

# Staff Summary Report



Hearing Officer Hearing Date: October 16, 2007

Agenda Item Number: 9

**SUBJECT:** This is a public hearing for a request by **THE CENTER BISTRO (PL070424)** located at 21 East 6<sup>th</sup> Street for one (1) use permit.

**DOCUMENT NAME:** 20071016dsjc02

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Hold a public hearing for a request by **THE CENTER BISTRO (PL070424)** (Austin Vickers, applicant/property owner) located at 21 East 6<sup>th</sup> Street in the CC, City Center District for:

**ZUP07151** Use permit to allow live entertainment (acoustical music).

**PREPARED BY:** Jon Christopher, Planner II (480-350-8436)

**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

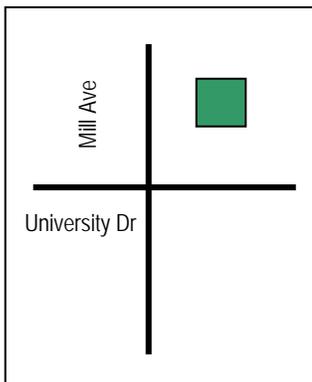
A handwritten signature in black ink, appearing to read 'SEA'.

**LEGAL REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval subject to Conditions 1-7

**ADDITIONAL INFO:** The Center Bistro requesting approval of a use permit to allow live entertainment consisting of live acoustic music encompassing various musical styles. At this time, no public input has been provided. Staff supports the request for live entertainment for this business at this location.



**PAGES:**

1. List of Attachments
2. Comments; Reasons for Approval;
3. Conditions of Approval; History & Facts/Description;  
Zoning & Development Code Reference

**ATTACHMENTS:**

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan
5. Floor plan
- 6-7. Staff Photograph(s)

## COMMENTS:

The Center Bistro is requesting approval of a use permit to allow live entertainment consisting of live acoustic music ranging from individual performers to live bands. The business intends to hold events for local artists and out - of - state artists. Their hours of entertainment will be Sunday –Thursday 11 am -10pm and Friday / Saturday 11 am – 12 am. The Center Bistro holds an Arizona series 12 liquor license for their restaurant. It is located in the Brickyard at the southwest corner of Myrtle Avenue and 6<sup>th</sup> Street. The Center Bistro tenant space is within the center of the development with mixed use development within the surrounding suites. In addition, the applicant's suite is buffered from any potential nuisances created from noise or traffic.

Finally, the Center Bistro shall submit a security plan to the City of Tempe's Police Department. To date, no public input has been received from the surrounding neighbors for this request.

## Use Permit

The Zoning and Development Code requires The Center Bistro business to obtain a use permit in the CC, City Center District, as well as a use permit to allow live entertainment. The proposed use permit(s) meet all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
  - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
  - The proposed use would not contribute to neighborhood deterioration or downgrade property values and is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.
- c. Compatibility with existing surrounding structures and uses;
  - The proposed use appears to be compatible with surrounding uses.
- d. Nuisance arising from the emission of order, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
  - It appears that the proposed use of the live entertainment will not create any nuisances within the surround area. The tenant space is located within a court area which limit from any noise from any street activities.
- e. Adequate control of disruptive behavior both inside and outside the premise which may create a nuisance to the surrounding area or general public.
  - The proposed use does not appear to be disruptive or a nuisance to the surrounding area or general public.

## Conclusion

Staff supports the request for a use permit for live entertainment to the Hearing Officer for approval of this request.

## REASON(S) FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Traffic generated by this use should not be excessive.
4. The use appears to be compatible with the building, site and adjacent property.
5. There appears to be a demonstrated need for this use at the proposed location.

**SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.**

**CONDITION(S)  
OF APPROVAL:**

1. No noise shall emanate beyond the walls of the building. The entrance of the restaurant is located near a parking lot which is next to a church. In addition, the location of the restaurant is located at the corner bottom of suite of the building which is isolated from the surrounding neighbors.
2. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing set to re-evaluate the appropriateness of the use permit.
3. The use permit valid for The Center Bistro/ Austin Vickers and may be transferable. Should the business be sold, the new owners must contact the Board of Adjustment / Hearing Officer staff for review of the business operation.
4. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
5. Any expansion or intensification of use shall require a new use permit to be approved.
6. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer/Board of Adjustment.
7. Submit a security plan with the Tempe Police Department within 30 calendar days (**November 16, 2007**). Contact Officer Derek Pittam at (480) 858-6341.

**HISTORY & FACTS:**

None pertinent to this case.

