



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

Office of the Village Manager MEMORANDUM

Village Council
Mayra P Lindsay, *Mayor*
Franklin H. Caplan, *Vice Mayor*
Luis F de La Cruz
Theodore Holloway
Michael E. Kelly
Edward London
James Taintor

Village Manager
John C. Gilbert

DATE: January 27, 2015

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 624 Crandon Boulevard, Unit 8

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 (Liquor) Store at 624 Crandon Boulevard, Unit 8.

BACKGROUND

Winn-Dixie Inc. has filed a Conditional Use application for a Package (Liquor) Store. The Zoning and Land Development Regulations include criteria to evaluate an application for a Conditional Use relating to Package (Liquor) Stores. The Building, Zoning, and Planning (BZP) Director has compared the application with the criteria. The Director recommends approval of the Conditional Use application.

Reviewed by Mr. Chad Friedman from Weiss Serota Helfman Pastoriza Cole & Boniske as to form and legal sufficiency.



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

DT: January 27, 2015

TO: John C. Gilbert, Village Manager

Director
Jud Kurlancheek, AICP

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

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

RE: Conditional Use Application to Establish a Package (Liquor)
Store at 624 Crandon Boulevard, Unit 8

Village Council
Mayra P. Lindsay, *Mayor*
Franklin H. Caplan, *Vice Mayor*
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APPLICATION SUMMARY

| | |
|---------------------------|---|
| Request | Conditional Use Application to establish a Package (Liquor) Store |
| Applicant | Winn Dixie Supermarket, Inc. |
| Site Address | 624 Crandon Boulevard, Unit 8 |
| Comprehensive Plan | Commercial |
| Zoning District | C-1 Light Intensity Commercial |
| File Number | CU -1 Conditional Use |
| Recommendation | Approval |

Winn-Dixie Inc. has filed a Conditional Use application for a Package (Liquor) Store. Section 30-72 of the Zoning and Land Development Regulations provide criteria to evaluate Conditional Use applications. Should the Council find that the application is consistent with the review criteria, then it should be approved.

Criteria 1 The use is consistent with the Comprehensive Plan.

Analysis: The sale alcoholic products is a retail use which is permitted for properties which have been designated "commercial in Comprehensive Plan, Land Use Map.

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 Package (Liquor) Store will be located in an existing space in the shopping center. The internal movement of pedestrians and vehicles as well as those entering and leaving the shopping will not be changed. The vehicular and pedestrian traffic patterns entering and leaving the shopping center are not being altered. The existing patterns represent the safe movement of pedestrians and vehicles.

Finding: Consistent

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

Analysis: The proposed use occupies an existing commercial space in the Winn Dixie Shopping Center. A Package (Liquor) Store is a commercial use which is consistent with surrounding commercial uses. Crandon Boulevard is a 115 ft. right of way with 4 traffic lanes and a landscaped median. Uses on the east side of Crandon Boulevard are multifamily buildings and Lake Park.

Crandon Boulevard provides a sufficient buffer from the Package (Liquor) Store to the multiple family uses on the east side of the street. Uses to the west side are single family and duplexes. They are separated from the Package (Liquor) Store by a large garage and surface parking lot. This separation provides an adequate buffer.

Finding: Consistent

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

Analysis: The proposed Package (Liquor) Store is located in the shopping center on the ground floor. The Package (Liquor) Store is adjacent to the parking lot, a 115 ft. wide Crandon Boulevard with four (4) traffic lanes and a landscaped median. This distance is sufficient to adequately buffer any noise, light, dust, or other potential nuisances from the Package (Liquor) Store to multiple family buildings on the east side of Crandon Boulevard. The Package (Liquor) Store is separated from single family and duplexes to the west by a parking garage and parking lot. This separation provides an adequate buffer.

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 (Liquor) Store is located in a C-1 Light Intensity Commercial District. The Package (Liquor) 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 (Liquor) Store, the Village Council shall consider the following additional criteria:

- (a) The adverse impacts that the proposed Package (Liquor) 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 to the north and south are commercial uses. Crandon Boulevard is a 115 ft. right of way with four (4) traffic lanes and a landscaped median. Uses on the east side of Crandon Boulevard are multifamily buildings and Lake Park. Crandon Boulevard provides a sufficient buffer from the Package (Liquor) Store to the multiple family uses on the east side of the street. Uses to the west side are single family and duplexes. They are separated from the Package (Liquor) Store by a large garage and surface parking lot.

The traffic pattern on the site does not result in light that affects residential properties on the east side of Crandon Boulevard. The parking garage and surface parking lot to the west prevent light from the Package (Liquor) Store from being seen from the properties to the adjacent properties. Patrons are not permitted to consume alcoholic beverages on the premises. As such, there will not be any increase in noise. The Package (Liquor) Store has the same lighting as all of the other stores in the shopping center. As such, there will be no increased lighting that could affect properties on the east side of Crandon Boulevard.

