b>	<b>PB22-0530</b>
<b>Issued Date</b>	<b>9/20/22</b>
Current Expiration Date (including any previous extensions)	10/27/23
Section 252.363 Tolling Tolling - 645 days (Hurricane Ian) Tolling – 0 days (Hurricane Nicole)	8/2/25
Plus 24 months (Hurricane Ian)	8/2/27
Plus 24 months (Hurricane Nicole)	8/2/29
<b>New Expiration Date</b>	<b>8/2/29</b>

The Applicant intends to use the tolling and extensions to extend the time period in which to obtain a full building permit pursuant to the requirements of the above approvals and associated State and City regulations. The Applicant expects to act on the above final approval within the period of extensions. Thank you for your attention to this matter. If you have any questions or concerns, please contact me at (305) 377-6229.

Sincerely,

A handwritten signature in black ink, appearing to read 'Graham Penn', is written over the word 'Sincerely,'. The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Graham Penn

**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: July 12, 2022

PROPERTY/FOLIO: 2901 Indian Creek Drive / 02-3226-001-1180  
2911 Indian Creek Drive / 02-3226-001-1170

FILE NO: HPB22-0523 a.k.a. HPB20-0379

APPLICANT: 29 ICD LLC

IN RE: An application has been filed requesting a one-year extension of time for a previously issued Certificate of Appropriateness for the total demolition of two existing buildings, the renovation, restoration and relocation of one existing building, the construction of a detached residential addition and multiple variances from the required pedestal and tower setbacks and to exceed the maximum projection allowed in required yards.

LEGAL: Parcel 1 (2901 Indian Creek Drive)  
Lot 17 and tract opposite same facing Indian Creek, Block 12, Miami Beach Improvement Company Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

Parcel 2 (2911 Indian Creek Drive)  
Lot 16 and tract opposite same facing Indian Creek, Block 12, Miami Beach Improvement Company Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

**ORDER**

The City of Miami Beach Historic Preservation Board 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:

The applicant stated, among other things, that there were delays encountered in the permitting process. The foregoing constitutes good cause for granting a one (1) year extension of time to the requirement that a Full Building Permit be obtained within eighteen (18) months of the original Certificate of Appropriateness.

IT IS HEREBY ORDERED, based upon the foregoing finding of fact and the staff report and analysis, which is adopted herein, including the recommendation, that a one (1) year extension of time to obtain a full building permit (which one year period shall run from the expiration date of the original approval, which was July 12, 2022) is GRANTED for the above-referenced project conditioned upon the following, to which the applicant has agreed:

1. A full building permit, not a foundation, shell permit or phased building permit, for the project shall be obtained by July 12, 2023.

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HPB22-0523  
Meeting Date: July 12, 2022

2. Construction shall commence and continue in accordance with applicable Building Codes.
3. This extension of time shall run concurrent with any other extensions of time that may be provided to the property owner as a result of actions of non-City authorities with jurisdiction over such matters.
4. The subject site and existing site shall be maintained in good, clean, and secure conditions at all times.
5. The Final 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.
6. 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.
7. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.

No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance as set forth in this Order and the Order for the January 12, 2021 (HPB20-0379) approval have been met. The issuance of a Certificate of Appropriateness does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order and the Final Order for the January 12, 2021 (HPB20-0379) approval. If the Full Building Permit is not issued by July 12, 2023, the Certificate of Appropriateness will expire and become null and void. If the Full Building Permit should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the Certificate of Appropriateness will expire and become null and void.

8/3/2022 | 7:34 AM EDT

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

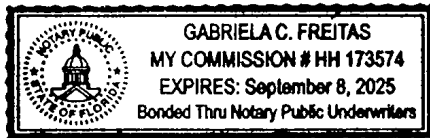
BY: Deborah Tackett  
8BF91C44195943C  
DEBORAH TACKETT  
HISTORIC PRESERVATION & ARCHITECTURE OFFICER  
FOR THE CHAIR

DS  
Dt

Page 3 of 3  
HPB22-0523  
Meeting Date: July 12, 2022

STATE OF FLORIDA           )  
  )SS  
COUNTY OF MIAMI-DADE    )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of August 2022 by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.



[Signature]  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: Sept. 8, 2025

Approved As To Form:  
City Attorney's Office:

DocuSigned by:

[Signature]  
8D8CB88CCAB8460

8/3/2022 | 2:12 PM EDT

DocuSigned by:

Filed with the Clerk of the Historic Preservation Board on

Jessica Gonzalez ( 8/3/2022 | 8:57 AM EDT  
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DS  
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**PLANNING BOARD  
CITY OF MIAMI BEACH, FLORIDA****PROPERTY:** 2901-2911 Indian Creek Drive**FILE NO.** PB22-0530, a.k.a. PB20-0341**IN RE:** The Application for a one (1) year Extension of Time to obtain a Full Building Permit for a previously issued Conditional Use Permit, pursuant to Chapter 118, Article IV, and Chapter 130, Article II of the City Code, to build a new residential multifamily development including the use of mechanical parking.**LEGAL DESCRIPTION:** Lot 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 DATES:** September 20, 2022**ORDER**

The applicant, 29 ICD, LLC., filed an application with the Planning Director for an Extension of Time for a previously issued Conditional Use Permit.

The City of Miami Beach Planning Board 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:

The applicant submitted information establishing, among other things, that additional time is required due to litigation relating to the property. The foregoing constitutes good cause for granting a one (1) year extension of time to the requirement that a Full Building Permit be obtained within eighteen (18) months of the original Conditional Use Permit Approval.

IT IS HEREBY ORDERED, based upon the foregoing finding of fact and the staff report and analysis, which is adopted herein, including the recommendation, that a one (1) year extension of time to obtain a full building permit (which one [1] year period shall run from the expiration date of the original approval, which is October 27, 2022), is **GRANTED** for the above-referenced project conditioned upon the following, to which the applicant has agreed:

1. A full building permit, not a foundation or shell permit, for the project shall be obtained by October 27, 2023.
2. Construction shall commence and continue in accordance with the applicable Building Code.
3. This extension of time shall run concurrent with any other extensions of time that may be provided to the property owner as a result of actions of non-City authorities with jurisdiction over such matters.



PB22-0530, a.k.a. PB20-0341. 2901-2911 Indian Creek Drive.  
September 20, 2022  
Page 2 of 3

4. 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.
5. The Final 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.

No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance as set forth in this Order and the Conditional Use Permit for the April 27, 2021 approval have been met. The issuance of Conditional Use Approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

10/31/2022 | 1:04 PM EDT

Dated \_\_\_\_\_

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:

*Rogelio Madan*

BY: \_\_\_\_\_

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 31<sup>st</sup> day of October, 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.

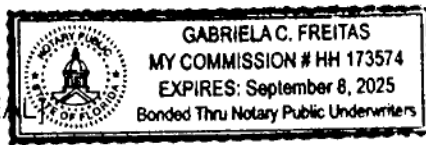
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RM

PB22-0530, a.k.a. PB20-0341. 2901-2911 Indian Creek Drive.

September 20, 2022

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[NOTARIAL SEAL]



Notary:

Print Name: Gabriela C. Freitas

Notary Public, State of Florida

My Commission Expires: Sept. 8, 2025

Commission Number: HH173574

Approved As To Form:  
Legal Department

DocuSigned by:

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( 10/31/2022 | 11:09 AM EDT

Filed with the Clerk of the Planning Board on

DocuSigned by:

Jessica Gonzalez

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( 10/31/2022 | 1:15 PM EDT

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RM