

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: March 26, 2024

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB23-0635 976 W 41 Street, 976 W 41st Street, 3901-3925 Alton Road.**

An application has been filed requesting a conditional use permit for a neighborhood impact structure (NIS) for the construction of a 7-story mixed-use neighborhood impact building over 50,000 square feet, pursuant to Chapter 2, Article V, Section 2.5.2. and Chapter 7, Article II, Section 7.2.12. of the Miami Beach Resiliency Code.

RECOMMENDATION

Approval with conditions.

ZONING / SITE DATA

Legal Description: See Exhibit "A"

Zoning: CD-3, Commercial High-Density District

Future Land Use: High Intensity Commercial (CD-3)

Lot Size: 20,882 SF

Proposed FAR: 45,567 S.F. / (Max FAR = 2.25 = 46,984 S.F.), as represented by the applicant

Proposed Height: 7-stories (80'-6" from DFE)

Proposed Use: Main Parcel:
Retail: 4,615 SF (1,131+1,118+1,122+1,244)
Restaurant: 3,811 SF (1,763+2,048)
Office: 31,759 SF

Surrounding Uses: See Zoning Site Map at the end of this report
North: Office building
West: Talmudic University
South: Commercial Building
East: Commercial and residential buildings

THE PROJECT

The applicant, "Gateway Group, Inc., General Partner" has submitted plans entitled "GILLER TOWER", prepared by Giller & Giller, Inc., dated January 22, 2024. The applicant is requesting conditional use approval for a new 7-story mixed-use building exceeding 50,000 SF.

The proposal involves three parcels containing two existing one-story commercial buildings. The proposed building would front Alton Road and 41st Street.

The proposal requires approval from the Design Review Board (DRB) as well. However, as of the writing of this report, the applicant has not yet submitted an application for DRB approval.

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the Miami Beach Resiliency Code Chapter 2, Article V, Section 2.5.2.2.a:

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 permissible uses in the CD-3 category as designated on the Future Land Use Map within the Comprehensive Plan. The CD-3 future land use category allows new commercial structures exceeding 50,000 SF as a conditional use, as well as the proposed uses inside the building.

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.

3. **Structures and uses associated with the request are consistent with these land development regulations.**

Consistent – Neighborhood Impact Structures (NIS) are permitted as conditional use in this zoning district. This comment shall not be considered final zoning review or approval. This and all zoning matters shall require final review and verification prior to the issuance of a Building Permit.

4. **The public health, safety, morals, and general welfare will not be adversely affected.**

Consistent – The proposed project may adversely affect the general welfare of nearby residents if impacts are not controlled. Staff has recommended conditions to ensure that the public health, safety, morals, and general welfare are not adversely affected. The facility would have to comply with all applicable laws and regulations for licensure.

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

Consistent – The project will provide the required parking within the proposed garage. Self-parking will be permitted for all parking spaces. A full zoning analysis will be performed as part of the building permit review.

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

Consistent – Staff is recommending conditions to mitigate any adverse impacts from noise, and other issues on the surrounding neighborhood.

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.**

Partially Consistent – There are large developments within the vicinity, which are permitted in the CD-3 Zoning District. If not carefully controlled, such concentration could negatively impact the surrounding neighborhood.

8. **The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.**

Consistent – see below, sea level rise and resiliency review criteria provided in Code Section 7.1.2.4.

9. **Appropriate consideration is given to the safety of and friendliness to pedestrian traffic; passageways through alleys is encouraged where feasible and driveways shall be minimized to the extent possible.**

Consistent – The Project ensures pedestrian safety and friendliness as the existing sidewalk is wide at this location. Additionally, the applicant is proposing a partially covered plaza along the building frontage to access the commercial spaces and the lobby for the office uses. The only driveway is located at the alley which minimizes conflicts with pedestrians on the sidewalk.

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

Pursuant to the Miami Beach Resiliency Code Chapter 2, Article V, Section 2.5.2.2.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 operations plan provides characteristics of the proposed project. However, the applicant has not yet selected tenants and therefore an exact business operations plan has not been provided. The proposed mixed used building is compatible with the surrounding neighborhood, which consist primarily of commercial, offices and residential uses.

