

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: December 14, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB20-0402. 880 71st Street.**

An application has been filed requesting a conditional use permit for a new 4-story mixed-use development exceeding 50,000 gross square feet, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

RECOMMENDATION

Approval with conditions

ZONING/SITE DATA

Legal Description:

Lot 27, Block 1 of Ocean Side Section of the Isle of Normandy, according to the plat thereof as recorded in plat book 25, page 60, of the public records of Miami-Dade County, Florida

Zoning District:

CD-2 Commercial, medium intensity

Overlay District:

North Beach National Register Conservation District Overlay

Future Land Use Designation:

Medium Intensity Commercial (CD-2)

Surrounding Uses:

See Zoning/Site Map at the end of this report.

North: 71st Street/Gas Station
South: Residential Multifamily
West: Bay Drive/Commercial Establishments/Public Parking
East: Indian Creek Waterway

Lot Size:

19,414 SF

Maximum FAR:

1.5 (2.0 with mixed-use bonus)
29,121 SF/38,828 SF (with mixed-use bonus)

Proposed FAR:

38,828 SF

Gross Floor Area:

54,268 SF

THE PROJECT

The applicant, Bay Dr. LLC and KG Normandy LLC, has submitted plans entitled "880 71st Street". The proposal is for a four-story mixed-use development located at 880 71st Street. The site is located in the Normandy Isles Local Historic District and the Normandy Isles National Register Historic District. A separate application has been filed for consideration of a Certificate of Appropriateness (COA) and five (5) variances by the Historic Preservation Board (HPB). The HPB is expected to consider the COA and variance requests on January 12, 2021 (File No. HPB20-0431).

The site is approximately 19,414 square feet. Page 4 of the plans, prepared by Built Form Architecture, provides the development program. The proposed building will have 38,823 square feet of floor area. Of that, 28,350 square feet will be for 36 residential units. The ground floor will contain 3,650 square feet of retail/restaurant space, outdoor publicly accessible outdoor open spaces, a residential lobby, ten (10) vehicle parking spaces, and 40 bicycle parking spaces. The rooftop will have a pool and sun deck. The site fronts the Indian Creek Waterway and will provide public access areas to the waterway.

Since the gross floor area of the building is 54,268 square feet, conditional use approval is required from the Planning Board for a development exceeding 50,000 gross square feet in the CD-2 district.

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. The CD-2 future land use category allows for the proposed uses either as a main permitted use or a conditional use.

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, as it is within the density and intensity limits provided for the CD-2 future land use category.

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

Consistent – Structures exceeding 50,000 square feet in the CD-2 district are a conditional use. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a Certificate of Use (CU).

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

Partially Consistent – The proposed project may adversely affect the general welfare of nearby residents and businesses if sound, delivery, waste removal, and other operations are not controlled. Staff is recommending conditions to mitigate the potential negative impacts. The facility will have to comply with all applicable laws and regulations prior to the issuance of a Certificate of Use (CU).

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

Consistent – Pursuant to the regulations of parking district no. 4, there is no off-street parking required on-site for the commercial uses. Additionally, pursuant to section 130-31(c), there is no off-street parking requirement for new construction on CD-2 properties located in the Normandy Isles National Register Conservation District and located within 1,500 feet of a public transit stop or a public/private parking garage, with which this project complies. Even though no off-street parking is required, the development will be providing 10 parking spaces on the ground floor. Additionally, the project will be providing racks to park 40 bicycles.

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

Partially Consistent – Staff is recommending conditions to mitigate any adverse impacts on the surrounding neighbors.

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 – 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.

**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.

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. Due to the small scale of the commercial components of the development, the project is generally compatible with the surrounding neighborhood, which consist primarily of commercial 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– Due to the small scale of the commercial component of the development, mass delivery of merchandise is not expected. However, the project has one loading berth that will provide off-street loading access from the ground floor parking facilities. This complies with the loading requirements in section 130-101.

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 the CD-2 zoning district's allowable development. There are several buildings of similar or larger sizes fronting the Indian Creek waterway. However, the scale, massing, architecture and compatibility issues will be further discussed at the Historic Preservation 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 proposed development requires no off-street parking; however, the applicant is providing ten (10) off-street parking spaces. Access to the parking area is from Bay Drive. Additionally, the site is across the street from Miami Beach Parking Lot P87, which has 35 parking spaces and there is on-street parking along Bay Drive. There are several other surface public parking lots within walking distance of the site.