**DESCRIPTION:**

Owner – Austin Vickers  
 Applicant – Austin Vickers  
 Existing Zoning – CC, City Center District  
 Lot Acres - .59  
 Building Area – 156,789 s.f.  
 Existing Suite – 8,500 s.f.  
 Year Built - 2001

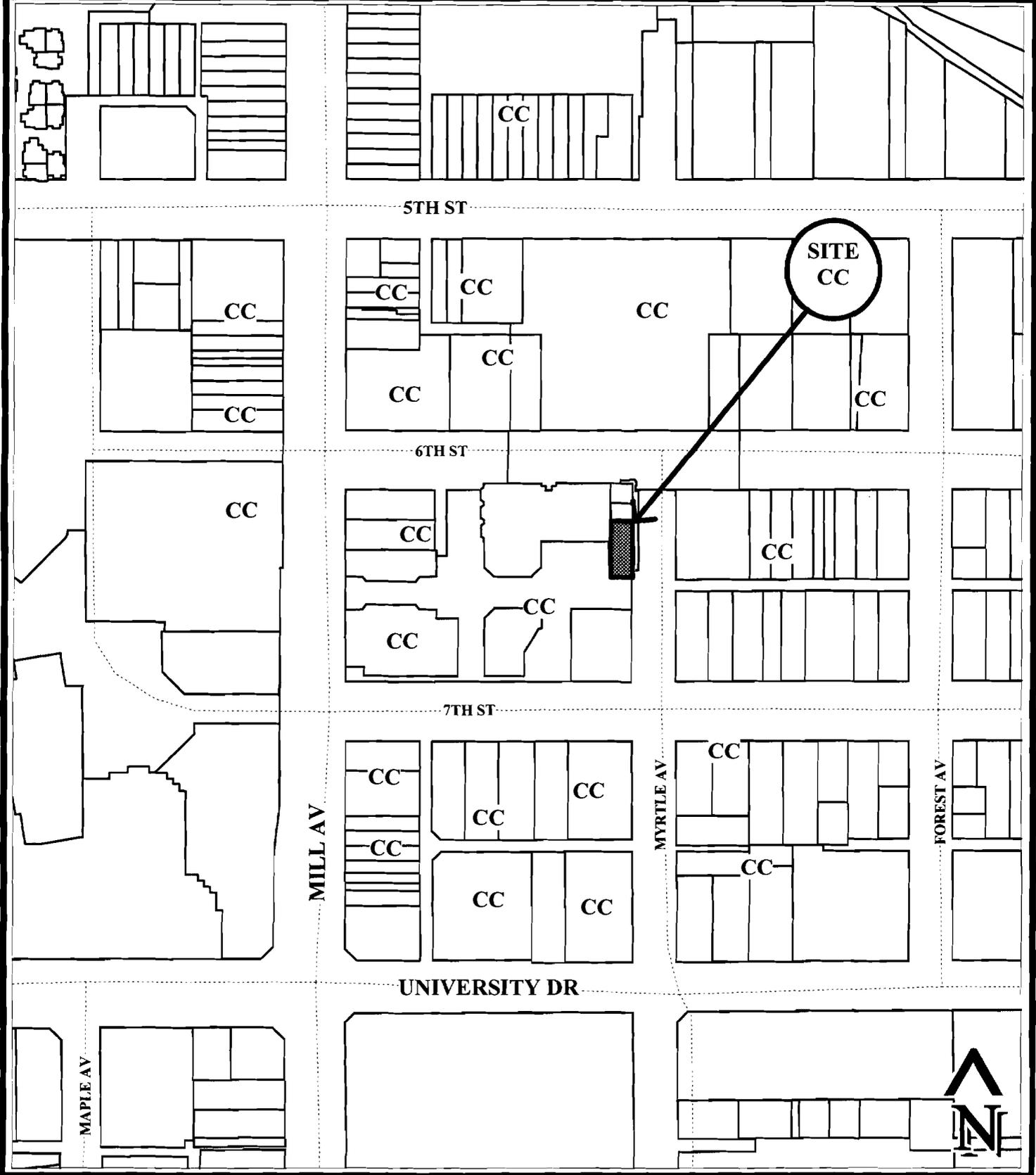
**ZONING AND  
DEVELOPMENT  
CODE REFERENCE:**

Part 3, Chapter 2, Section 3-202  
 Permitted Use in commercial and Mixed –Use – Table 3-302A restaurants (live entertainment) in City Center District requires a use permit.

Part 6, Chapter 3, Section 6-308  
 Use Permit

THE CENTER BISTRO

PL070424



Location Map



THE CENTER BISTRO (PL070424)



THE CENTER

## Development Services

To whom it may Concern,

We are submitting for a live music permit for Center management LLC. I Am The Center is located in the Brownstone at 21 east 6<sup>th</sup> st Suite 114 We are a complex consisting of an organic bistro, retail shop, yoga studio, educational training suite with 6 leased offices occupied by business professionals.

