

MIAMI BEACH

PLANNING DEPARTMENT Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: October 27, 2015

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB File No. 2285. 424 W. 40th Street – Ahavas Torah Synagogue**

The applicant, Ahavas Torah Congregation, Inc., is requesting Conditional Use approval for the operation of a religious institution as part of the construction of a new building within the 40th Street Overlay District, pursuant to Chapter 118, Article IV, and Chapter 142, Article III, Division 8 of the Land Development Regulations of the City Code.

RECOMMENDATION

Approval with conditions

BACKGROUND/HISTORY

On January 1, 2011, the Mayor and City Commission adopted an ordinance (No. 2011-3714) that established the 40th Street Overlay, which permits religious institutional uses through the conditional use permit process in existing rehabilitated structures or in new structures that are designed to maintain the surrounding residential character.

ZONING/SITE DATA

Legal Description:

The Westerly 75 feet of Lots 10 and 11, Block 51 of ORCHARD NO. 2 AND 3, according to the Plat thereof as recorded in Plat Book 8, Page 116, of the Public Records of Miami-Dade County, Florida.

Zoning:

RS-4, Single-Family Residential District-4 and 40th Street Overlay

Future Land Use Designation:

Single Family Residential Category (RS)

Surrounding Uses:

North:	Commercial and Parking Lot
West:	Parking Lot
South:	Single Family Residences
East:	Single Family Residences

(See Zoning/Site map at the end of the report)

THE PROJECT

The applicant, Ahavas Torah Congregation, Inc., is requesting Conditional Use approval for the operation of a religious institution within the 40th Street Overlay District. The proposal is to replace an architecturally significant pre-1942 single-family home with a contemporary one-story building.

The structure includes a congregation space, library, and a classroom for use by members of the congregation. There will also be a small kitchen, office, and separate men and women's

restrooms. In addition, a mikveh with a separate entrance is proposed on the south side of the property. The site will contain two (2) on-site parking spaces.

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. In reviewing an application for a religious institution, the planning board shall apply the review criteria of Sec. 118-192 subsection (c) instead of the standard review guidelines listed in subsection (a):

- (1) **Whether a proposed operations plan has been provided, including hours of operation, number of employees, and other operational characteristics pertinent to the application, and that such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhoods.**

Consistent – The proposed operations plan has been provided. The plan states that weekly services will be held every Friday night and Saturday morning for approximately 50 congregants and on major Jewish holidays for approximately 100 congregants. In addition, smaller religious services and classes may be held at various times. Services are run by the Rabbi and members of the congregation and the majority will be held inside of the building. Minimal impacts are expected to nearby properties and the neighborhood, however, staff is recommending conditions to ensure that impacts are minimized as much as possible.

- (2) **Whether a plan for the delivery of supplies has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhoods.**

Consistent – The applicant does not expect there to be a significant number of deliveries. Due to the size of the congregation, it is expected that deliveries would be in small vans or trucks, which could utilize the on-site parking spaces or the on-street parking spaces in front of the property. Additionally, is below the threshold of requiring accessory off-street loading space pursuant to the Section 130-101 of the Land Development Regulations.

- (3) **Whether the design of the proposed structure is permitted by the regulations in the zoning district in which the property is located, and complies with the regulations of an overlay district, if applicable.**

Partially Consistent – The proposed structure is permitted by the regulations of the zoning district, though an initial zoning review indicates that some modifications to the plans may be necessary. The proposed structure complies with the regulations of the 40th Street Overlay. However, as proposed it will require variances. Staff is recommending conditions to ensure that the variances do not affect the surrounding residential properties.

- (4) **Whether a proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking for the use in the zoning district in which the property is located.**

Consistent – The applicant is proposing two (2) parking spaces on the site, which complies with the parking requirements of the proposed use within the 40th Street Overlay, since there are several public parking lots within 500 feet of the subject property. In addition, since the congregation consists of observant Orthodox Jews, it is expected that the vast

majority of congregants will walk to services at the synagogue, greatly limiting the need for parking.

- (5) **Whether an indoor and outdoor congregant/parishioner circulation plan has been provided that facilitates ingress and egress to the site and structure.**

Consistent – The plans indicate that access to the property will be from 40th Street, and congregants shall enter the facility through an entrance on the west side of the property. The congregation will maintain persons at all times to assist the Rabbi with services, including ushering congregants into the facility.

- (6) **Whether a security plan for the establishment and supporting parking facility, if any, has been provided that addresses the safety of the institution and its users and minimizes impacts on the neighborhood.**

Consistent – The will be equipped with an alarm system that will operate when the building is not in use.

- (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 – Since the congregation consists of Orthodox Jews, it is expected that most congregants will walk to services on Friday evenings and Saturday mornings, therefore very little vehicular impact is expected. The small weekday events are not expected to generate a significant number of trips, however, a concurrency analysis will be performed at the time of building permit application.

