

**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.

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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;

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

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below: Underlining denotes new language and ~~striketrough~~ 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:

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- a. A continuous walkway shall be provided along the commercial storefronts, subject to the review and approval of staff.
 - b. A double, staggered row of large canopy shade trees, shall be provided in order to further enhance the green buffer from the residential uses on the north side of 42nd Street.
 - c. 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 parkway area. If determined to be required by the CMB Urban Forester, Silva Cells or approved equal shall be incorporated under the adjacent 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.

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- 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 shall be limited to 7:00 AM to 11:00 PM Sunday-Wednesday and 7:00 AM to Midnight Thursday – Saturday.
 - k. No outdoor live music associated with any commercial uses in the building shall be permitted at any time.
 - l. 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.
 - m. 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.
 - n. The maximum number of outdoor seats for a restaurant shall not exceed 40 seats, and such outdoor seats shall not extend past the limit of the restaurant storefront.
 - o. The maximum interior floor area of a restaurant on the property shall be 2,115 square feet.
 - p. 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.
 - q. Bussing or serving stations of any kind shall not be permitted on the exterior of the premises.
 - r. 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.
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.

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- 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.
 - 17. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.
 - 18. 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.

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19. A unity of title or covenant in lieu of unity of title shall be required prior to obtaining a building permit. An Easement and Operating Agreement shall also be required outlining the operation of the property as a unified development site, and which identifies the uses, parking requirements, and parking locations for all uses on the subject site.

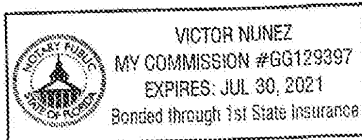
Dated this 19th day of APRIL, 2018.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

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

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 19th day of April, 2018, 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.



Victor Nunez
Notary:
Print Name VICTOR NUNEZ
Notary Public, State of Florida
My Commission Expires: 7-30-21
Commission Number: GG129397

(NOTARIAL SEAL)

Approved As To Form:
Legal Department

Filed with the Clerk of the Planning Board on Jose L. Lirio (4/19/18)

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