



# VILLAGE OF KEY BISCAYNE

Office of the Village Manager

## MEMORANDUM

*Village Council*  
Franklin H. Caplan, *Mayor*  
Michael W. Davey, *Vice Mayor*  
Theodore J. Holloway  
Michael E. Kelly  
Mayra P. Lindsay  
Ed London  
James S. Tantor

*Village Manager*  
John C. Gilbert

DATE: December 3, 2013

TO: Honorable Mayor and Members of the Village Council

FROM: John C. Gilbert, Village Manager

RE: Conditional Use Application to establish a package (liquor) store at 12-22-24 Crandon Boulevard with access from 51 Harbor Drive

### RECOMMENDATION

It is recommended that the Village Council accept the attached Building, Zoning and Planning (BZP) Director's recommendations for the Conditional Use Application to establish a package store at 12-22-24 Crandon Boulevard with access from 51 Harbor Drive.

### BACKGROUND

The Zoning and Land Development Regulations include criteria to evaluate an application for a Conditional Use relating to package stores. The Building, Zoning, and Planning (BZP) Director has compared the application with the criteria. The Director recommends approval of the Conditional Use Application subject to conditions as set forth in the attached Memorandum.



V I L L A G E   O F   K E Y   B I S C A Y N E

Department of Building, Zoning and Planning

*Village Council*  
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Michael W. Davey, *Vice Mayor*  
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**DT:** December 3, 2013

*Director*  
Jud Kurlancheek, AICP

**TO:** John C. Gilbert, Village Manager

*Chief Building Official*  
Eugenio M. Santiago, P.E., CFM

**FR:** Jud Kurlancheek, AICP, Director  
Building, Zoning, and Planning Department

**RE:** Conditional Use Application to Establish  
a Package (Liquor) Store at 12-22-24 Crandon Boulevard

**APPLICATION SUMMARY**

<b>Request</b>	Conditional Use Application to establish a package (liquor) store
<b>Applicant</b>	The Morgan Property Group
<b>Site Address</b>	12-22-24 Crandon Boulevard
<b>Comprehensive Plan</b>	Commercial
<b>Zoning District</b>	C-1 Light Intensity Commercial
<b>File Number</b>	CU -1 Conditional Use
<b>Recommendation</b>	Approval subject to conditions

**EXPLANATION AND ANALYSIS**

**Conditional Use Review Criteria:** The Village's Zoning Ordinance provides for the granting of Conditional Uses subject to a finding that the petition meets the following criteria:

**Criteria 1** The use is consistent with the Comprehensive Plan.

Analysis: The property will be used for a package store which is a commercial use. The Comprehensive Plan designates the property as "Commercial".

Finding: Consistent.

**Criteria 2** That the configuration and design of the site will facilitate safe movement of vehicular and pedestrian traffic, both internal to the use and upon the adjacent roadways that will serve the use.

Analysis: The configuration and design of the site provides for the safe movement of vehicular and pedestrian traffic both internally and externally to the site. There are four (4) ingress and egress locations to access the property. Two are located on Crandon Boulevard. The first is a one way "in" driveway at the north end of the site. The second one is located in the middle of the property. It will function as the primary access to the property as it leads directly to a parking lot and entrances to the building. A third way to enter the property is from the driveway at 51 Harbor Drive that leads to the property at 12-22-24 Crandon Boulevard. The applicant has filed a cross-access agreement which permits this circulation pattern to occur. The fourth is an alley located on the west side of the 51 Harbor Drive property. This alley provides access for service vehicles and leads to the property at 12-22-24 Crandon Boulevard. There is employee parking at the north edge of the property between the building and Calusa Park.

The circulation system provides for the movement of vehicles to travel around the 12-22-24 Crandon property and through to the 51 Harbor Drive property. Sidewalks are adequately separated from the driveways. Pavement widths are sized to meet the needs of vehicles entering and leaving the property.

Finding: Consistent

**Criteria 3** The proposed use shall be consistent with the existing natural environment and community character of the immediate neighborhood of the proposed use.

Analysis: The property is located at the entrance to the Village along Crandon Boulevard and is composed of commercial uses which are consistent with the immediate neighborhood. Crandon Boulevard separates the commercial uses on the west side from those on the east side. The property currently contains two (2) vacant structures that previously were used for two (2) restaurants, a small office and a parking lot. The present condition of the property is in state of disrepair. The proposed development will substantially improve the appearance of the property. A package store is a commercial use which is consistent with surrounding commercial uses to the west and south. The property to

the north is Calusa Park and immediately adjacent to the site are mangroves.

