

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: December 19, 2017

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 17-0153. 6881 Indian Creek Drive – Hotel.**

The applicant, 6881 Indian Creek, LLC, is requesting Conditional Use approval for the operation of a new hotel in the TC-3 zoning district, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

#### **RECOMMENDATION**

Approval with conditions

#### **BACKGROUND/HISTORY**

October 03, 2017 The Design Review Board (DRB) reviewed and approved exterior alterations and modifications to an existing two-story building and the construction of a new outdoor bar, storage area and pool, including variances to reduce the minimum required front and side facing a street setbacks, from the maximum projection allowed for a porch and roof overhang, from the minimum hotel unit size required, and to allow encroachments closer to property lines adjacent to streets than permitted (DRB 17-0165).

#### **ZONING/SITE DATA**

##### **Legal Description:**

All of Block K of "Atlantic Heights", according to the plat thereof filed for record and recorded in Plat Book 9 at Page 14 of the Public Records of Miami-Dade County, Florida.

##### **Zoning District:**

TC-3 Town Center Residential Office

##### **Future Land Use Designation:**

TC-3 Town Center Residential Office

##### **Surrounding Uses:**

North:	Residential use
West:	City of Miami Beach Fire Station #4
South:	City of Miami Beach Police North Shore Sub-station
East:	Residential use

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

#### **THE PROJECT**

The applicant has submitted plans entitled "The Devon Hotel", as prepared by DNB Design Group dated, signed and sealed July 18, 2017.

The existing building was operating as a 30 room hotel, which was a non-conforming use in the former RM-1 zoning district for the property. The property was recently re-zoned from RM-1 to TC-3. Hotels are a conditional use in the TC-3 zoning district. Because the existing hotel units are proposed to be reconfigured as part of the building renovation, and due to the expansion of the hotel use to include an accessory outdoor bar, review and approval of the Planning Board is required.

**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 proposed use is not anticipated to degrade the Levels of Service (LOS) for the surrounding area below the thresholds that have been established.

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

**Partially Consistent**–Hotels are permitted as conditional uses in the TC-3 Town Center Residential Office zoning district. Several variances were granted by the DRB for the structure. 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 Business Tax Receipt (BTR).

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

**Partially Consistent**–The proposed establishment may adversely affect the general welfare of nearby residents if noise and other issues are not controlled. Staff is recommending measures so that any resulting adverse impact is mitigated. The facility would have to comply with all applicable laws and regulations prior to the issuance of a Business Tax Receipt.

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

**Partially Consistent**–There is no parking requirement for the existing building, which never contained parking on the site. A fee-in-lieu of providing the parking for the accessory use will be required. This comment shall not be considered final zoning review or approval.

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

**Consistent**–Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighbors.

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 hotels in the immediate neighborhood.

**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 Satisfied**

**A recycling plan will be provided as part of the submittal for a demolition permit to the building department.**

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

**Satisfied**

**All windows will be replaced with hurricane proof impact windows.**

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

**Satisfied**

**Windows are operable**

- (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.

**Satisfied**

**Sea Level Rise projections were taken into account.**

- (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**

**The project does not provide on street parking or driveways.**

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

**Not Satisfied**

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

**Not Satisfied**

- (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.

**Not Satisfied**

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

**Not Satisfied**

### **STAFF ANALYSIS**

The applicant is proposing to renovate and expand the existing relatively small 2-story hotel structure on the site. The proposal also seeks to add an outdoor pool and ancillary structure including an outdoor bar. Occupying an entire, albeit small block, the subject property is a 11,751 SF triangular-shaped lot with three street frontages along the convergence of Indian Creek Drive and Byron Avenue.

The TC-3 district is intended as a transition district between the high-intensity town center core and low-intensity residential multi-family districts. While the main permitted uses in this district are single-family detached dwellings, townhomes, apartments and offices, the district allows for hotels as a conditional use, as per Section 142-736(c) of the City Code:

- (c) Land uses in the TC-3 town center residential office district shall be regulated as follows:

(1) The main permitted uses in the TC-3 district are single-family detached dwelling, townhomes, apartments and offices.

(2) The conditional uses in the TC-3 district are hotel, adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; and commercial or noncommercial parking lots and garages (with accessory commercial uses) in accord with subsection 130-68(9).

(3) The accessory uses in the TC-3 district are those uses customarily associated with the district purpose, as set forth in article IV, division 2 of this chapter, except that hotels may have accessory uses based upon the criteria below:

a. Hotels in the TC-3 district may include a dining room operated solely for registered hotel visitors and their guests, located inside the building and not visible from the street, with no exterior signs, entrances or exits except as required by the Florida Building Code.

b. Hotels in the TC-3(c) district may include accessory restaurants or alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6 when approved as part of the conditional use. Such accessory restaurants or bars that serve alcohol shall be limited to a maximum of 1.25 seats per hotel or apartment unit for the entire site. The patron occupant load, as determined by the planning director or designee, for all accessory restaurants and alcoholic beverage establishments on the entire site shall not exceed 1.5 persons per hotel and/or apartment unit. For a hotel or apartment property of less than 32 units, the

restaurant or bar may have a maximum of 40 seats in the aggregate on the site. The number of units shall be those that result after any renovation. Accessory restaurants and bars shall be permitted to sell alcoholic beverages for consumption only on the premises and shall be limited to closing no later than 12 midnight subject to limitations established in the conditional use process.

Staff is supportive of the renovation and continued use of the existing two-story building with the proposed minor expansion. Built in 1939 by noted architect Russell Pancoast, the Devon Hotel consists of thirty hotel rooms. The main entrance to the hotel is accessed directly from Byron Avenue, but there is also another entrance that is located off of Indian Creek Drive.

