

MIAMI BEACH

PLANNING DEPARTMENT

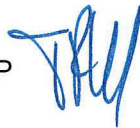
Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: October 24, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 16-0065 – 1238-1250 Normandy Drive – Video Game Arcade**

The applicant, Caruso Group of Companies, Corp, is requesting Conditional Use Approval for the operation of a video game arcade in the existing commercial space on the ground floor, pursuant to section 118, Article IV and Chapter 142 Article II of the City Code.

RECOMMENDATION

Approval with conditions.

HISTORY

June 27, 2017

The application came before the Board on June 27, 2017, and was continued to a date certain of September 26, 2017 due to the lack of a quorum.

September 26, 2017 The application was discussed and continued to a date certain of October 24, 2017 in order to address the concerns expressed by the Board.

ZONING / SITE DATA

Legal Description: See "Exhibit A".

Zoning: CD-2, Commercial Medium Intensity Zoning District.

Lot Size: 14,396 Square Feet approximately

Land Uses: See zoning/site map at the end of the report
Subject Site: Commercial Use

North: Apartment buildings

South: Commercial building

East: Commercial building

West: Single Family home

THE PROJECT

The applicant has submitted revised plans entitled "Normandy Arcade", as prepared by Victor Morales, as registered Architect, dated May 05, 2017. The proposal consists of a new video game arcade for teen, preteen children and their families, patrons will also have the possibility to host parties and exhibitions related to video games.

There is an existing pass-thru window located under a covered porch facing 71st Street, which will provide for non-alcoholic drink and snack service to 20 seats on the exterior and an indoor counter with 26 seats to serve the patrons of the arcade.

The property consists on a one story building and an existing parking lot. The proposed use (video game arcade) in the CD-2 zoning district requires Conditional Use approval from the Planning Board.

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application, as proposed, is consistent with the City Code.

The property is located in Parking District No. 4 and the proposed use does not have parking requirements.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

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.

- 2. The intended Use or construction would not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.**

Consistent – The prior use on the property was a food service establishment, “Blue Sky”. As proposed, the arcade will contain fewer seats, and the kitchen will be retained but not utilized. A Traffic Statement was submitted with the application that shows the impacts will be minimal.

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

Consistent – Video game arcades are permitted as a 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. Public health, safety, morals and general welfare would not be adversely affected.**

Consistent –The proposed establishment may adversely affect the general welfare of nearby residents if traffic, noise and other issues are not controlled. Conditions regarding the operation as recommended by staff should mitigate any negative impacts.

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

Consistent – The property is located in Parking District No. 4 and the proposed use does not have a parking requirement. However operational parking for this establishment will be provided within the existing parking lot that is part of the same property.

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

Consistent – Conditions to mitigate any adverse impacts from traffic, noise, and other issues on the surrounding neighbors included in the draft Conditional Use Permit.

7. The concentration of similar types of uses would not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

Consistent – There are no similar uses in the neighborhood. Adverse impacts are not anticipated on the nearby existing uses as a result of this request.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development Regulations 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.

Not applicable

- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

Satisfied

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

Satisfied

Existing windows will be retained

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

Satisfied

All new 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.

Not Applicable

- (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.

Not Applicable

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

Satisfied

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

Not Applicable

- (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

- (10) Where feasible and appropriate, water retention systems shall be provided.

Not Applicable

STAFF ANALYSIS

The applicant is proposing a video game arcade with an occupant content of 73 persons which includes video game machines, 26 indoor seats and 20 outdoor seats. A restaurant with a similar occupancy would not require conditional use approval, however video game arcades are only allowed through the conditional use review process. The applicant will retain the existing kitchen however it will not be utilized for full service cooking. The existing pass-thru window will be retained for non-alcoholic drink and snack service to the outdoor seating.

The property is located in parking district No. 4 and the proposed use does not have a parking requirement. However, the parking lot will be restriped to increase landscape areas and provide the same 10 spaces, including one accessible space and one space for deliveries.

Operation

The proposed hours of operation are the following:

Arcade Operating Hours:

Monday - Friday: 2:00 PM to 10:00 PM

Saturday & Sunday: 10:00 AM to 11:00 PM

Pass-Thru window and outdoor seating:

Monday - Friday: 9:00 AM to 10:00 PM

Saturday & Sunday: 9:00 AM to 11:00 PM

There will be a staff of 4-5 employees as indicated by the applicant.