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.**

Consistent – The operational plan was submitted with the application including details on loading/deliveries, but it is silent on proposed hours. The project requires three (3) loading spaces. Two loading spaces are located within at the rear of the building facing the alley and one is located on the second level. Staff is recommending conditions to minimize the impact of loading during peak hours.

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.**

Partially Consistent – The scale of the proposed project is larger than the nearby buildings. but Its scale is consistent with buildings located along 41st Street corridor that are further east near Pine Tree Drive, as well the buildings to the east of Alton Road. However, the scale, massing, architecture and compatibility issues will be further discussed at the Design Review Board meeting.

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.**

Consistent –The applicant is proposing 117 off-street parking spaces which is consistent with the code requirements. The parking spaces are located on the second, third and fourth levels. Access to the parking is proposed via ramp adjacent to the rear alley. See Parking and Access Analysis.

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

Consistent – Pedestrians will be able to access the site directly from the plaza level that fronts Alton Road and 41 St Street. . The offices are accessed through the central elevator lobby on the plaza level. Pedestrian queuing on public rights of way are not anticipated as a result of the proposed uses.

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's operating plan provides security details. The applicant has indicated that cameras and security personnel will be provided throughout the building. The security plan will be modified and developed as the tenants and uses are identified. Staff has incorporated conditions in the attached draft order to improve the security of the property.

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.**

Consistent – The applicant has provided a Traffic Study prepared by Kimley Horn and Associates; See the attached 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 – Parking, loading, and deliveries are not expected to generate significant noise concerns since they will be in enclosed structures. Staff has recommendations to further minimize potential sound impacts from the development.

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 – The project will contract with a sanitation operator to collect trash as needed for the project up to a maximum of 7 days a week and operate during permitted times allowed by the City of Miami Beach regulations. Recycling will be provided as part of operations. Once all the operators are determined, there will be coordination to minimize the sanitation collections and impacts to the area. Staff has incorporated recommendations regarding sanitation operations, including a limit on hours for pickups. See 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 – There are other large structures along the Alton Road 41st Street corridor however, proximity to these structures is not expected to create any adverse impacts, as this corridor is an appropriate location for such structures. The proposed project is not expected to create a negative impact to the existing residential uses to the west of the site across the alley.

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

Consistent – While there are other buildings over 50,000 gross square feet in the area, adverse impacts are not expected from the geographic concentration of such uses if the impacts are properly controlled. Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighbors.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4.a.1. of the Resiliency Code 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:

A. A recycling or salvage plan for partial or total demolition shall be provided.

Satisfied – The applicant will provide a recycling or salvage plan during the permitting phase of the project.

B. Windows that are proposed to be replaced shall be hurricane proof impact windows.

Satisfied – The applicant has indicated that all windows will be hurricane proof impact windows.

C. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Satisfied – Passive cooling systems, such as operable windows, may be installed as appropriate. The façade also contains eyebrows which can provide shade for the windows thereby reducing cooling costs.

D. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided in accordance with Chapter 4 in Land Development Regulations.

Satisfied – Landscaping will comply with Chapter 4 of the resiliency code.

- E. The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

Satisfied – The project has been designed to accommodate rising sea levels and the future raising of roads.

- F. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land, and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to 3 additional feet in height.

Satisfied – The ground floor will be located at 9 feet NGVD and the first floor will have sufficient elevation to be able to accommodate future increases.

- G. As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.

Satisfied – All critical mechanical and electrical systems will be located above base flood elevation (BFE).

- H. Existing buildings shall, where reasonably feasible and economically appropriate, be elevated up to the base flood elevation, plus City of Miami Beach Freeboard.

Not applicable.

- I. 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 in the General Ordinances.

Not applicable.

- J. As applicable to all new construction, stormwater retention systems will be provided.

Consistent – Water retention systems as applicable will be provided for the Project.