Although an accessory outdoor bar counter is allowed, the proposed outdoor bar may have to be re-oriented, eliminated, or screened from view in order to comply with Section 142-1109 the City Code:

Sec. 142-1109. - Accessory outdoor bar counters.

Accessory outdoor bar counters shall be prohibited as a main permitted use and shall only be permitted as an accessory use to an outdoor cafe with a minimum of 30 chairs or as an accessory use to a hotel pool deck. Accessory counters shall not be visible from any point along the property line adjacent to a public right-of-way.

### **Operation**

As proposed by the applicant, the pool deck bar area will serve food and beverages for the Hotel guests and their invitees. Beer and wine will be served, but not liquor. The proposed pool deck bar hours of operation will be from 7:00 a.m. to 8:00 p.m. seven days a week; the pool will be open from 7:00 a.m. to 10:00 p.m. As the orientation and location of the pool deck and bar is on the west side of the property facing Indian Creek, with Miami Beach Fire Station No. 4 across the street, potential impacts on surrounding residential properties should be minimal.

### **Sound**

The applicant has not proposed any entertainment, nor have they provided any plans that indicate outdoor speakers.

### **Sanitation and Deliveries**

As there is no area on the site for loading, subject to the review and approval of the Parking Department, the applicant is proposing to use a designated on-street delivery area located on 69<sup>th</sup> street for servicing of the hotel. The applicant has discussed this option with the Parking Department, and approval of this location should not be an issue.

### **Parking**

As indicated by the applicant, valet parking will not be offered, and guests will be informed that there is no on-site parking. Guests will be informed that parking is available only at the nearby City of Miami Beach parking facilities, and they will be encouraged to use a shared ride method of transportation.

### **Traffic**

Given that there is no parking or valet operation on site, a traffic study was not required.

**STAFF RECOMMENDATION**

In view of the foregoing analysis, staff recommends the Conditional Use Permit be approved, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Conditional Use Review Guidelines.

TRM/MAB/AG

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### ZONING/SITE MAP



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

**PROPERTY:** 6881 Indian Creek Drive

**FILE NO.** PB 17-0153

**IN RE:** The applicant, IC Property Capital Corp, requested Conditional Use approval for the operation of a new hotel in the TC-3 zoning district, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

**LEGAL DESCRIPTION:** All of Block K of "Atlantic Heights", according to the plat thereof filed for record and recorded in Plat Book 9 at Page 14 of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** December 19, 2017

**DRAFT CONDITIONAL USE PERMIT**

The applicant, 6881 Indian Creek, LLC, filed an application with the Planning Director requesting a Conditional Use approval for a hotel in a TC-3 North Beach Town Center Residential Office zoning district 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 TC-3 North Beach Town Center Residential Office 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 recommendations, that the Conditional Use Permit be GRANTED, as provided below:



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 6881 Indian Creek, LLC, as owner of the hotel. Any new operator, change of operator or 50% (fifty percent) or more stock 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.
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. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
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. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of 30 unit hotel project with the criteria listed below:
    - i. Entertainment of any kind shall be prohibited on the entire property, except in conjunction with a Special Event permit (see "L" below.)
    - ii. On the pool deck, only ambient level as background music may be played at a volume that will not interfere with normal conversation. The ambient level music may only be played between 10:00 AM and shall not operate past 8:00 PM, seven days per week.
    - iii. The pool deck shall only operate between 7:00 AM to 8:00 PM, seven days per week
    - iv. Only beer and wine shall be served as alcohol beverages on the pool deck bar.

- B. Delivery trucks shall only be permitted to load on the proposed loading area on 69<sup>th</sup> Street, which is subject to the review and approval from Parking Department.
  - C. Delivery trucks shall not be allowed to idle while loading.
  - D. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
  - E. Deliveries and waste collections may occur Monday thru Saturday between 7:00 AM and 3:00 PM.
  - F. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
  - G. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
  - I. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
  - J. Garbage dumpster covers shall be closed at all times except when in active use.
  - K. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day
  - L. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.
7. 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.
8. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Business Tax Receipt.

9. A Traffic Demand Management (TDM) plan shall be submitted, reviewed and approved by the Transportation Department 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 entertainment establishment.
11. 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.
12. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load 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.
13. 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.
14. 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.
15. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
16. 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.
17. 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.

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# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## TRANSPORTATION DEPARTMENT

## MEMORANDUM

TO: Michael Belush, AICP, Planning and Zoning Manager

FROM: Jose R. Gonzalez, PE, Director

DATE: December 6, 2017

SUBJECT: 6881 Indian Creek Drive – Transportation Demand Management & Circulation Plan

The Transportation Department has reviewed the subject Transportation Demand Management (TDM) plan submitted by the applicant as part of the Planning Board application for the proposed renovation of an existing structure located at 6881 Indian Creek Drive to allow for hotel use (project).

Transportation Department Staff has reviewed the submitted TDM Plan. The applicant will provide a bicycle parking area on the property to serve guests and employees. The applicant will offer employees monthly passes from Miami-Dade County Transit. The applicant will also offer financial assistance of up to \$100 to hotel employees in purchasing a bicycle. The owner will appoint one employee to serve as the TDM Program Administrator, who will work on encouraging and facilitating employees use of mass transit and bicycles to travel to and from the project.

Guests will be informed of the lack of parking on the premises and also informed on bike-sharing and ride-sharing options. Guests will also be provided promotional codes for Citibike. The applicant will work with Citibike in creating future Citibike stations within close proximity to the project.

The Transportation Department has no further comments on this application.

Please feel free to contact me if you have any questions on the above.

cc: Josiel Ferrer-Diaz, E.I., Transportation Manager  
Firat Akcay, Transportation Analyst