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

(Liquor) 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. Given the location of the Package (Liquor) Store and the adequate setbacks and buffers there is sufficient protection from noise. The lights in the parking lot, large clear windows, and interior lighting discourage vandalism.

The traffic patterns in the shopping center are not changing either ingress and egress points. As such, there is no impact on them.

Finding: Consistent

(c) Whether the proposed Package (Liquor) 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 (Liquor) Store. Since the Package (Liquor) Store occupies an existing commercial store, there is no additional impact on parking. The parking needs of the Package (Liquor) Store will have no adverse impact on adjacent residential properties nor will it result in any illegal overflow parking.

Finding: Consistent.

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

Analysis: The Key Biscayne Community School is located in excess of 400 ft. from the Package (Liquor) Store and is separated by two rows of residential buildings and two streets. The nearest place of worship is over 1100 ft. from the Package (Liquor) Store. Lake Park is located across the 115 ft. wide Crandon Boulevard. These distances provide a sufficient distance buffer any adverse impacts from the Package (Liquor) Store on those uses.

Finding: Consistent

RECOMMENDATION

It is recommended that the Conditional Use Application be approved.



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning, Planning and Public Works
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

(Application is nine pages. Please fill out completely.)

Date Filed: 11-12-14

File #: CV-05 (to be completed by Staff)

1. REQUEST FOR:

- () SUPERVISORY VARIANCE () AMENDMENT TO ZONING ORDINANCE
() ADMINISTRATIVE VARIANCE () CONDITIONAL USE
() REGULATORY VARIANCE () AMENDMENT TO THE MASTER PLAN
() APPEAL OF AN ADMINISTRATIVE DECISION () ZONING DISTRICT CHANGE
() SITE PLAN APPROVAL
(x) OTHER

Conditional Use Package Store

Explain your request:

see attached Justification Statement

2. Street Address of Property: 624 Crandon Boulevard

Legal Description: Lot(s) N/A Block N/A

Subdivision: Key Biscayne Retail Condo, Unit 8 (portion thereof)

3. Name of Applicant: Winn Dixie Supermarket, Inc.

Carlton Fields Jordan Burt, P.A.

Mailing Address of Applicant: c/o Joseph Verdone, 525 Okeechobee Blvd., Ste 1200

West Palm Beach, FL 33401

Business Telephone: (561)650-8048 Home: Fax: (561)659-7368

Email: jverdone@cfjblaw.com

4. Name of Property Owner if Different from Applicant: M&R Ventures, LLC

Address of Property Owner if Different from Applicant: 13633 Deering Bay, DL #246

Coral Gables, FL 33158

Business Telephone: 305.793.2004 Home: Fax:

Email: rrubin2424@yahoo.com

5. Contact Person: Name Joseph Verdone Address:

Telephone: 561-650-8048 Fax: 561-659-7368

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

7. If applicant is owner, indicate date purchased: M&R Ventures, LLC

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 Retail. If residential, how many apartments _____?

Hotel units _____? If commercial, how many sq. ft. in your space 1745sf?

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.

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

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.

Owner/Power of Attorney Affidavit

I, Ronald Rubin, 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: _____

conditional use for package liquor store

relative to my property, which is hereby made by me OR I am here by authorizing Joseph Verdone to be my legal representative before the Village Council. Carlton Fields Jordan Burt, P.A.

I, Ronald Rubin, 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

Ronald Rubin
Signature of President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this
22 day of October, by Ronald Rubin
2014 Name of person making statement

Victoria Corte
Signature of Notary Public - State of Florida

Victoria Corte
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ✓ OR Produced Identification NA
Type of Identification Produced NA



CARLTON FIELDS JORDEN BURT

ATTORNEYS AT LAW

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Jud Kurlancheck, AICP Director
Department of Planning Zoning And Building
Village of Key Biscayne
88 West McIntyre Street, Suite 250
Key Biscayne, FL 33149

October 27, 2014

*Re: Request For Conditional Use Approval For A Package Liquor Store Located At 624
Crandon Boulevard*

Applicant:

Joseph Verdone, AICP Carlton Field Jordan Burt in/co Winn Dixie Supermarket Inc.

