

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: April 17, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 18-0183 340 West 42nd Street, 301 Arthur Godfrey Road and 4100 Pine Tree Drive.**

The applicant, JP Roosevelt, LLC, is requesting modifications to a previously issued Conditional Use approval for the construction of a new 7-story mixed-use building exceeding 50,000 square feet, including a mechanical parking garage, bank teller, and the retention of the existing 6-story office building, which is part of the development site, pursuant to Chapter 118, Article IV, Chapter 142, Article II and Chapter 130, Article II of the City Code. Specifically the applicant is requesting to change the use of the ground floor from residential to retail/restaurant and associated site plan modifications.

RECOMMENDATION

Approval with conditions

ZONING / SITE DATA

Future Land Use: CD-3 – Commercial, High Intensity District

Zoning: CD-3 – Commercial, High Intensity District

Legal Description: 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.

Land Uses: See Zoning/Site map at the end of this report.
North: Single Family District
South: Commercial uses
East: Multifamily building
West: Municipal garage

Lot Size: 46,809 SF

Maximum FAR: 2.75 = 128,725 SF

Proposed FAR: 128,566 SF as represented by the applicant

Maximum Height: 75'-0" / 7 stories

Proposed Height: 75'-0" / 7 stories

Proposed Uses:

Multifamily: 55 units
Bank Teller/drive-thru
Parking: 133 spaces

HISTORY

May 24, 2016: *This project previously obtained Conditional Use approval for the construction of a new 7-story multifamily building exceeding 50,000 square feet including a mechanical parking garage, bank teller, and the retention of the existing 6-story office building, which is part of the development site.*

THE PROJECT

The applicant has submitted revised plans entitled “340 West 42nd Street”, as prepared by Arquitectonica, Sherri K. Gutierrez as registered Architect, dated February 16, 2018. The proposal consists of a new 7-story, mixed-use building with 55 residential units, a bank teller and the retention of the existing 6-story office building, which is part of the development site.

The proposal is scheduled to be considered by the Design Review Board on May 1, 2018 (File No. DRB18-0225.)

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

1. **The use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

Consistent – The request is consistent with the Comprehensive Plan, as the CD-3 Category permits the following:

*Uses which may be Permitted: Various types of commercial uses including business and professional offices, **retail sales** and service establishments, **eating and drinking establishments**; **apartment residential uses**; apartment hotels; and hotels.*

2. **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**

Consistent – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan; however, a concurrency analysis will be performed at the time of building permit application. David Plumber & Associates was retained by the applicant to conduct a traffic study. FTE, Inc. was selected by the City and paid by the applicant to conduct a peer review. See the Memorandum from the Transportation Department.

3. **Structures and uses associated with the request are consistent with this Ordinance.**

Partially Consistent – The proposed project appears to comply with most zoning regulations; however, any inconsistencies must be corrected prior to obtaining a building permit. The removal of the active use (teller space) as previously approved is not consistent with the City code, per section 142-339:

In the CD-3 district, all floors of a building containing parking spaces shall incorporate the following:

(1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway; for properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

These comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a Building Permit.

4. Public health, safety, morals and general welfare will not be adversely affected.

Partially Consistent – The proposed project should not adversely affect the general welfare of nearby residents and businesses, provided protections are put in place to ensure that the newly proposed commercial uses do not have a negative impact on the adjacent residential uses.

5. Adequate off-street parking facilities will be provided.

Consistent – The site located in Parking District No. 4 and no parking is required for the proposed commercial uses. The proposed residential use require 97 parking spaces. Per the plans submitted by the applicant, 25 parking spaces are provided on the site for the existing commercial uses on the southern half of the lot, 10 spaces will be required for guests, and the total required parking is 132. The proposed project will provide 133 spaces and 3 required loading spaces which is consistent with the minimum parking requirements.

6. Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

Consistent - The proposed project is not expected to adversely affect surrounding values provided appropriate safeguards are put in place to mitigate any potential negative impacts.