- K. Cool pavement materials or porous pavement materials shall be utilized.

Satisfied – Cool paving materials will be utilized.

- L. The design of each project shall minimize the potential for heat island effects on-site

Satisfied. – The project will reduce the heat island effects by incorporating white roofing materials, shade structures at the roof, window eyebrows, low heat emission glass, partially shaded plaza, and cool paving material.

ANALYSIS

The proposal is for a new 7-story mixed use building fronting Alton Road and 41st Street. The ground floor will consist of commercial uses and the upper levels will consist of office uses; parking will be located on the second through fourth levels.

The plans indicate that there will be an amenity deck with a trellis structure on the rooftop. However, the operations plan did not detail the intended users of the roof top and staff is proposing that this amenity deck be limited to office tenants and their invited guests. Additionally, staff recommends that no entertainment be allowed on the rooftop.

The maximum height in the underlying CD-3 zoning district is 75 feet, and an additional 5 feet of height is allowed if the nonresidential first habitable level is at least 14 feet in height, as measured from DFE to the top of the second-floor slab. The project incorporates 14 feet of interior height within the ground floor, thereby allowing for a height limit of 80 feet.

As presented, the new mixed-use building will contain 4,614 square feet of retail, 3,811 square feet of restaurant space and 31,759 square feet of office use. Given the scale of the development, the proposed uses are not expected to have significant quality of life impacts on nearby residences.

Traffic, Parking, and Access

The ground floor level fronting Alton Road and 41^s street will be raised to base flood elevation. A partially covered plaza is proposed fronting the ground-floor commercial bays and the lobby access to the upper floors. Queuing of pedestrians in public rights of way is not expected given that the existing sidewalk is wider at this location and a plaza along the building frontage is proposed.

The subject property is located within parking tier 3, and retail and restaurant uses do not have a minimum off-street parking requirement. However, the applicant is able to provide parking for these uses per the parking Tier 1 regulations without counting towards floor area ratio (FAR) limits. The office component requires 67 spaces, and if parking were provided for the restaurant and retail uses, in addition to the office uses, the parking requirement would be 128 spaces. The project is providing bicycle parking and shared use parking, thereby reducing the parking requirement to 117 off-street parking spaces.

The parking spaces are located on the second, third and fourth levels, and all parking will be via self-parking. Access to the garage is from a ramp located in the rear alley, which minimizes conflicts with pedestrians and impacts to 41st Street.

Per Zoning Data Sheet parking calculations, the applicant is proposing 4 short term bicycle spaces and 21 long term bicycle spaces. The locations for these spaces are not shown on the plans and staff is recommending conditions to ensure all the required bicycle parking is shown on plans for building permit review and approval.

The applicant has provided a Traffic Impact Analysis prepared by Kimley Horn. Conditions have been included in the attached draft order to address the concerns raised by the Transportation Department and minimize transportation impacts.

Noise and visibility

Given the proposed office uses, significant noise is not expected to be generated from the project. The plans indicate that architectural screening will be provided on all parking levels. Additionally, staff is proposing conditions to ensure that significant noise is not generated from the rooftop terrace and ground level plaza.

