

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: May 01, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **DRB18-0225** (aka Design Review File No. 23265) **340 West 42 Street, 301 Arthur Godfrey Road and 4100 Pine Tree Drive**

The applicant, JP Roosevelt LLC, requesting is modifications to a previously approved Design Review Approval dated June 07, 2016 for site plan modifications and changes to the exteriors of a new seven-story residential building, including the incorporation of a ground floor retail component along West 42nd Street. This item will also require a modification to a previously approved Conditional Use application to be reviewed and approved by the Planning Board.

Recommendation:

Approval with conditions

LEGAL DESCRIPTION:

Lot 4, 5, 6, 7, 8 and 9, Block 3 of Orchard Subdivision No. 4 according to the plat thereof, as recorded in Plat Book 25 at Page 30 of the public records of Miami-Dade County, Florida.

HISTORY:

On June 07, 2016, the Design Review Board reviewed and approved the construction of a new seven-story, 55-unit residential building, and the retention of the adjacent, existing six-story office and associated bank teller structure, pursuant to DRB File No. 23265. The Planning Board approved the proposal that included the use of mechanical parking and is greater than 50,000SF in area. The modified CUP proposal is scheduled to be considered by the Planning Board on April 17, 2018 (File No. PB18-0183)

SITE DATA:

Zoning:	CD-3 (Commercial, High Intensity)
Future Land Use:	CD-3 (Commercial, High Intensity)
Lot Size:	46,809 SF
Existing FAR:	38,934 (Office Building)
Proposed FAR:	427,534SF 128,566 SF
Maximum FAR:	2.75 (128,725 SF)
Maximum Height:	75'-0" / 7 stories
Proposed Height:	74'-2" / 7 stories
Highest Projection:	103'-8"
Residential Units:	45 55
Retail:	5,145SF
Parking spaces provided:	426 133
Parking spaces required:	426 (26 HSBC) 132 (26 HSBC)
Loading spaces required:	4 3
Grade:	+ 5.1' NGVD
Base Flood Elevation (BFE):	+9.00' NGVD

Difference: Varies 3.9' NGVD

Adjusted Grade: 7.05' NGVD

First Floor Elevation: +5.1' Lobby and Retail | +9.0 ' Residential / Retail

THE PROJECT:

The applicant has submitted plans entitled "340 West 42nd Street Miami Beach, FL" as prepared by **Arquitectonica**, dated 03/02/18.

The applicant is requesting site modifications and changes to a previously approved Design Review Approval dated June 07, 2016, including the incorporation of a ground floor retail component along West 42nd Street. This item also requires a modification to a previously approved Conditional Use application to be reviewed and approved by the Planning Board

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria be found satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Satisfied
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the commercial liner along Pine Tree Drive needs to be activated
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Satisfied

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Satisfied
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Not Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Satisfied
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Applicable
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.
Satisfied
- (5) Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional

Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.

Not Satisfied

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.

Not Satisfied

- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

Not Satisfied

- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

Not Applicable

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

- (10) Where feasible and appropriate, water retention systems shall be provided.

Not Satisfied

STAFF ANALYSIS:

DESIGN REVIEW

The applicant is proposing site, program and elevation modifications to a previously approved Design Review Approval, dated June 07, 2016. The most significant aspect of the proposal includes the incorporation of a ground floor retail component along West 42 Street.

On June 07, 2016, the Design Review Board reviewed and approved the construction of a new seven-story, 45-unit residential building, and the retention of the adjacent, existing six-story office and associated bank teller structure, pursuant to DRB File No. 23265. The residential development consisted of 7 multi-story townhouses at street level facing 42nd Street with additional residential units programed in the levels above. A new drive-thru teller, to replace the existing, was included in the development program and was accessed from Pine Tree Drive.

The modifications to the development include an increased density from 45 to 55-units, and ground floor retail replacing the previously proposed multi-story townhouses. Overall, the building envelope remains unchanged with the exception of alterations to the skin and volumes of the elevations. Whereas the previous design was a series of stacked cubes of varying materials and alternating projections, the proposed is more streamline, with expansive glazing walls set within larger blocks of volumes that are defined with recesses and varying materials.