The project contains an extensive list of plantings which are supportive and consistent with the natural environment.

Finding: Consistent

**Criteria 4** There are adequate setbacks, buffering, and general amenities, and general amenities in order to control any adverse effects of noise, light, dust, or other potential nuisances

Analysis: The package store is located in a shopping center that contains two (2) stores and is located at the entrance to the Village The package store is located towards the center of the property and faces the parking lot. To the north is Calusa Park and to the south and west are commercial uses. Across Crandon Boulevard is the Pankey Institute which is an advance teaching facility. The setbacks and landscaping as shown on the site plan are sufficient to buffer any adverse effects of noise, light, dust, or other potential nuisances to the adjacent properties.

Finding: Consistent

**Criteria 5** That the application of the use at the subject location is consistent with the purpose of the underlying zoning district.

Analysis: The package store is located in a C-1 Light Intensity Commercial District. The package store is a commercial use. As such, it is consistent with the uses permitted in the zoning district.

Finding: Consistent

**Criteria 6** Where the proposed Conditional Use is a package store, the Village Council shall consider the following additional criteria:

- (a) The adverse impacts that the proposed package store will have upon neighboring properties, with particular attention to the effects of noise, traffic patterns, and glare from exterior lighting or headlights on nearby residential properties.

Analysis: The neighboring properties are to the north is Calusa Park and to the south and west are commercial uses. Across Crandon Boulevard is the Pankey Institute which is an advanced teaching facility. Adjacent to the Pankey Building is Ocean Village which is a residential building within the Key Colony development. The traffic pattern on the site does not result in light that affect apartments in Ocean Village. The distance to

these properties, the arrangement of the parking spaces and landscaping is sufficient to mitigate any adverse impacts resulting from noise and glare from exterior lighting or head lights.

Finding: Consistent

- (b) The amount and degree of law enforcement activities which could reasonably be anticipated to be generated by the proposed package store, both inside and outside, with particular emphasis upon noise, vehicular use by patrons, and vandalism.

Analysis: The Key Biscayne Police Department provides for the protection of our residents and businesses. The package store is only 1,930 sq. ft. After discussions with the Police Chief and given the size and location of the package store, the Police Chief advised that there are adequate resources to address the need for law enforcement. Given the size of the liquor store and the adequate setbacks and buffers there are sufficient protection from noise. The lights in the parking lot, large clear windows, and interior lighting discourage vandalism.

Finding: Consistent

- (c) Whether the proposed package store makes adequate provision for the elimination of the potential for adverse impact upon adjacent residential areas from hazardous or illegal overflow parking.

Analysis: The shopping center has adequate parking to accommodate the Package Store. The shopping center has 57 parking spaces which is five (5) more than required.

Finding: Consistent.

- (d) The proximity of the proposed Package Store to schools, parks, and places of worship.

Analysis: The proposed package store is immediately adjacent to Calusa Park. The walking distance from the package store to the gazebo in Calusa Park is approximately 982 linear feet. Also, the entrance to the Package Store is in the center of the site and faces the parking lot. As such, park users are not in physical or visual proximity of the package store.

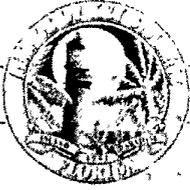
The walking distance from the package store to St. Agnes Catholic Church and the Chabad is approximately 920 linear ft. Also, the entrance to the package store is in the center of site and faces the

parking lot. As such, worshippers at both locations are not in physical or visual proximity of the package store.

Finding: Consistent

### **RECOMMENDATION**

It is recommended that the Conditional Use Application be approved.



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning
88 West McIntyre Street, Suite 250 Key Biscayne, FL 33149
Phone (305) 365-5512 Fax (305) 365-5556
www.keybiscayne.fl.gov

PLANNING AND ZONING APPLICATION

Date Filed: 3-6-13

File #: CU-04
(to be completed by Staff)

1. REQUEST FOR:

- ( ) SUPERVISORY VARIANCE
( ) ADMINISTRATIVE VARIANCE
( ) REGULATORY VARIANCE
( ) APPEAL OF AN ADMINISTRATIVE DECISION
( ) SITE PLAN APPROVAL
( ) UNUSUAL USE
(x) OTHER Conditional Use
( ) AMENDMENT TO ZONING ORDINANCE
( ) SPECIAL EXCEPTION
( ) AMENDMENT TO THE COMPREHENSIVE PLAN
( ) ZONING DISTRICT CHANGE

Explain your request:

Conditional use approval for a 1,930 sf liquor store.