Access and Crowd Control

Patrons would enter and exit the venue through the main entrance located near the parking area. No queuing of patrons is anticipated on the sidewalk.

Sound

Entertainment in form of music that may be played at a volume that exceeds the level of normal conversation would be limited to the interior of the establishment. Staff does not anticipate an adverse impact.

The main entrance to this facility is near the parking area and the building itself will buffer any noise coming out from these doors to the single family home located across Rue Notre Dame on the east side of the property. Normandy Drive will buffer any noise to the apartment buildings located north of the property.

Sanitation and Deliveries

As indicated by the applicant, deliveries for the entire property will occur within the property. There is one space designated for loading-deliveries in the parking lot and the trash room is located on the south side of the property on Mai Monides Street.

All deliveries and collections will occur during weekday hours between 8:00 AM and 5:00 PM.

Traffic and Parking

The existing parking lot will be re-configured to maximize landscape areas and provide parking for the proposed use including one accessible space. The proposed ingress to the parking lot is located from the existing curb cut on Normandy Drive and the egress will be on Mai Monides Street.

Based upon the Traffic Statement submitted, the proposed arcade facility is projected to generate 195 daily trips and approximately 20 peak hour trips; therefore, the proposed facility is anticipated to have a de-minimums traffic impact to the surrounding streets. (See Traffic Statement).

Bicycle parking is proposed near the entrance on the north side of the property.

October 24, 2017 update

As requested by the Board, additional Information was submitted by the applicant indicating how similar businesses which they own operate, including services offered, operations and target audience. As indicated by the applicant, this would be a family friendly business for children ranging in age from 2 to 14 years old. The operations in Argentina include vending machines, games and organized birthday parties. Hours of operations are 10:00 a.m. to midnight, including food service. No alcohol is served.

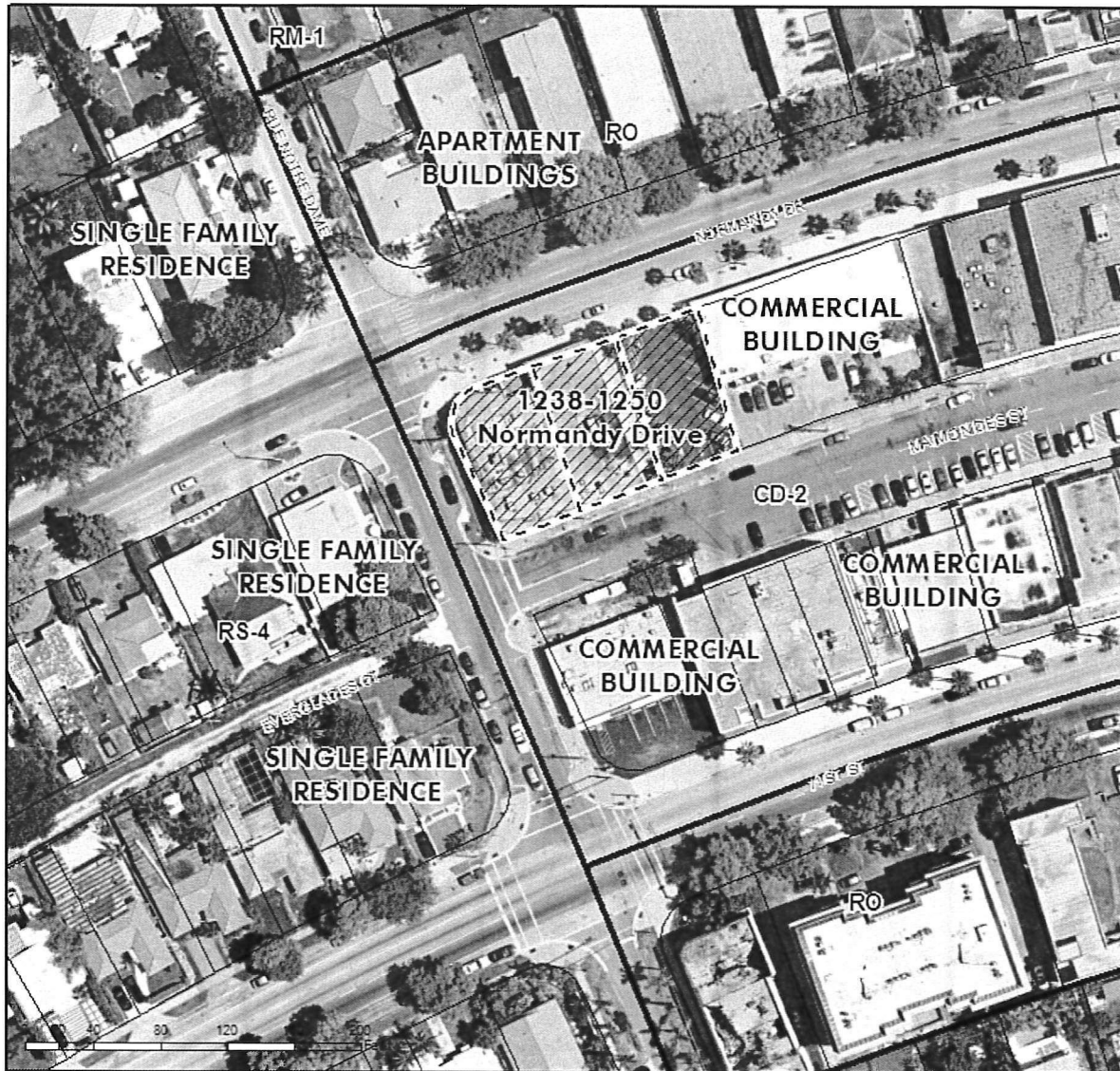
As clarified by the applicant, children less than 12 years old will only be allowed into the establishment with an adult, and children over 12 years old may be admitted and supervised by staff; however parents or an adult must sign-in the child at the door. In addition, as previously agreed to by the applicant, staff has included in the draft CUP conditions prohibiting the sale or service of alcohol, and the prohibition on outdoor speakers.