7. The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

Consistent – The proposed uses for the project are permitted in the CD-3 zoning district. While there are other buildings over 50,000 SF, in the vicinity, adverse impacts are not expected from the geographic concentration of such uses if the impacts are properly controlled.

COMPLIANCE WITH REVIEW GUIDELINES CRITERIA FOR NEW STRUCTURES 50,000 SQUARE FEET AND OVER

Pursuant to Section 118-192(b), in reviewing an application for conditional use for new structures 50,000 square feet and over, the Planning Board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines:

1. Whether the proposed business operations plan has been provided, including hours of operation, number of employees, goals of business, and other operational characteristics pertinent to the application, and that such plan is compatible with the neighborhood in which it is located.

Partially Consistent – The applicant's letter of intent provides operations characteristics of the proposed project. The proposal includes commercial uses on the ground floor and the replacement of the existing bank teller drive through lanes. The letter indicates that the proposed teller and drive through lanes will maintain normal operating hours (9:00 AM to 5:00 PM), See Analysis.

Staff is concerned with the proposed commercial operations on 42nd street which will be located directly across the street from a single family zoning district. The applicant has voluntarily proffered some conditions to address these concerns, and staff has included some additional conditions as noted in the draft Final Order.

2. **Whether a plan for the mass delivery of merchandise has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan shall mitigate any adverse impacts to adjoining and nearby properties, and neighborhood.**

Partially Consistent – The plans indicate that loading and trash collection will take place from a loading area that will be contained within the building. Staff is recommending conditions relative to the servicing of the proposed uses. See delivery and Sanitation Analysis.

3. **Whether the scale of the proposed use is compatible with the urban character of the surrounding area and creates adverse impacts on the surrounding area, and how the adverse impacts are proposed to be addressed.**

Consistent – The scale of the proposed project is compatible with nearby buildings and CD-3 zoning district allowable development. The project is compatible with the single family residential use on the north side of the subject property, however the scale, massing, architecture and compatibility issues will be further discussed at Design Review Board meeting. Staff is recommending conditions to minimize potential adverse impacts.

4. **Whether the proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking and operational needs of the structure and proposed uses.**

Partially Consistent – The proposed 133 spaces satisfies the parking requirements for the existing and proposed development. The majority of the first floor parking garage will contain the parking for the existing office building. Residential unit owners will park on the second and third floors. The mechanical parking lifts are located on the third floor, and each lift will be assigned to a specific unit owner. However, since the site presently contains required parking for the adjacent commercial building, the applicant must address where the parking for these uses will be relocated during the construction phase. See Parking Analysis.

5. **Whether an indoor and outdoor customer circulation plan has been provided that facilitates ingress and egress to the site and structure.**

Consistent – Employees and visitors of the existing office building will park on the first floor of the parking garage and walk out of the garage through the provided opening in the south façade and use the walkway in-between the proposed building and the existing office building. The existing office building has a lobby that pedestrians can access from 41st

Street and Pine Tree Drive.

6. **Whether a security plan for the establishment and supporting parking facility has been provided that addresses the safety of the business and its users and minimizes impacts on the neighborhood.**

Consistent – The applicant proposes to provide 24 hour security. There will be a doorman in the lobby of the proposed building that will have access to security cameras located throughout the property, including the parking garage. The security company for the existing office building will utilize a closed circuit television (CCTV) system to monitor the drive through teller.

7. **Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.**

David Plumber & Associates was retained by the applicant to conduct a traffic study. FTE, Inc. was selected by the City and paid by the applicant to conduct a peer review. See the Memorandum from the Transportation Department.

8. **Whether a noise attenuation plan has been provided that addresses how noise shall be controlled in the loading zone, parking structures and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.**

Consistent – The parking garage and loading areas are screened from the residential neighborhood to the north. Therefore, the applicant does not anticipate any significant noise from the operation.