However, it is expected that much of the transportation needs for the site will be accommodated by alternative modes of transportation. The development will be providing bicycle parking racks at the ground floor to accommodate 40 bicycles. The site served by Miami-Dade Metrobus Route 112 and the Miami Beach Trolley North Beach Line.

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

Consistent – The site will only consist of two small retail bays so it is not expected that there will be significant queuing or site access issues. Access to the retail bays will be directly from the sidewalk on 71st Street and Bay Drive, as well as from the internal breezeways on the ground floor. The breezeways are large and can easily accommodate any unexpected crowds.

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.**

Partially Consistent – The applicant has indicated that electronic door locks with special access cards will be provided for the residential component. The applicant has indicated that security cameras will be provided at the property as necessary. Staff has recommendations to improve the security of the property. See the analysis.

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 details on the trip generation and traffic circulation of the project. See the attached Traffic Statement prepared by TrafTech Engineering, Inc.

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.**

Partially Consistent – The applicant is not proposing entertainment uses or any uses that would create significant noise impacts. 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.**

Partially Consistent – The project will have an enclosed trash room at the ground level for the residential and commercial uses adjacent to the loading area. The applicant proposes that garbage disposal and sanitation needs would take place consistent with City Code. The applicant indicates that cleaning and maintenance staff will monitor the property and adjoining rights-of-way to ensure that they are clean. Staff has additional recommendations regarding sanitation operations.

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 property is primarily residential in nature and is in proximity to other residential buildings of similar and larger scales. Due to the small scale of the commercial operations, adverse impacts are not expected from the proximity to those buildings.

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 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.**

Satisfied – The property is vacant and will not require a recycling or salvage plan.

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

Satisfied – Windows will be hurricane proof impact windows.

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

Satisfied – Operable windows will be provided as appropriate.

4. **Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.**

Satisfied – Per letter of intent, all 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.**

Satisfied – The development is designed so that it can adapt to future sea level rise. The residential components will be well above the base flood elevation and above from the retail bays. The retail bays are designed with high ceiling heights that allow for future adaptation.

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.**

Satisfied – The building has sufficient clearances where the ground floor and parking areas can be adapted if adjacent public rights-of-way are raised.

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

Satisfied – All critical mechanical and electrical systems will be located above BFE.

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

Not Applicable – The site is vacant.

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.**

Satisfied – Uses on the ground floor located below the base flood elevation plus City of Miami Beach Freeboard will be dry flood proofed in accordance with Chapter 54 of the City Code.

10. **Where feasible and appropriate, water retention systems shall be provided.**

Partially Consistent – The applicant has indicated that they will work with staff to provide water retention systems.

11. **Cool pavement materials or porous pavement materials shall be utilized.**

Not Satisfied – The applicant will have to address the requirements of the urban heat

island ordinance prior to obtaining a building permit.

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

Not Satisfied – The applicant will have to address the requirements of the urban heat island ordinance prior to obtaining a building permit.

ANALYSIS

The Proposal

The applicant, Bay Dr. LLC and KG Normandy LLC, submitted an application for Conditional Use approval for a new 4-story mixed-use development exceeding 50,000 gross square feet. Section 142-303 (10) of the City Code requires that the Conditional Use be reviewed by the Planning Board prior to consideration by the HPB.

Parking and Access

Retail patrons will access the site via the sidewalk on 71st Street and Bay Drive and via the ground floor breezeways. The breezeways are designed to allow pedestrian access from the sidewalk to the Indian Creek waterway which will help to activate the area. Residents will access the building via a residential lobby fronting Bay Drive.

As previously indicated, the project does not require any off-street parking pursuant to the requirements of Parking District No. 4 and requirements for new construction in the Normandy Isle Historic District that are in close proximity to public transit. The project provides a total of ten (10) parking spaces on the ground floor that are accessed from a driveway on Bay Drive. Additionally, the site is in close proximity to several public parking lots and on-street parking.

It is expected that much of the transportation needs for the building will be through alternative modes of transportation. The site is in close proximity to many essential retail businesses, allowing residents the ability to easily walk or bike instead of drive. Additionally, the site is served by Metrobus and the Miami Beach Trolley. The project will provide 40 bicycle parking spaces will also be located on the ground floor within the parking area, which will facilitate biking.