Staff recommends that the architectural blocks that dominate the building façade be further articulated to provide movement along the expansive elevations. From a design standpoint, staff is supportive of the modified. However, the previous design with the varying blocks and pop-out bay windows was more compatible to the residential use of the buildings, as well as the surrounding residential neighborhood to the north. The bulk of the building is still setback at the upper floors, further back from the residential neighborhood to the north than what is required by

the CD-3 zoning district. The proposed alterations result in a building that is larger in scale and removed architecturally from the surrounding context, with the elimination of the street level townhomes. While much of the design interest at the upper levels has been modified; staff is supportive of the elevation modifications.

With the change of use from the previously approved residential units at the ground floor to commercial uses, staff is also concerned with the proposed dual sidewalks now proposed on 42nd Street; one in the public right-of-way, and one on private property which are proposed to be segregated with a strip of landscaping. Staff would recommend that the location of the public sidewalk area shown on the plans and the adjacent landscape strip be reversed, in order to allow one continuous sidewalk abutting the new commercial area proposed along 42nd Street. Staff has concerns with the ground level commercial component along the West 42 Street and recommends wider sidewalks and an increased landscape buffer. The applicant is encouraged to seek approval from the Public Works Department in order to provide a 7'-0" wide public sidewalk as a pedestrian easement within private property, flush with the building foundation, while providing additional greenspace from the northern edge of sidewalk to back side of curb facing West 42 Street. Within the widened greenspace, staff recommends incorporating a double row of staggered, large canopy trees that will enhance the urban pedestrian experience while providing an increased landscape buffer from the adjacent residential uses. Further, understory plant material, not exceeding 36" at maturity and requiring minimal maintenance to maintain such height, should be provided, subject to the review and approval of the Public Works Greenspace Division.

Additionally, staff recommends that the garage vents along the east and west elevation be broken into small components, as the previous version, to regain some of the lost residential language of the architecture. The drawings note a varied railing typology within the design but staff recommends that the railings be consistent throughout the entirety of the design. And lastly, the proposed drawings do not include a new ATM drive-through bank area which was previously approved. Staff recommends that the applicant put back the teller space, as it was previously approved, and revise the FAR calculations accordingly; otherwise the applicant will have to request a variance from Section 142-339 of the city code requiring commercial lining of parking.

The Planning Board approved the proposal that included the use of mechanical parking and is greater than 50,000SF in area. The modified CUP proposal is scheduled to be considered by the Planning Board on April 17, 2018 (File No. PB18-0183). Within the recommendation for the CUP modifications, planning staff outlines several operational conditions for the commercial uses programmed along West 42nd Street.

Staff is confident all of these proposed changes can be reviewed and approved administratively, and as such, recommends approval of the modifications.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria.

TRM/JGM/FSC

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: May 01, 2018

FILE NO: DRB18-0225 (aka DRB 23265)

PROPERTY: **340 West 42 Street, 301 Arthur Godfrey Road and 4100 Pine Tree Drive**

APPLICANT: JP Roosevelt LLC

LEGAL: Lots 4, 5, 6, 7, 8 and 9, Block 3, Orchard Subdivision No. 4, according to the Plat thereof, as recorded in Plat Book 25, at Page 30 of the Public Records of Miami-Dade County, Florida

IN RE: The Application for modifications to a previously approved Design Review Approval dated June 07, 2016 for site plan modifications and changes to the exteriors of a new seven-story residential building, including the incorporation of a ground floor retail component along West 42nd Street. This item will also require a modification to a previously approved Conditional Use application to be reviewed and approved by the Planning Board.

ORDER

The City of Miami Beach Design Review 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:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not a individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 9 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1 and 10 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:
 - 1. Revised elevation, site plan and floor plan drawings for the proposed project at **340 West 42 Street, 301 Arthur Godfrey Road and 4100 Pine Tree Drive** shall