The trash pick-up location is shielded from the residential neighborhood since it is located on the south side of the new building. Trash containers will utilize rubber wheels and the path for the trash containers will consist of a surface that reduces noise. The two trash rooms will be enclosed and air-conditioned with access from the northwest area behind the proposed restaurant and the other one located on the east side close to the residential lobby. Deliveries will occur on the southwest side of the project. Deliveries and trash pick-up times are limited to between 8:00 AM and 5:00 PM on weekdays and after 10:00 AM on weekends as stipulated by the prior CUP order.

9. **Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.**

Consistent – Trash pick-up is proposed to occur via the trash and loading area contained within the proposed building on the south side with access to Sheridan Avenue. Trash pick-up times will be limited to between 8:00 AM and 5:00 PM on weekdays and after 10:00 AM on weekends as stipulated by the prior CUP order. See the Delivery and Sanitation analysis.

10. **Whether the proximity of the proposed structure to similar size structures and to residential uses create adverse impacts and how such impacts are mitigated.**

Consistent – The project, as a seven (7) story multifamily residential project with limited

ground floor commercial uses, would serve as an appropriate transition from the higher intensity commercial office and retail uses that face Arthur Godfrey Road/West 41st Street and the low-scale residential neighborhood to the north. The project has been designed so that the façade that faces the lower scale residential neighborhood to the north recesses as it rises in height. Therefore, adverse impacts are not expected from the proposed project due to proximity to similar structures.

11. Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect shall be addressed.

Consistent – The CD-3 zoning district permits this scale of development. While there are other buildings of this scale in the surrounding vicinity, negative impacts from a cumulative effect are not expected. Notwithstanding, staff is recommending conditions to help reduce any potential impact.

SECTION 130-38–MECHANICAL AND ROBOTIC PARKING SYSTEMS

Projects proposing to use mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory off-street parking requirements shall prepare schematic floor plans prior to site plan review by the applicable land use board. Two sets of schematic floor plans shall be required:

1. One set of schematic plans sufficient to show the proposed development project with accessory off-street parking requirements satisfied by traditional, non-mechanical means, meeting all aspects of the design standards for parking spaces required in Article III of Chapter 130, and other provisions of these land development regulations, and requiring no variances from these provisions.

Consistent – A schematic drawing showing the required parking in a traditional, non-mechanical means was submitted showing 137 parking spaces for the project on-site.

2. A second set of schematic plans, sufficient to show the same proposed development project, utilizing mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory off-street parking requirements.

Consistent – A schematic drawing showing the required parking for the project by traditional and mechanical means was submitted showing 137 spaces. The mechanical parking version does not increase the amount of spaces and is located on the 3rd level of the parking garage to serve residential units only.

The non-mechanical schematic drawings have been reviewed by Planning Department staff and they appear to meet the requirements of the design standards of the City Code. Subject to this data being provided, the project may proceed to site plan approval based on the set of plans using mechanical parking.

The Planning Board shall also consider the following review criteria when considering each application for the use of mechanical parking systems:

(a) Whether the scale of the proposed structure is compatible with the existing urban character of the surrounding neighborhood.

Consistent – The scale of the project is compatible with the surrounding area. The proposed height of approximately 75 feet is compliant of the CD-3 zoning district. The proposed structures step back from the north property line as it rises in height. It is significantly shorter than the Tower 41 condominium across from the street on Pine Tree Drive. When the project is reviewed by the Design Review Board the scale, massing, architecture and compatibility issues of the project will be further scrutinized.

- (b) **Whether the proposed use of mechanical parking results in an improvement of design characteristics and compatibility with the surrounding neighborhood.**

Consistent – The proposed garage and multifamily units are an improvement over the existing at-grade parking lot. The proposed use of mechanical parking appears to be compatible with design characteristics and with the surrounding neighborhood allowing the building to setback more as it rises on the north side which is the one that faces the single family neighborhood. Subsequent to approval by the Planning Board, the project will be reviewed by the DRB, where this aspect of the project would be further scrutinized.