Deliveries and Sanitation

The loading of refuse will take place in the open-air loading spaces. Loading would be limited to 20-foot trucks. Loading for larger trucks would be accommodated the parking area, though it may block the use of some of the parking spaces.

The applicant has not provided limits for hours in which loading and refuse collection will take place. Staff would recommend that refuse collection and loading take place between 9:00 AM and 4:00 PM to minimize traffic impacts during the busy evening rush hour and limit noise concerns in the adjacent residential areas.

Staff also recommends a condition to ensure that the property and adjacent rights-of-way be maintained clean and free from debris.

STAFF RECOMMENDATION

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

ZONING/SITE MAP



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

PROPERTY: 880 71st Street

FILE NO. PB20-0402

IN RE: A conditional use permit for a new 4-story mixed-use development exceeding 50,000 gross square feet, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

LEGAL DESCRIPTION: Lot 27, Block 1 of Ocean Side Section of the Isle of Normandy, according to the plat thereof as recorded in plat book 25, page 60, of the public records of Miami-Dade County, Florida

MEETING DATE: December 14, 2020

CONDITIONAL USE PERMIT

The applicant, Bay Dr. LLC and KG Normandy LLC, requested a Conditional Use Permit, pursuant to Chapter 118, Articles IV and V, for a for a new 4-story mixed-use development exceeding 50,000 gross square feet, pursuant to Chapter 118, Article IV and Chapter 142, Article II 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:

That the property in question is located in the CD-2 Commercial, Medium Intensity zoning district; and

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

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; and

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

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

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, as approved by the Planning Board, and accepted by the applicant, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

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 City Code Sec. 118-194 (c).
2. This Conditional Use Permit is issued to Bay Dr. LLC and KG Normandy LLC (collectively the applicant) and owner of the property. For the commercial portions of the building, 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. Warning signs prohibiting horn honking, tire-screeching, or car alarm sounding shall be posted prominently by the applicant in the parking area.
 - b. A delivery and refuse plan, including all delivery access points and routes, as well as the location of all trash and refuse areas, shall be provided and shall be subject to the review and approval of staff.
 - c. Deliveries and trash collection shall take place only at the designated areas proposed by the applicant as shown in the plans.
 - d. Deliveries or trash pick-up shall only be permitted between 9:00 AM and 4:00 PM.
 - e. 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.
 - f. All trash rooms shall be air conditioned and sound-proofed in a manner to be 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.
 - g. Delivery trucks shall not be allowed to idle in loading areas or driveways.
 - h. There shall be no queuing of delivery, garbage, or moving trucks in the public right of way.
 - i. The property and adjacent rights-of-way be maintained clean and free from debris
 - j. Except as may be required for Fire, Building, or Life Safety Code purposes, no speakers of any kind shall be affixed to, installed, or otherwise located on the exterior of the premises within the boundaries of the project, except for a distributed sound system, subject to the review and approval of staff.

-
- k. No patrons shall be allowed to queue on public rights-of-way.
 - l. Any outdoor dining areas, including sidewalk cafes, shall close no later than 11:00 PM from Sunday through Thursday, and no later than 12:00 AM on Friday and Saturday nights.
 - m. No exterior bars or accessory outdoor bar counters shall be permitted anywhere on the premises.
 - n. 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 and shall not be permitted to have outdoor speakers.
 - o. Outdoor bar counters shall be prohibited.
 - p. Commercial uses on the rooftop are prohibited.
 - q. Use of the rooftop shall be limited to residents and their guests.
- 4. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall appear before the Planning Board for a progress report. 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).
 - 5. 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.
 - 6. 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.
 - 7. 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.
 - 8. The applicant shall address the following Transportation, Mobility, Concurrency 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 residential and commercial 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 developer shall coordinate with the Transportation Department to develop an acceptable Transportation Demand Management Plan, prior to the issuance of a building permit.
 - e. The applicant shall provide on-site bicycle parking facilities to accommodate a minimum of forty (40) bicycle parking spaces
9. The development shall comply with the "Green Buildings" requirements in Chapter 133, Article I of the City Code.
 10. 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.
 11. 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.
 12. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a building permit.
 13. 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 City Code, and shall be subject to enforcement procedures set forth in Section 114-8 of the Code and such other enforcement procedures as are permitted by law. 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.
 14. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.
 15. 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.

Dated _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Rogelio A. Madan, AICP
Chief of Planning and Zoning
for Chairman

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Rogelio A. Madan, Chief of Community Planning & Sustainability 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 _____ ()