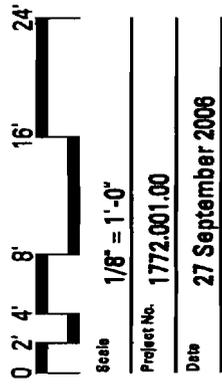
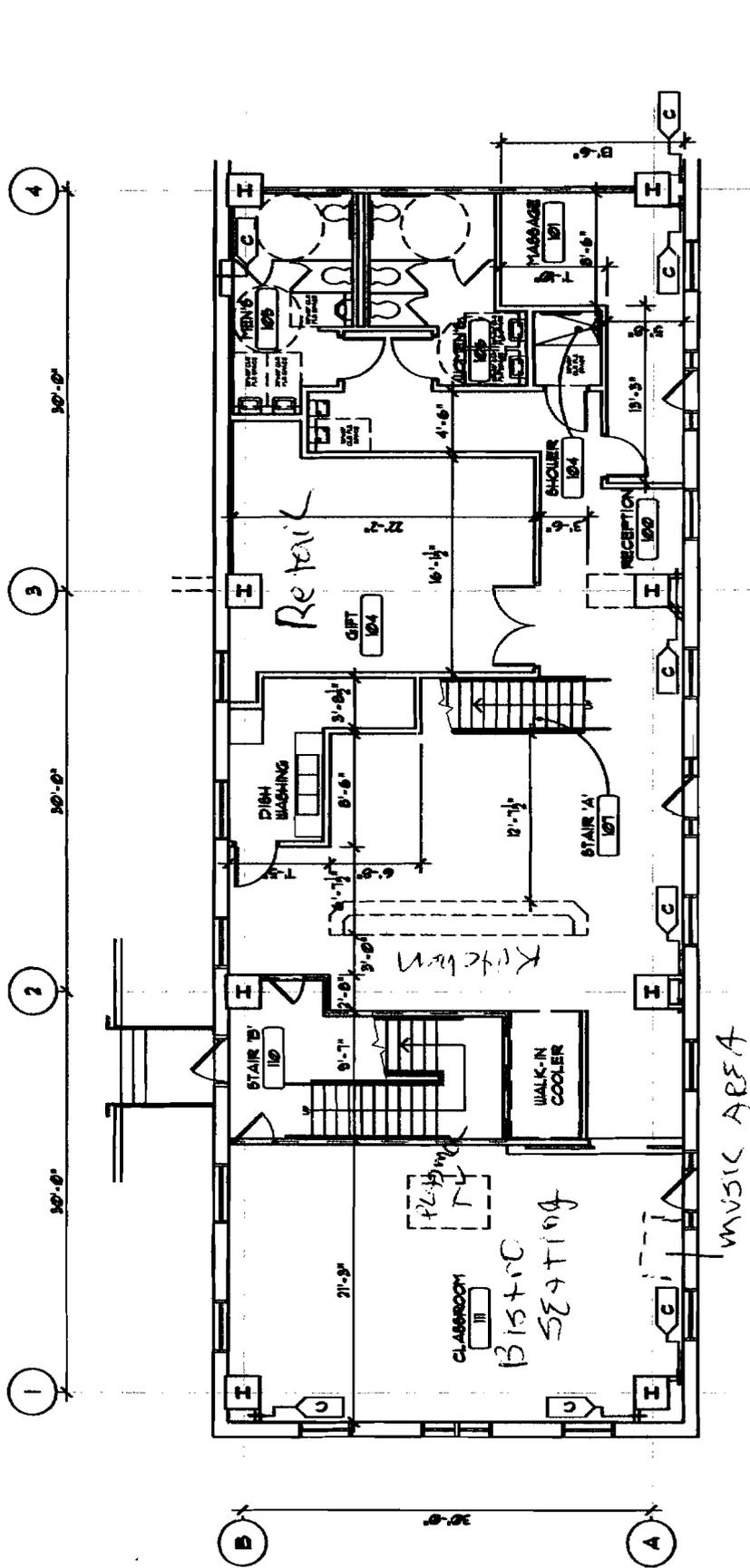
We are interested in having live acoustic music in our organic Bistro various nights of the week on a continual basis. We are limited to occupancy of 75 and the intention is to provide evening entertainment for our dinner guests. There will be no tickets sales, just complimentary music for our diners. Operating hours for The Center Bistro are Sunday-Thursday 11am-10pm and Friday /Saturday 11am-12am. We have a nice mixed age dinner clientele made up of urban business professionals and local residents.