- (c) **Whether the proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed with conventional parking.**

Consistent – The proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed with conventional parking.

- (d) **Whether parking lifts or mechanisms are located inside, within a fully enclosed building, and not visible from exterior view.**

Consistent – The proposed lifts would be located within a fully enclosed building and would not be visible from the exterior.

- (e) **In cases where mechanical parking lifts are used for self-parking in multifamily residential buildings; whether approval is conditioned upon the proper restrictive covenant being provided limiting the use of each lift to the same unit applicant.**

Partially Consistent – Restrictive covenant must be provided that limit the use of each lift to the same unit owner.

- (f) **In cases where mechanical parking lifts are used for valet parking; whether approval is conditioned upon the proper restrictive covenant being provided stipulating that a valet service or operator must be provided for such parking for so long as the use continues.**

Not Applicable.

- (g) **Whether a traffic study has been provided that details the ingress, egress and circulation within the mechanical parking facility, and the technical and staffing requirements necessary to ensure that the proposed mechanical parking system does not cause excessive stacking, waiting, or backups onto the public right-of-way.**

The proposed ingress and egress for all vehicles would be from Sheridan Avenue. The traffic study, prepared by David Plumber & Associates and FTE, Inc. was selected by the City and paid by the applicant to conduct a peer review. See the attached Memorandum from the Transportation Department.

- (h) **Whether a proposed operations plan, including hours of operation, number of employees, maintenance requirements, noise specifications, and emergency procedures, has been provided.**

Partially Consistent – The LOI indicates that the exact type of lift has not yet been selected, therefore the operations plan has not yet been fully developed.

- (i) **In cases where the proposed facility includes accessory uses in addition to the parking garage, whether the accessory uses are in proportion to the facility as a whole, and delivery of merchandise and removal of refuse, and any additional impacts upon the surrounding neighborhood created by the scale and intensity of the proposed accessory uses, are adequately addressed.**

Not Applicable – The parking garage is accessory to residential and commercial uses, which are the primary uses.

- (j) **Whether the proximity of the proposed facility to similar size structures and to residential uses creates adverse impacts and how such impacts are mitigated.**

Partially Consistent – The proposed project appears to be compatible with the surrounding neighborhood provided conditions are placed on the commercial uses to mitigate any significant adverse impacts to the surrounding neighborhood. Staff is recommending conditions to minimize any potential negative impacts.

- (k) **Whether a cumulative effect from the proposed facility with adjacent and nearby structures arises, and how such cumulative effect shall be addressed.**

Consistent – No negative impact is anticipated from the cumulative effect from the proposed facility and nearby structures.

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.**
No existing buildings are proposed to be demolished, only asphalt parking and a small bank teller structure will be demolished. A recycling plan will be provided as part of the submittal for a demolition permit to the building department.
- (2) **Windows that are proposed to be replaced shall be hurricane proof impact windows.**
All windows in the proposed building will be hurricane proof impact windows.
- (3) **Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.**
The windows for residential units will be operable.
- (4) **Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.**
All new landscaping will consist of Florida friendly plants.

- (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.**

The Southeast Florida Regional Climate Action Plan projects that sea level will rise 6 to 10 inches by 2030, 14 to 26 inches by 2060, and 31 to 61 inches by 2100 above the 1992 mean sea level. This represents NGVD elevations of 1.10' to 1.43' by 2030, 1.77' to 2.77' by 2060, and 3.18' to 5.68' by 2100 at Mean Sea Level. At Mean High Water this represents NGVD elevations of 2.31' to 2.64' by 2030, 2.98' to 3.98' by 2060, and 4.39' to 6.89' by 2100.