Delivery and Sanitation

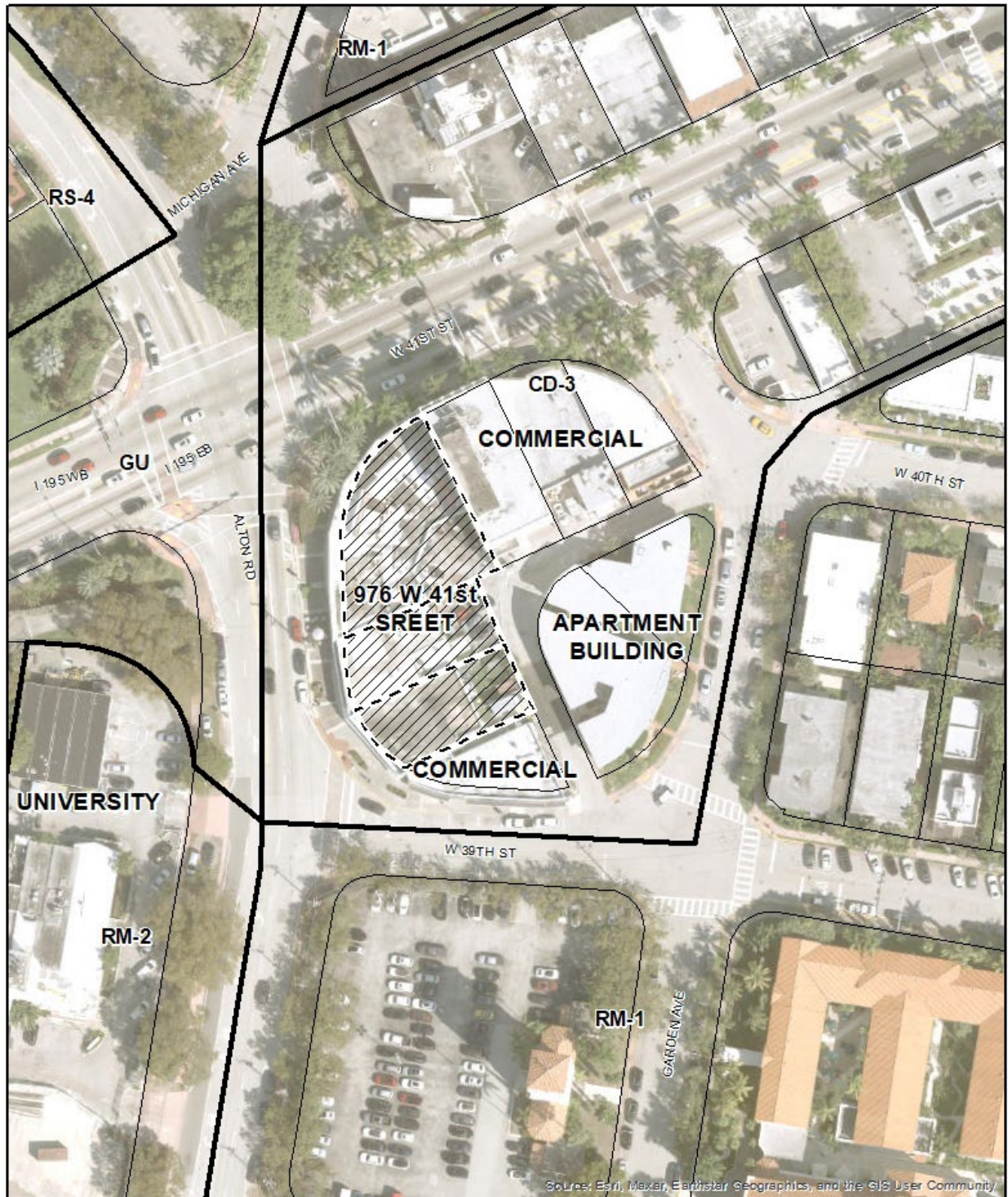
Pursuant to section 5.2.6 of the LDRs, the proposed use requires three (3) loading spaces. Two loading spaces are located within at the rear of the building facing the alley and one is located on the second level in the parking garage. The operations plan is silent on delivery hours and staff has recommended conditions to limit loading to off-peak daytime hours in order to minimize traffic disruptions and minimize noise impacts on surrounding properties.

There are two proposed trash rooms located at the rear of the property near the loading spaces on the ground floor next to the alley. Staff has recommended hours for trash pickups consistent with loading hours.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the Conditional Use Permit be approved, subject to the conditions enumerated in the attached Draft Order.