EDUCATION

INSPIRATION

TRANSFORMATION

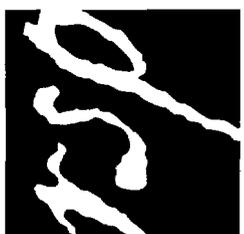




**Preliminary Design**

Project for  
**I AM the Center**  
 21 EAST 6TH STREET UNIT 101 & 102  
 TEMPE, AZ 85281

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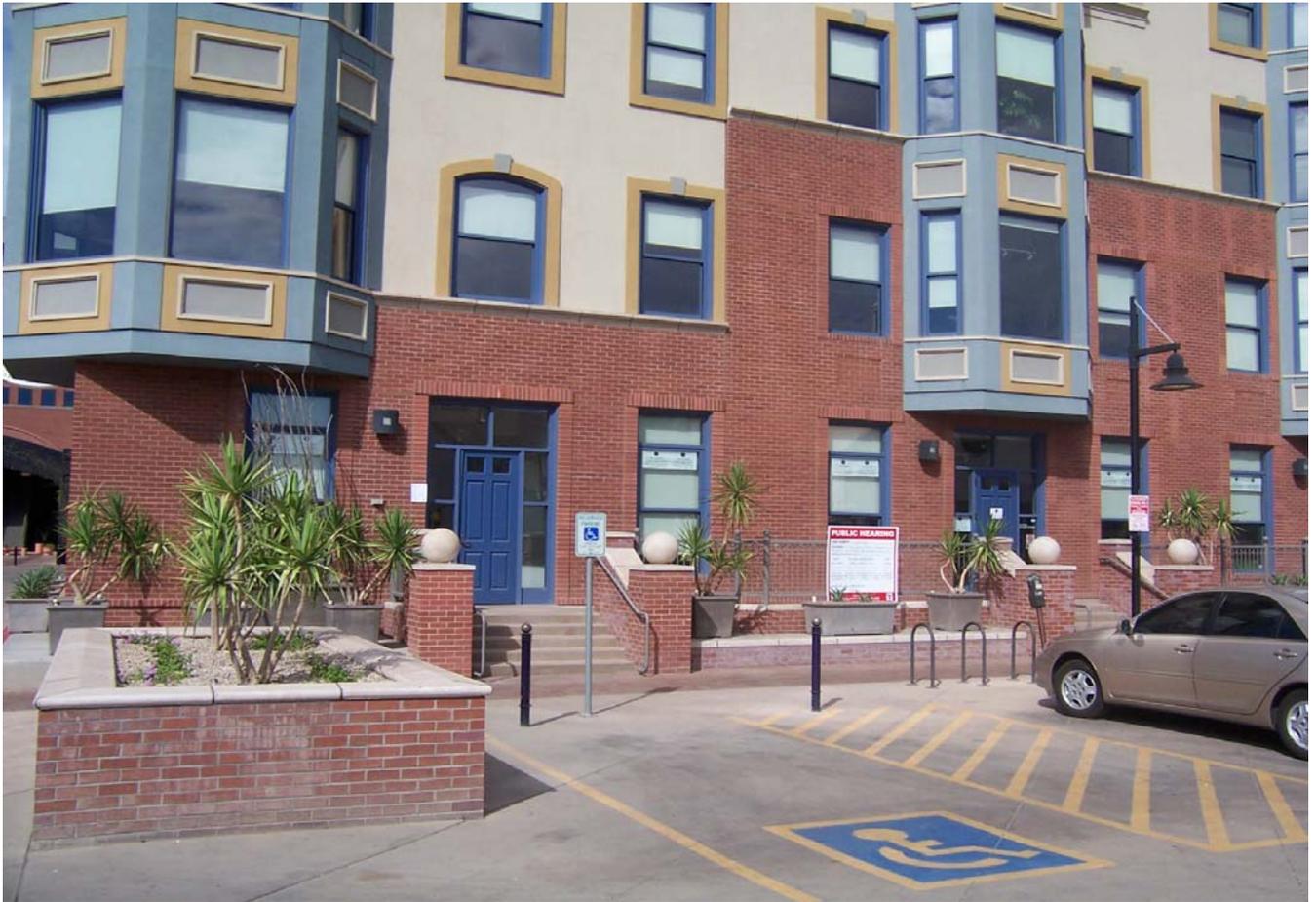


# **THE CENTER BISTRO**

**21 E 6<sup>TH</sup> STREET**

**PL070424**

**SIDE OF SUITE: VIEW TO SOUTH**



**THE CENTER BISTRO**

**21 E 6<sup>TH</sup> STREET**

**PL070424**

**FRONT OF SUITE: VIEW TO EAST**