According to the survey, the ground varies in elevation from approximately 7.3' NGVD at the SE corner of the Property near Pine Tree Drive and Arthur Godfrey Road to 3.8' NGVD at the NW corner of the Property near 42 Street and Sheridan Avenue. The first floor of the building is proposed to be at an elevation of 5'-10" NGVD and the building is designed such that the first floor has a 12' clear height from the base flood elevation plus the minimum freeboard, which is 9' NGVD. This will allow for the raising of the finished floor of the ground floor retail uses in the future if the surrounding roads are raised. The Project is therefore not anticipated to be excessively impacted by Sea Level Rise in the timeframe included in the Sea Level Rise projection.

- (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.**

The configuration of the driveways with the streets allows for the raising of the streets and the driveways will still work with slight changes to ramping if necessary.

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

All critical mechanical and electrical systems will be located above base flood elevation and on roofs when available. Some mechanical systems are located below base flood elevation and are flood-proofed.

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

The first floor elevation of the Existing Office Building is 7.73' NGVD, which is only 0.27' below base flood elevation.

- (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.**

The building will provide dry flood proofing systems for the habitable spaces located below the base flood elevation.

- (10) **Where feasible and appropriate, water retention systems shall be provided.**
Not Applicable

ANALYSIS

The proposal consists of a new seven (7) story, multifamily building with 55 units and four commercial spaces on the ground floor, a parking garage with 133 spaces that provides the required parking for the existing office building and the proposed units at the multifamily building, a bank teller and the retention of the existing 6-story office building, which is part of the development site.

The square footage of the proposed project is approximately 182,428 SF as represented by the applicant. The proposed uses are permissible in the CD-3 zoning district, including the introduction of commercial uses at the ground floor, which are now proposed by the applicant, and are the primary subject of this modified application before the Planning Board. The previously approved project included residential units located at the ground floor. With the introduction of commercial uses, staff has some concerns regarding commercial operations located directly across 42nd street from a single family residential zoning district. This is one of the few areas of the City that does not have a transitional zoning district between the most intense zoning district (CD-3) and least intense zoning district (RS). In order to mitigate potential negative impacts on the single family zoning district to the north, staff is recommending that the following conditions be incorporated into the conditions of approval:

- a. The hours of operation for any commercial establishment with ingress and egress located on 42nd Street shall be limited to 8:00 AM to 10:00 PM daily.
- b. The hours of operation for any commercial establishment with primary ingress and egress on Pine Tree Drive or Sheridan Avenue shall be limited to 7:00 AM to 11:00 PM Sunday-Wednesday and 7:00 AM to Midnight Thursday – Saturday.
- c. No outdoor live music associated with any commercial uses in the retail space shall be permitted at any time.
- d. In addition to the prohibited uses listed in Section 142-335 of the City Code, the following uses shall be prohibited on the property: package store, tattoo studio, stand-alone bar (a restaurant may have an interior bar as an accessory to the restaurant), and check cashing stores.
- e. Interior loudspeakers shall not be located near doors which lead to the outside and interior music levels shall not interfere with the normal conversation of diners.
- f. The maximum number of outdoor seats for a restaurant shall be 40 seats, and shall only be permitted facing Sheridan Avenue. Exterior seats on West 42nd Street shall not be permitted.
- g. The maximum interior floor area of a restaurant on the Property shall not exceed 2,115 square feet.
- h. Any restaurant's primary function shall be food service and at no time shall a restaurant become a dance hall, disco or nightclub. Entertainment shall be prohibited at all times.
- i. Bussing stations shall not be permitted on the exterior of the premises.
- j. Once the exterior operations have closed, the tables and chairs shall be removed and/or secured in a fashion that they are not usable by passersby.

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. In order foster a successful retail environment, 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.

Parking and Access

The proposed ingress and egress for all vehicles would be from Sheridan Avenue to the parking structure. The parking spaces on the third floor will have mechanical parking lifts, each space with mechanical parking will be assigned to one residential condominium unit, therefore valet parking is not required.