STAFF RECOMMENDATION


In view of the foregoing analysis, staff recommends that the application for the Conditional Use Permit be approved, subject to the conditions enumerated in the attached draft order.

TRM/MAB/AG

ZONING SITE MAP

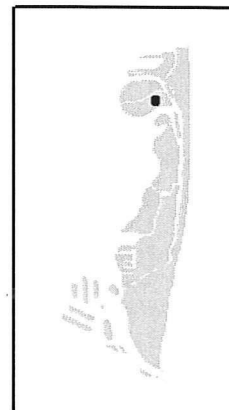


City of Miami Beach Planning Board
PB 16-0065.
1238-1250 Normandy Drive

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MIAMI BEACH
PLANNING DEPARTMENT

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



"Exhibit A"

Legal Description: A portion of Tract 10 NA less the Southerly 25 feet thereof, of Tract 10 NA less the Southerly 25 feet thereof, of the Revised Plat of Portions of Ocean Side Section and Trouville Section of Isle of Normandy, according to the Plat thereof as recorded in Plat Book 34, Page 63, Public Records of Miami-Dade County, Florida. Also described as: Lots 1, 2, 3, 4, 5, and 6, less the Southerly 25 feet of said Lots, of Block 10, Ocean Side Section of The Isle of Normandy, according to the Plat thereof as recorded in Plat Book 25, Page 60, Public Records of Miami-Dade County, Florida.

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

PROPERTY: 1238-1250 Normandy Drive – Video Game Arcade

FILE NO. PB16-0065

IN RE: The applicant, Caruso Group of Companies, Corp, requested a Conditional Use Approval for the operation of a video game arcade in the existing commercial space on the ground floor, pursuant to section 118, Article IV and Chapter 142 Article II of the City Code.

LEGAL DESCRIPTION: A portion of Tract 10 NA less the Southerly 25 feet thereof, of Tract 10 NA less the Southerly 25 feet thereof, of the Revised Plat of Portions of Ocean Side Section and Trouville Section of Isle of Normandy, according to the Plat thereof as recorded in Plat Book 34, Page 63, Public Records of Miami-Dade County, Florida. Also described as: Lots 1, 2, 3, 4, 5, and 6, less the Southerly 25 feet of said Lots, of Block 10, Ocean Side Section of The Isle of Normandy, according to the Plat thereof as recorded in Plat Book 25, Page 60, Public Records of Miami-Dade County, Florida.

