

**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: January 26, 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,

January 26, 2020

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-screaching, 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. Commercial deliveries and trash collection shall take place only at the designated areas proposed by the applicant as shown in the plans.
 - d. Scheduled commercial 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 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, except for a distributed sound system,

January 26, 2020

CFN: 20210164472 BOOK 32385 PAGE 621

PB20-0402, 880 71st Street

Page 3 of 5

- which may not be played louder than at an ambient volume level (i.e. at a volume that does not interfere with normal conversation), subject to the review and approval of staff.
- k. No patrons shall be allowed to queue on public rights-of-way.
 - l. The applicant will work with staff on further sound attenuation efforts at the ground level on the South and East sides of the Property
 - 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. Commercial uses on the rooftop are prohibited.
 - p. Use of the rooftop shall be limited to residents and their guests.
 - q. The commercial uses shall be return to the Planning Board for a progress report 90 days after obtaining a business tax receipt (BTR).
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.

January 26, 2020

CFN: 20210164472 BOOK 32385 PAGE 622

PB20-0402, 880 71st Street

Page 4 of 5

- 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.

January 26, 2020

CFN: 20210164472 BOOK 32385 PAGE 623

PB20-0402. 880 71st Street


Page 5 of 5

Dated

3/2/2021 | 3:59 PM EST

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

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BY:

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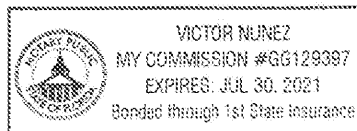
Rogelio A. Madan, AICP
Chief of Planning and Sustainability
for Chairman

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 3 day of March, 2021, 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:

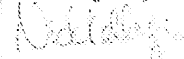
Notary Public, State of Florida

My Commission Expires:

Commission Number:

Approved As To Form:
Legal Department

DocuSigned by:

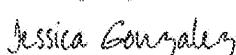


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