Access to the drive-thru teller is proposed to be from a semi-circular driveway from Pine Tree Drive. Staff has concerns over the width of the driveway and the impact to pedestrians. Staff is recommending conditions to reduce the width of the driveway in order to improve pedestrian safety.

The proposed residential uses require 97 parking spaces. Per the plans submitted by the applicant, 25 parking spaces are on the site for the existing commercial uses on the southern half of the lot. The proposed project will provide 133 spaces, which is consistent with the minimum parking requirements. No parking is required for the proposed commercial uses as the property is located in Parking District No. 4.

Delivery and Sanitation

A loading and trash area that is fully contained inside of the building is proposed at the ground level on the south west side of the property with access from Sheridan Avenue. Deliveries and Trash pickup schedules is: 8:00 AM and 5:00 PM on weekdays and after 10:00 AM on weekends as stipulated by the prior CUP. Staff is recommending conditions to limit the impact of deliveries to surrounding properties

Security

The LOI indicates that there will be 24-hour security. Additionally there will be a doorman in the lobby of the proposed building and will have access to security cameras from the parking garage, the security company for the existing office building will have a CCTV system to monitor the drive through teller of the project.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the application for a Modified Conditional Use Permit be approved, subject to the conditions enumerated in the attached draft Order.

TRM/MAB/AG

This aerial map illustrates the urban layout of the West 42nd Street area in Chicago. Key features include:

- Land Use Designations:** Various zones are labeled, including RS-1, RS-2, RS-3, RS-4, GU (General Urban), CD-1, CD-3, and RM-3 (Residential Medium Density).
- Buildings and Structures:**
 - COMMERCIAL BUILDING:** Two locations are identified, one near the intersection of West 42nd Street and West 41st Street, and another near West 40th Street.
 - GU PARKING GARAGE:** Located near West 41st Street.
 - APARTMENT BUILDING:** A large structure is shown near the intersection of West 42nd Street and West 41st Street.
 - SINGLE FAMILY RESIDENCES:** Numerous individual houses are visible throughout the area.
- Streets:** Major streets shown include West 42nd Street, West 41st Street, West 40th Street, West 39th Street, West 38th Street, West 37th Street, West 36th Street, West 35th Street, West 34th Street, West 33rd Street, West 32nd Street, West 31st Street, West 30th Street, West 29th Street, West 28th Street, West 27th Street, West 26th Street, West 25th Street, West 24th Street, West 23rd Street, West 22nd Street, West 21st Street, West 20th Street, West 19th Street, West 18th Street, West 17th Street, West 16th Street, West 15th Street, West 14th Street, West 13th Street, West 12th Street, West 11th Street, West 10th Street, West 9th Street, West 8th Street, West 7th Street, West 6th Street, West 5th Street, West 4th Street, West 3rd Street, West 2nd Street, West 1st Street, West 0th Street, West -1st Street, West -2nd Street, West -3rd Street, West -4th Street, West -5th Street, West -6th Street, West -7th Street, West -8th Street, West -9th Street, West -10th Street, West -11th Street, West -12th Street, West -13th Street, West -14th Street, West -15th Street, West -16th Street, West -17th Street, West -18th Street, West -19th Street, West -20th Street, West -21st Street, West -22nd Street, West -23rd Street, West -24th Street, West -25th Street, West -26th Street, West -27th Street, West -28th Street, West -29th Street, West -30th Street, West -31st Street, West -32nd Street, West -33rd Street, West -34th Street, West -35th Street, West -36th Street, West -37th Street, West -38th Street, West -39th Street, West -40th Street, West -41st Street, West -42nd Street, West -43rd Street, West -44th Street, West -45th Street, West -46th Street, West -47th Street, West -48th Street, West -49th Street, West -50th Street, West -51st Street, West -52nd Street, West -53rd Street, West -54th Street, West -55th Street, West -56th Street, West -57th Street, West -58th Street, West -59th Street, West -60th Street, West -61st Street, West -62nd Street, West -63rd Street, West -64th Street, West -65th Street, West -66th Street, West -67th Street, West -68th Street, West -69th Street, West -70th Street, West -71st Street, West -72nd Street, West -73rd Street, West -74th Street, West -75th Street, West -76th Street, West -77th Street, West -78th Street, West -79th Street, West -80th Street, West -81st Street, West -82nd Street, West -83rd Street, West -84th Street, West -85th Street, West -86th Street, West -87th Street, West -88th Street, West -89th Street, West -90th Street, West -91st Street, West -92nd Street, West -93rd Street, West -94th Street, West -95th Street, West -96th Street, West -97th Street, West -98th Street, West -99th Street, West -100th Street.