2. Street Address of Property: 12, 22, & 24 Crandon Boulevard

Legal Description: Lot(s) Block

Subdivision: Matheson Estates

3. Name of Applicant: Morgan Property Group

Mailing Address of Applicant: c/o Neisen O. Kasdin, Esq.

1 SE 3rd Avenue, Suite 2500, Miami, Florida 33131

Business Telephone: (305) 982.5629 Home Telephone:

Fax: (305) 374.5095 Email: neisen.kasdin@akerman.com

4. Name of Property Owner if Different from Applicant: Key Biscayne Gateway Partners, LTD  
Address of Property Owner if Different from Applicant: 30 West Mashta Drive, Suite 400  
Key Biscayne, FL 33149

Business Telephone: (305)365.2600 Home Telephone: (305)710.9289

Fax: (305)365.0800 Email: maxp@commodorealty.com

5. Contact Person: Name Neisen O. Kasdin, Esq.

Address 1 SE 3rd Avenue, Suite 2500, Miami, Florida 33131

Telephone: (305)982.5629 Fax: (305)374.5095

6. Name/address of anyone else who should receive notice of the hearing?

Max D. Puyanic, Key Biscayne Gateway Partners, LTD, 30 W. Mashta Dr., Suite 400, Key Biscayne, FL 33149  
Mario Garcia-Serra, Esq., Greenberg Traurig, PA, 333 S.E. 2nd Avenue, Miami, FL 33131

7. If applicant is owner, indicate date purchased: \_\_\_\_\_

8. If applicant is lessee, indicate date leased \_\_\_\_\_ Years \_\_\_\_\_

9. Is there an option to purchase the property? Yes ( ) No (x)

10. Is the request the result of a violation notice? NO If yes, attach a copy of the violation.

11. Existing use of property Restaurant. If residential, how many apartments \_\_\_\_\_?

hotel units \_\_\_\_\_? If commercial, how many sq. ft. in your space 15,551?

Single family home? Yes ( ) No (x)

12. If this application pertains to an Appeal of an Administrative Decision, indicate the basis of the appeal. (If necessary attach additional explanation)

N/A

13. If this is a request for a variance, the Code requires that you substantiate why this request should be granted. In order to do this properly, please indicate how your request complies with the following standards:

- a. Maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.

N/A

- 
- b. Is compatible with the surrounding land uses and would not be detrimental to the community.

N/A

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14. If this is a request for any other type of application, please see staff for a listing of the evaluation criteria.
15. All supporting data and exhibits submitted with this application become a permanent part of the public records.
16. If you are a lobbyist as described in the Village Code, please contact the Village Clerk at (305) 365-5506.

**SUPERVISORY VARIANCES ONLY**

The Supervisory procedure requires the nearest abutting property owner to approve your request and your certification that the work was not performed by you. Your signature on this application constitutes your certification that you did not perform the work. The next step is to request the nearest property owner to sign below or provide a letter approving your request. Their signature certifies that they have read this application and approves of the request.

**ABUTTING PROPERTY OWNER AFFIDAVIT**

I, the undersigned, have read or have had read to me the information applicable for a request for a Supervisory Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant.

Date	Name (Type or Print)	Address	Signature

**ADMINISTRATIVE VARIANCES ONLY**

The Administrative Variance procedures require all abutting property owners to approve your request. The attached map will assist you in identifying who must sign the below petition. It is suggested you meet with staff prior to circulating your petition.

**ABUTTING PROPERTY OWNER AFFIDAVIT**

I, the undersigned, have read or have had read to me the information applicable for a request for and Administrative Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant.

Date	Name (Type or Print)	Address	Signature

Date	Name (Type or Print)	Address	Signature

Date	Name (Type or Print)	Address	Signature

\_\_\_\_\_  
Date            Name (Type or Print)            Address            Signature

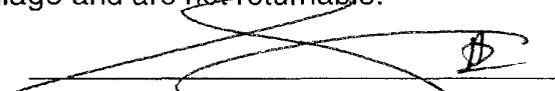
\_\_\_\_\_  
Date            Name (Type or Print)            Address            Signature

\_\_\_\_\_  
Date            Name (Type or Print)            Address            Signature

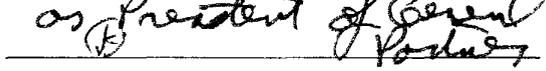
If you need additional signatures please use the above format.

**CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS**

(I) (We) certify that (I) (we) understand and will comply with the provisions and regulations of the Zoning Regulations. (I) (we) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of (my) (our) knowledge. (I) (we) understand that the application and attachments become part of the official records of the Village and are not returnable.

Signature of Applicant:             Date 3/6/13

Signature of Owner:             Date \_\_\_\_\_

Application Received by:  as President of Berend Property            Date 3-6-13

Approved by: \_\_\_\_\_            Date \_\_\_\_\_

**AFFIDAVITS**

Complete one or more of the following that relates to your request.

Developer for Tenant

~~MIAMI-DADE~~ Affidavit (if tenant is applicant then owner must sign owner/power of attorney affidavit)

I, Morgan Property Group, being first duly sworn, depose and say that I am the Developer for Tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

I, Morgan Property Group, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF ~~FLORIDA~~ North Carolina  
COUNTY OF ~~MIAMI-DADE~~ Mecklenburg

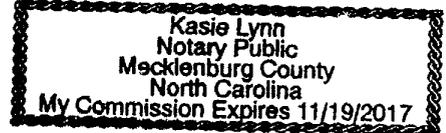
[Signature]  
Signature of Applicant

Sworn to (or affirmed) and subscribed before me this 5 day of April, by George A. Morgan III.  
Name of person making statement

[Signature]  
Signature of Notary Public - State of Florida NC

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



\*\*\*\*\*  
**Corporation Affidavit**

I, George A. Morgan III., being first duly sworn, depose and say that we are the President/Vice President, and Secretary/Ass't. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing.

I, George A. Morgan III., hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF ~~FLORIDA~~ North Carolina  
COUNTY OF ~~MIAMI-DADE~~ mecklenburg

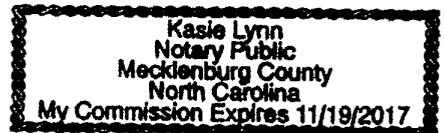
[Signature]  
Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this 5 day of April, by George A. Morgan III.  
Name of person making statement

[Signature]  
Signature of Notary Public - State of Florida NC

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



**AFFIDAVITS**

Complete one or more of the following that relates to your request.

**Tenant or Owner Affidavit** (if tenant is applicant then owner must sign owner/power of attorney affidavit)

I, \_\_\_\_\_, being first duly sworn, depose and say that I am the owner/tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

I, \_\_\_\_\_, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

\_\_\_\_\_  
Signature of Applicant

Sworn to (or affirmed) and subscribed before me this  
\_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_  
Name of person making statement

\_\_\_\_\_  
Signature of Notary Public - State of Florida

\_\_\_\_\_  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

\*\*\*\*\*

**Corporation Affidavit**

General Partner of the aforesaid limited partnership  
I, Max D. Puyanik, being first duly sworn, depose and say that ~~we are~~ <sup>I am</sup> the President/Vice President, and Secretary/Ass't. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing. ~~limited partnership~~

~~limited partnership~~  
I, Max D. Puyanik, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

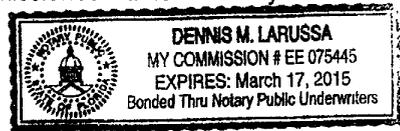
M/GP  
Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this  
6th day of March 2013, by MAX D. PUYANIK  
Name of person making statement

[Signature]  
Signature of Notary Public - State of Florida

Dennis M. Larussa  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification N/A  
Type of Identification Produced N/A - KNOWN



President of the General Partner of  
the Limited Partnership which owns

**Owner/Power of Attorney Affidavit**

I, Max D. Puyanik, being duly sworn, depose and say that I am the ~~owner~~ of the described real property and that I am aware of the nature and effect the request for: Site plan approval

relative to my property, which is hereby made by me OR I am here by authorizing Neisen Kasdin to be my legal representative before the Village Council.

I, Max D. Puyanik, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

[Signature]  
Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this  
6th day of March 2013, by MAX D. PUYANIK  
Name of person making statement

[Signature]  
Signature of Notary Public - State of Florida

Dennis M. Larussa  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ✓ OR Produced Identification N/A  
Type of Identification Produced N/A - known