ZONING/SITE MAP



MIAMI BEACH
PLANNING DEPARTMENT

1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 P 305.673.7550 www.miamibeachfl.gov

0 20 40 80 120 160 200 Feet



EXHIBIT "A"

LEGAL DESCRIPTION:

LOTS 2,3,4, AND 5, BLOCK 1, 41ST STREET BUSINESS SUBDIVISION ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 92 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

PROPERTY ADDRESSES & FOLIO NOS:

3907 ALTON RD., MIAMI BEACH, FL 33140 #02-3222-019-0020

3915 ALTON RD., MIAMI BEACH, FL 33140 #02-3222-019-0030

976 W. 41ST ST., MIAMI BEACH, FL 33140 #02-3222-019-0040

COLLECTIVELY USED IN THE PROJECT DEVELOPMENT AS:

976 W. 41ST ST., MIAMI BEACH, FL 33140

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

PROPERTY: 976 W 41 Street, 976 W 41st Street, 3901-3925 Alton Road.

FILE NO. PB23-0635

IN RE: An application has been filed requesting a conditional use permit for a neighborhood impact structure (NIS) for the construction of a 7-story mixed-use neighborhood impact building over 50,000 square feet, pursuant to Chapter 2, Article V, Section 2.5.2. and Chapter 7, Article II, Section 7.2.12. of the Miami Beach Resiliency Code.

**LEGAL
DESCRIPTION:** See Exhibit "A"

MEETING DATE: March 26, 2024

CONDITIONAL USE PERMIT

The applicant, Gateway Group, Inc., General Partner, requested a Conditional Use approval for the construction of a new 7-story development exceeding 50,000 square feet, pursuant to Chapter 2, Article V, Section 2.5.2. and Chapter 7, Article II, Section 7.1.12 of the City Code. 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:

The property in question is located in the CD-3, Commercial high density District;

The use is consistent with the Comprehensive Plan for the area in which the property is located;

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;

The structures and uses associated with the request are consistent with the Land Development Regulations;

The public health, safety, morals, and general welfare will not be adversely affected;

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:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. 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 Resiliency Code Sec. 2.5.2.5.
2. This Conditional Use Permit is issued to Gateway Group, Inc., General Partner, (the applicant) and Gateway Associates, LTD., Gateway I & III, LTD (owner of the property). Any changes in ownership or 50% (fifty percent) or more stock ownership, or the equivalent, shall require the new owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt.
3. The following shall apply to the operation of the entire project:
 - a. A trash room shall be provided at the ground level adjacent to the loading area. The trash room shall be large enough to accommodate sufficient trash capacity in order to minimize refuse pickups to a maximum of one pick up per day. All trash rooms shall be air conditioned and sound-proofed in a manner to be reviewed and approved by staff. The doors to the trash rooms shall remain closed and secured when not in use and all trash dumpsters shall be closed at all times except when in use.
 - b. All trash containers shall utilize rubber wheels, as well as a path consisting of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
 - c. The property and adjacent rights-of-way be maintained clean and free from debris.
 - d. Except as may be required for Fire, Building, or Life Safety Code purposes, no speakers or televisions of any kind shall be affixed to, installed, or otherwise located on the exterior of the premises within the boundaries of the project.
 - e. No patrons shall be allowed to queue on public rights-of-way.
 - f. No exterior bars or accessory outdoor bar counters shall be permitted anywhere on the premises.
 - g. Establishments with outdoor cafes or sidewalk café permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served in the restaurant.
 - h. Commercial uses on the rooftop are prohibited.
 - i. Use of the rooftop shall be limited to office and retail tenants and their invited guests.
 - j. Entertainment shall be prohibited on the rooftop.
4. The applicant shall provide a copy of this Conditional Use Permit shall be provided to all tenants of the building.