be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

- a. The enclosed commercial space identified as “ATM teller” shall be reconfigured back into the ground floor along Pine Tree Drive as previously depicted.
- b. The architect shall further refine the ground floor elevations adjacent to the vehicular entrances along the east and west elevations, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the direction from the Board.
- c. The architect shall further refine the upper level elevations, in order to provide greater movement along the expansive elevations, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the direction from the Board.
- d. The applicant shall explore incorporating eyebrows above certain windows along the top residential level of the project, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the direction from the Board.
- e. Any fence or gate at the front of the property shall be designed in a manner consistent with the architecture of the new structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. The ventilation openings for the parking levels shall be reconfigured with smaller opening sizes as previously depicted. The final details of the metal louvers screening the parking, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- g. The architect shall redesign the drive-thru bank teller component of the project to better engage the street and create a more prominent and attractive street presence and improved vehicular entrance, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- h. The curb-cuts for the drive-thru bank teller along Pine Tree Drive shall be reduced to one-way (maximum width of 12 feet), in-bound and out-bound traffic only, drives in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- i. The interior walls of the first level of the drive-thru bank teller entrance, drives and interior walls, shall be fully detailed on revised plans. Such interior areas shall consist of high quality, non-stucco surface materials which have a well finished appearance commensurate with the primary façade of the building, in a manner to be reviewed and approved by staff

consistent with the Design Review Criteria and/or the directions from the Board.

- j. The three parking spaces located within the access drive for the drive-thru bank teller shall be for the use of the bank employees or commercial tenants only and proper signage shall be incorporated identifying such.
 - k. Final details of all exterior surface finishes and materials shall be required, including the Resysta wall cladding, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - l. A fully enclosed, air-conditioned trash room shall be provided, which is sufficient to handle the maximum uses intended for the proposed structure. External dumpsters shall not be permitted.
 - m. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
 - n. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
 - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
 - c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed application, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such

report shall continue for a period of 18 months unless determined otherwise by staff.

- d. A true “green” roof shall be incorporated that encompasses 25% of the rooftop area(s) with plant beds of sufficient size to accommodate trees and landscaping. Sufficient depth of soil shall be provided for all proposed roof deck and second level landscaping to ensure the proper health and growth of all landscape materials, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- e. Pavers and concrete banding shall be utilized for the entire entry drives along Sheridan Avenue and Pine Tree Drive, including alternate colors of concrete banding in place of painted striping, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. The Applicant shall seek approval from the Public Works Department in order to provide a 7' wide public sidewalk as a pedestrian easement within private property to be flushed with the building foundation, while providing additional greenspace from the northern edge of sidewalk to back side of curb facing W 42nd Street. Additionally, a double row of large size canopy shade trees staggered in the wider green swale area should be provided in order to enhance the urban pedestrian experience, and buffer the adjacent residential uses. Understory plant material should be provided consisting of plant species that would naturally not exceed 36" at maturity and would not require periodic pruning in order to maintain such height subject to the review and approval of the Public Works Greenspace Division. If required by the City of Miami Beach Urban Forester, the use of Silva Cells or approved equal should be incorporated as part of the project.
- g. Hardscape areas intended for outdoor tables and chairs shall not be permitted facing w 42nd Street.
- h. The property owner shall enter into a landscape maintenance agreement with the Public Works Greenspace Division in order to perpetually maintain all landscape areas facing a ROW between the street and property line.
- i. The paving areas configured adjacent to the south of the garage driveway shall be eliminated and the hardscape shall be replaced with additional landscaping with the exception of a 44" wide pathway in the southern area that connects the traffic area to the sidewalk, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- j. If technically feasible, the overhead utility lines adjacent to the subject property shall be relocated underground.
- k. All exterior walkways and drives shall consist of decorative pavers, set in sand or other semi-pervious material, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the

directions from the Board.

- l. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- m. The Backflow prevention device shall not be permitted within any area fronting a street or sidewalk, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
- n. Street trees shall be required within the sidewalk at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- o. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- p. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- q. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- r. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- s. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right-of-way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- t. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City

Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. No variance(s) were filed as part of this application.

III. General Terms and Conditions applying to both 'I. Design Review Approval' and 'II. Variances' noted above.

- A. If applicable, the applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- B. The proposed elimination of the on-street parking spaces will require the review and approval of the Parking Department. The costs associated with the removal of the parking spaces will be the responsibility of the developer.
- A. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- B. Where one or more parcels are unified for a single development, the applicant 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.
- C. All new construction over 7,000 square feet 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.
- D. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
- E. 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. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.
- 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 based upon the design review or appropriateness criteria, and/or directions received from the Board.

- G. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- H. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- I. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- J. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- K. 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.
- L. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- M. 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.

IT IS HEREBY 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 are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "340 West 42nd Street Miami Beach, FL" as prepared by **Arquitectonica**, dated 03/02/18 and as approved by the Design Review Board, as determined by staff.

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. 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, have been met.

The issuance of the 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,