MEETING DATE: October 24, 2017

CONDITIONAL USE PERMIT

The applicant, Caruso Group of Companies, Corp, filed an application with the Planning Director for a Conditional Use Permit to operate a video game arcade. 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;

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

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;

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

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

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 recommendation, that the Conditional Use Permit as requested and set forth above be GRANTED, subject to the conditions listed below:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall make application to the Planning Board for a progress report within 90 days from the issuance of the Business Tax Receipt (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 Caruso Group of Companies, Corp, as operator, Any change of operator or fifty percent (50%) or more stock ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit.
3. The patron occupant load shall be determined by the Fire Marshall. The applicant shall obtain a final occupant load from the City before the issuance of a Business Tax Receipt.
4. The conditions of approval of this Conditional Use Permit are binding on the applicant, the property owners and all successors in interest and assigns.
5. Prior to the issuance of a Building Permit for the improvements proposed herein, the applicant shall submit a revised site plan and floor plan. At a minimum, such plans shall include the following:
 - a. The location of deliveries and trash collection shall be indicated on the Building Permit plans, subject to the review and approval of staff.
6. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
 - a. A complete business/operation plan that includes all details of the operation, as well as security and crowd control, shall be submitted to staff for review and approval prior to the CO or issuance of the BTR, whichever occurs first. The applicant shall operate in accordance with the approved business/operation plan.

- b. Alcohol shall not be served or offered, including for consumption on or off the premises.
- c. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
- d. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and the areas of the street adjacent to the property at all times. When sweeping the sidewalk in front of the establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately. In addition, at the end of business each day sidewalks shall be swept.
- e. The applicant shall submit to Planning staff for review and approval a delivery plan and waste removal plan, including the hours of operation, which does not negatively impact the residents across the street, prior to the issuance of a building permit. No trash pick-up shall be permitted before 8:00 AM or after 5:00 PM.
- f. All deliveries and garbage pickup shall be conducted directly on site and not on the street. All trash/garbage containers shall utilize rubber wheels, in a manner to be reviewed and approved by staff.
- g. 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.
- h. Outdoor entertainment and outdoor speakers shall be prohibited.
- i. The hours of operation shall be limited to the following:
 - Arcade Operating Hours:
 - Monday - Friday: 2:00 PM to 10:00 PM
 - Saturday & Sunday: 10:00 AM to 11:00 PM
 - Pass-Thru window and outdoor seating:
 - Monday - Friday: 9:00 AM to 10:00 PM
 - Saturday & Sunday: 9:00 AM to 11:00 PM
- j. Security staff shall monitor patron circulation and occupancy levels during the hours of operation.
- k. Any person or entity operating pursuant to this conditional use permit shall post the operating conditions identified in the permit or the full conditional use permit in a conspicuous place in or about the premises where it may be seen upon inspection by any official of the city. For failure to do so, such person or entity may be issued a

notice of violation and fined as if it were operating without the conditional use permit, as if it were not issued.

7. 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. 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 City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division shall make the determination of the project's fair-share mitigation cost. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.
9. The applicant shall obtain a Certificate of Occupancy prior to the issuance of a Business Tax Receipt.
10. 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 establishment.
11. A landscape plan for the entire site, prepared by a Professional Landscape Architect, inclusive of street trees in accordance with the City of Miami Beach Master Street Tree Plan, shall be submitted to and approved by staff prior to the issuance of a building permit.
12. The applicant shall obtain a full building permit within 18 months from the date of the meeting, 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.
13. The Planning Board shall retain jurisdiction to call the operators back before them without the requirement of a modification hearing as provided for in Section 118-194(c) and impose new conditions, modify the hours of operation, and noise conditions should there be issuance of written warnings and/or notices of violation (as determined by Code Compliance) about loud, excessive, unnecessary noise.
14. 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.
15. 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

Filed with the Clerk of the Board on ()

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