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

PROPERTY: 340 West 42nd street, 301 Arthur Godfrey Road, 4100 Pine Tree Drive

FILE NO. PB 18-0183

IN RE: The applicant, JP Roosevelt, LLC, requested modifications to a previously issued Conditional Use approval for the construction of a new 7-story mixed-use building exceeding 50,000 square feet, including a mechanical parking garage, bank teller, and the retention of the existing 6-story office building, which is part of the development site, pursuant to Chapter 118, Article IV, Chapter 142, Article II and Chapter 130, Article II of the City Code. Specifically the applicant is requesting to change the use of the ground floor from residential to retail/restaurant and associated site plan modifications.

LEGAL

DESCRIPTION: 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.

MEETING DATE: April 17, 2018

MODIFIED CONDITIONAL USE PERMIT

The applicant, JP Roosevelt, LLC, requested modifications to a previously issued Conditional Use approval for the construction of a new 7-story mixed-use building exceeding 50,000 square feet, including a mechanical parking garage, bank teller, and the retention of the existing 6-story office building, which is part of the development site, pursuant to Chapter 118, Article IV, Chapter 142, Article II and Chapter 130, Article II of the City Code. Specifically the applicant is requesting to change the use of the ground floor from residential to retail/restaurant and associated site plan modifications. 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:

That the property in question is located in the CD-3 – Commercial, High 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 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 the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below: Underlining denotes new language and ~~strikethrough~~ denotes stricken language from the previous Order dated May 24, 2016.

1. This Modified Conditional Use Permit is issued to ~~Caton Owner, LLC~~ JP Roosevelt, LLC, to construct a 7-story multifamily building with commercial spaces on the ground floor including a parking garage. Any proposed change of use shall require the review and approval of the Planning Board.
2. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 180 days from the issuance of the BTR. The progress report shall include, but not be limited to, updated information on traffic conditions surrounding the site. 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).
3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property applicants, operators, and all successors in interest and assigns. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board, in advance, to affirm their understanding of the conditions listed herein.
4. 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.
5. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, shall require the applicant to return to the Board for approval.
6. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
7. 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 minimum 7' wide perpetual easement shall be provided for a public sidewalk on private property along 42nd Street. Such sidewalk shall be located directly abutting the commercial uses.
 - b. In conjunction with the relocated sidewalk, the overall greenspace are from the edge of sidewalk to back side of curb facing 42nd Street shall be increased.
 - c. A double row of large canopy shade trees, staggered along the wider green swale shall be provided in order to further enhance the green buffer from the residential uses on the north side of 42nd Street.
 - d. Subject to the review and approval of the Public Works department, understory plant material, specified not to exceed 36" at maturity, shall be provided in the expanded parkway area. If determined to be required by the CMB Urban Forester, Silva Cells or approved equal shall be incorporated under the adjacent 7' wide sidewalk.
8. The following shall apply to the operation of the proposed parking garage:
 - a. There shall be 24-hour video surveillance of all portions of the parking garage.
 - b. Signs prohibiting tire-screeching and unnecessary horn-honking shall be posted at the garage entrance.
 - c. Signs to minimize vehicle conflict in the driveways in and out of the property shall be posted in appropriate locations.
 - d. The minimum parking required by the land development regulations shall be provided.
9. The Applicant agrees to the following operational conditions for all permitted and 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. 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.
 - b. Adequate air-conditioned and noise baffled trash room space shall be provided, in a manner to be approved by the Planning staff. Doors shall remain closed and secured when not in active use.
 - c. A mountable curb shall be utilized for vehicles to enter the building to improve pedestrian flow along Pine Tree Drive and Sheridan Avenue, in a manner to be reviewed and approved by staff.
 - d. Prior to obtaining a building permit, the plans shall be revised to reduce the width of the northern access driveway for the drive-thru teller along Pine Tree Drive to 12 feet