5. A progress report shall be scheduled before the Planning Board 90 days after obtaining a business tax receipt (BTR).
6. The Planning Board shall retain the right to call the owner or operator back before the Board and make modifications to this Conditional Use Permit should there be valid complaints, as determined by Code Compliance, 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.
7. Design Review Board (DRB) review and approval is required before the issuance of a building permit.
8. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
9. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.
10. The applicant shall address the following Transportation, Mobility, Concurrency, Delivery, and Parking requirements:
 - a. The applicant shall pay all impact, mobility, and concurrency fees due prior to obtaining a Building Permit, Certificate of Occupancy, or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing.
 - b. Property managers and business operators for all uses shall ensure that deliveries are made as approved in this Conditional Use Permit. At no time shall delivery trucks block traffic flow on the public right-of-way.
 - c. The applicant shall submit an MOT (Maintenance of Traffic) plan to Public Works Department and Transportation 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.
 - d. The building permit plans shall include on-site bicycle parking facilities to accommodate a minimum of 4 short-term bicycle parking spaces and 21 long-term bicycle parking spaces in a manner to be reviewed and approved by staff.
 - e. The garage shall be in operation 24 hours per day, seven days a week.
 - f. Commercial deliveries and trash collection shall take place only at the designated area proposed by the applicant as shown in the plans.
 - g. Scheduled trash pick-up and commercial deliveries shall only be permitted on-property between 9:30 AM and 4:00 PM. Commercial deliveries outside those hours shall only be permitted in designated loading zones, as per the hours specified for the loading zone.
 - h. There shall be no queuing of delivery, garbage, or moving trucks in the public right of way.

- i. Delivery trucks shall not be allowed to idle in loading areas or driveways.
 - j. Warning signs prohibiting horn honking, tire-screaching, or car alarm sounding shall be posted prominently by the applicant in the parking area.
 - k. A signage and marking plan shall be reviewed and approved by the Transportation and Mobility Department prior to the issuance of a Building Permit.
 - l. The applicant shall coordinate with the City of Miami Beach Transportation & Mobility Department to implement an acceptable Transportation Demand Management (TDM) Implementation Plan per the TDM strategies outlined in the most recent traffic impact study prepared by Kimley-Horn & Associates, Inc., prior to the issuance of a building permit.
 - m. The applicant shall provide at least three (3) free or subsidized monthly or annual Citi Bike passes to employees and/or tenants of the project site.
 - n. The applicant shall meet and discuss with the South Florida Commuter Services to learn about the various programs and services available, such as transit subsidy services, vanpool, and carpool.
11. The development shall comply with the “Green Building” requirements in section 7.1.3.2 of the Resiliency Code.
12. 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.
13. The applicant, operator and/or owner, both now and in the future, shall abide by all the documents and statements submitted with this application, as well as all conditions of this Order.
14. The applicant shall resolve all outstanding violations and fines on the property, if any, prior to the issuance of a building permit for the project.
15. A violation of Chapter 46, Article IV, “Noise,” of the Code of the City of Miami Beach, Florida (a/k/a “noise ordinance”), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, of the City Code
16. 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.
17. 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.

18. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
19. 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.
20. 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.
21. The applicant agrees and shall be required to provide access to areas subject to this Conditional Use Permit for inspection by the City (i.e. Planning Department, Code Compliance Department, Building Department, and Fire Department staff), to ensure compliance with the terms and conditions of this Conditional Use Permit. Failure to provide access may result in revocation of the Conditional Use Permit.
22. There shall be a recorded covenant in lieu of a unity of title for all the properties prior to the applicant obtaining a building permit.

Dated _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Rogelio A. Madan, AICP
Development & Resiliency Officer
for Chairman

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Rogelio A. Madan, Development & Resiliency Officer for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]

Notary:
Print Name:
Notary Public, State of Florida
My Commission Expires:
Commission Number:

Approved As To Form:
Legal Department _____ ()

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

EXHIBIT "A"

LEGAL DESCRIPTION:

LOTS 2,3,4, AND 5, BLOCK 1, 41ST STREET BUSINESS SUBDIVISION ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 92 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

PROPERTY ADDRESSES & FOLIO NOS:

3907 ALTON RD., MIAMI BEACH, FL 33140 #02-3222-019-0020

3915 ALTON RD., MIAMI BEACH, FL 33140 #02-3222-019-0030

976 W. 41ST ST., MIAMI BEACH, FL 33140 #02-3222-019-0040

COLLECTIVELY USED IN THE PROJECT DEVELOPMENT AS:

976 W. 41ST ST., MIAMI BEACH, FL 33140