

**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;

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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. The applicant shall operate in accordance with the approved business/operation plan specified in the operational plan submitted as well as the addendum to the operational plan dated October 09, 2017, including the requirement that the security guard be licensed and insured.

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- 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 and outdoor seating operating hours:
 - Monday - Friday: 9:00 AM to 10:00 PM
 - Saturday & Sunday: 9:00 AM to 11:00 PM
- j. The outdoor seating shall be utilized only for the arcade.
- k. The pass-thru window shall remain closed at all times.
- l. Security staff shall monitor patron circulation and occupancy levels during the hours of operation.
- m. 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



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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, shall 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

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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.

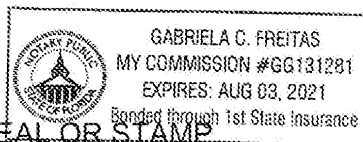
16. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a Building Permit.
17. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance 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.
18. 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 this 5th day of DECEMBER, 2017

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA
BY: Michael Belush
Michael Belush, AICP
Chief of Planning and Zoning
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 5th day of December, 2017, by Michael Belush, Chief of Planning and Zoning for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



[NOTARIAL SEAL OR STAMP]

Notary: Gabriela C. Freitas
Print Name: GABRIELA C. FREITAS
Notary Public, State of Florida
My Commission Expires: 8-3-21
Commission Number: GG131281

Approved As To Form:
Legal Department [Signature] 12/10/17

Filed with the Clerk of the Board on [Signature] (12/20/17)

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