- for portions within the public right of way in order to improve pedestrian safety, in a manner to be reviewed and approved by staff.
- e. Trash dumpster covers shall be closed at all times except when in active use.
 - f. Delivery trucks shall not be allowed to idle in the loading areas.
 - g. Delivery and trash trucks shall only be permitted to park in the designated loading bays.
 - h. Deliveries and trash pick-ups only may only take place between 8:00 AM and 5:00 PM on weekdays and no earlier than 10:00 AM on weekends.
 - i. Commercial use of the rooftop shall be prohibited at all times.
 - j. The hours of operation for any commercial establishment with ingress and egress located on 42nd Street shall be limited to 8:00 AM to 10:00 PM daily.
 - k. The hours of operation for any commercial establishment with primary ingress and egress on Pine Tree Drive or Sheridan Avenue shall be limited to 7:00 AM to 11:00 PM Sunday-Wednesday and 7:00 AM to Midnight Thursday – Saturday.
 - l. No outdoor live music associated with any commercial uses in the building shall be permitted at any time.
 - m. In addition to the prohibited uses listed in Section 142-335 of the City Code, the following uses shall be prohibited on the property: package store, tattoo studio, stand-alone bar (a restaurant may have an interior bar as an accessory to the restaurant), check cashing stores, occult science establishments, souvenir and t-shirt shops, convenience stores and marijuana dispensaries.
 - n. Interior loudspeakers shall not be located within 20 feet of doors which lead to the outside and interior music levels shall not interfere with the normal conversation of diners.
 - o. The maximum number of outdoor seats for a restaurant shall be 40 seats, such outdoor seats shall be located facing Sheridan Avenue and shall be at least 30 feet from west 42nd street. Exterior seats on West 42nd Street shall be prohibited.
 - p. The maximum interior floor area of a restaurant on the Property shall be 2,115 square feet.
 - q. Any restaurant's primary function shall be food service and at no time shall a restaurant become a dance hall, disco or nightclub. Entertainment including dance halls, discos or nightclubs shall be prohibited at all times.
 - r. Bussing or serving stations of any kind shall not be permitted on the exterior of the premises.
 - s. Once the exterior operations have closed, the tables and chairs shall be removed and/or secured in a fashion that they are not usable by passersby.

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10. Except as may be required for fire or building code/Life Safety Code purposes, no speakers shall be affixed to or otherwise located on the exterior of the premises.
 11. The applicant shall address the following Concurrency and Traffic requirements, as applicable:
 - a. 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.
 - 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. The applicant shall coordinate with the Miami-Dade County Traffic Engineering Department and the City of Miami Beach to develop a strategy in order to provide modified and acceptable signal timing plans for the intersections at Pine Tree Drive and Arthur Godfrey Road within 90 days from the issuance of a BTR (Business Tax Receipt).
 12. 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.
 13. 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.
 14. 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.
 15. 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.
 16. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

- Dated this _____ day of _____, 2018.

BY: _____
Michael Belush,
Chief of Planning & Zoning
For Chairman

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

{NOTARIAL SEAL}

Filed with the Clerk of the Planning Board on _____ ()