- (8) **Whether a noise attenuation plan has been provided that addresses how noise will be controlled in and around the institution, parking structures or areas, and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.**

Consistent – As stated by the applicant, the majority of services shall occur inside of the building, thereby limiting the impact of noise on nearby properties. For those services that may occur outdoors, staff is recommending conditions to limit their impact.

- (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 – As stated by the applicant, the congregation does not expect to generate a significant amount of trash. Trash collection is therefore expected to occur with the same frequency as the surrounding residential uses in the neighborhood.

- (10) **Whether the proximity of the proposed structure to adjacent and nearby residential uses creates adverse impacts and how such impacts are to be mitigated.**

Partially Consistent – The proposal includes variances that may allow for portions of the building to be out of scale or excessively close to adjacent residential uses. In order to limit

the impact on adjacent properties, staff is recommending that Variances of the zoning district regulations not be permitted.

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

Consistent – There are many religious institutions in the surrounding area, however, no negative impact is expected from the cumulative effect of the proposed structure. The synagogue already operates in the area, and is simply relocating to a larger structure. Additionally, the purpose of the 40th Street Overlay is to provide for uses such as the one proposed.

STAFF ANALYSIS

The applicant, Ahavas Torah Congregation, Inc., is a religious institution for Orthodox Jews. The congregation has been in existence for nine (9) years and currently operates out of an office suite at 301 Arthur Godfrey Road. The applicant is proposing to construct a contemporary single-story 4,412 square foot structure.

The congregation will hold weekly services every Friday night and Saturday morning for approximately 50 congregants and on major Jewish holidays for approximately 100 congregants. In addition, smaller religious services and classes may be held at various times. Services are run by the Rabbi and members of the congregation, who assist the Rabbi with things such as ushering of congregants in to the facility.

Parking

Because the project is located within 500 feet of several public parking lots, the parking regulations for the proposed religious institution within the 40th Street Overlay requires two (2) off-street parking spaces. In addition, the congregation consists of observant Orthodox Jews, therefore, it is expected that the vast majority of congregants will walk to Friday evening and Saturday morning services at the synagogue, greatly limiting the need for parking. For those services that take place on other days, on which congregants may drive, they will have access to various public parking lots, garages, and on-street parking within the area.

Deliveries

The congregation is small and does not expect a significant number of deliveries. Those that are expected to be from small trucks or vans which can unload in the two (2) off-street parking spaces or from the on-street parking spaces located adjacent to the property. The applicant expects that those deliveries will occur in the afternoon hours. Since the scale of the building is below the threshold for requiring accessory off-street loading, no significant impacts are expected from the loading operations.

Sanitation

Since the congregation is small, it is not expected to generate a significant amount of trash. The applicant expects to use the same trash collection services that serve the surrounding residential neighborhood. Therefore there will generally be no additional sound impact to the surrounding areas created by trash collection services. If there is a special event that would generate a greater amount of trash, the applicant will coordinate with a waste hauler, which will have to abide by applicable sections of the City Code.

Other

The applicant has filed a separate request for approval from the Design Review Board, including variances. The requested variances, if approved, are not expected to impact the operation of the proposed Religious Institution.

Although most services are expected to be located inside of the building, the plans include outdoor gathering spaces in the rear yard. In order to ensure that noise does not impact the surrounding areas, staff is recommending that speakers, with the exception of those that may be required for an alarm system, not be allowed in outdoor areas of the property.

STAFF RECOMMENDATION

In view of the foregoing analysis, staff recommends that the application be approved subject to the following conditions, which address the inconsistencies with the aforementioned Review Criteria:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR. 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).
2. This Conditional Use Permit is issued to Ahavas Torah Congregation, Inc., as the owner and operator of this Religious Institution. Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
3. 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. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
4. 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.
5. There shall be no outdoor speakers, except as may be required by a security alarm system. Additionally, amplified music outdoors shall not be permitted.
6. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division, prior to obtaining a Certificate of Occupancy or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing. Without exception, all concurrency fees, mitigation fees and concurrency administrative costs shall be paid prior to the issuance of a Certificate of Occupancy or Business Tax Receipt.
7. The applicant shall satisfy outstanding liens and past due City Bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this entertainment establishment.
8. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation 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.
9. 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, Code of the City of Miami Beach, Florida.
 10. 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.
 11. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant and returned to the Planning Department. A building permit, business tax receipt (BTR), certificate of occupancy (CO), or certificate of completion (CC) shall not be issued until this requirement has been satisfied.
 12. 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.
 13. 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.

TRM/MAB/RAM

ZONING/SITE MAP



City of Miami Beach Planning Board
File No. 2285
424 W. 40th Street



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