Request:

*A conditional use approval to allow a package store (retail liquor sales) at 624
Crandon Boulevard within the Key Biscayne Shopping Center. This package store will be
operated within the same shopping center as their existing Winn Dixie Supermarket and
will complement the products sold within the food stores.*

Location:

*The proposed package store is located within The Existing Key Biscayne Shopping Center
located on the west side of Crandon Boulevard between West Enid Drive and Westward
Drive.*

Conditional Use Criteria:

In order to approve a petition for a Conditional Use, the Village Council must find that the application is consistent with all of the below review criteria:

(1) *The Use is consistent with the Comprehensive Plan.*

Applicant response:

A package liquor store use is consistent with Village of Key Biscayne's Comprehensive Plan Commercial land use category. This category of land use is intended to allow for general commercial business uses and activities serving the daily retailing and service needs of the community. Other uses permitted on land within this category include business and professional office uses, public parks, municipal buildings and facilities, and public utilities necessary to serve the uses within this category. This land use category corresponds to the villages' C-1 Low Intensity Commercial District which permits the development of land in a low intensity manner and uses that provide for the sale of goods and products that are needed throughout the entire Village. The permitted uses provide goods and services that primarily serve the residents of the Village. The proposed Package Stores is an allowable Conditional Use that requires additional standards to be met.

(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.*

Applicant response:

No exterior modifications are proposed. The addition of a package store within an existing bay of the existing full service Key Biscayne Shopping Center will not impact the existing configuration or design of the existing center. There will be no additional impacts anticipated, expected, or created with vehicular or pedestrian traffic patterns within the center or on adjacent roadways. The traffic generation and parking demands will not increase and will remain consistent with the existing retail nature of the existing approved shopping center. No additional impacts are anticipated on or off site.

(3) The proposed use shall be consistent with the existing natural environment and community character of the immediate neighborhood of the proposed use;

Applicant response:

The proposed conditional use is located within an approved fully developed retail shopping center and its' approval will not impact the existing natural environment or community character of the immediate neighborhood in anyway.

(4) That there are adequate Setbacks, buffering, and general amenities in order to control any adverse effects of noise, light, dust or other potential nuisances.

Applicant response:

The proposed conditional use will be located internally within an existing retail bay of the existing shopping center. The approved shopping center currently provides spatial separations, setbacks, buffering, landscaping to mitigate and control adverse effects of noise, light, dust or other potential nuisances to the surrounding neighborhoods from all of the uses contained within the existing approved shopping center. No new or additional impacts will be created. In addition the central location of the proposed conditional use within the shopping center provides the maximum spatial separation from all surrounding uses to further minimize any offsite adverse effects. The new conditional use is also consistent with the existing retail nature of the existing approved shopping center and the C-1 Zoning District.

(5) That the application of the Use at the subject location is consistent with the purpose of the underlying zoning district.

Applicant response:

The proposed conditional use "package store" is consistent with the underlying Low Intensity Commercial District (C-1) purpose and intent of providing a location for retail commerce activity. The C-1 Low Intensity Commercial District permits low intensity uses that provide for the sale of goods and products that are needed throughout the entire Village. The proposed use provide goods and services that primarily serve the residents of the Village. The proposed package store is intended to allow Winn Dixie to provide

competitively priced beer, wine, and sprits for village residents in a convenient location within the same shopping center as their existing Winn Dixie Supermarket food store.

(6) Where the proposed conditional use is a package store, the Village Council shall consider the following additional criteria:

a. The adverse effects 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.

Applicant response:

The proposed package store will be located centrally and internally within the existing Key Biscayne Shopping Center with no exterior site or lighting changes proposed. All new store signage will be consistent with existing center signage within the retail shopping center. All existing landscape and buffers will remain. Traffic patterns for both pedestrian and vehicles will also remain unchanged.

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

Applicant response:

Police records of the other package stores located on Key Biscayne were obtained and analyzed to determine what type of police activity have been reported at other package store locations of the past 3 years. These police reports are attached as (Exhibit A). The reported police incidents are as follows:

1. One case of found wallet returned with \$730.00
2. One complaint of suspicious persons reported (unobserved by police)
3. One abandoned bicycle reported
4. One complaint of theft of garment bag from a vehicle

Based on these findings it is reasonable to assume that the proposed Conditional Use for a package store will not negatively impact the amount or degree of law enforcement activities within the village.

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.

Applicant response:

No adverse impacts from hazardous or illegal overflow parking are expected. The proposed package store is centrally located within the existing Key Biscayne Shopping Center directly adjacent to the publically accessible common parking area. This same parking area is also shielded from adjacent residential uses by Crandon Boulevards on the east side and by other buildings and uses within the same shopping center on the north, west, and south. The proposed parking demand of the package store space will not change and it will remain compatible to other permitted uses within the center. Collating the proposed conditional use within the shopping center will help reduce parking impacts by providing opportunity for shared use and internal trip capture. No new impacts are anticipated

d. The proximity of the proposed package store to schools, parks and places of worship.

Applicant response:

The proposed package store will be located centrally and internally within the existing Key Biscayne Shopping Center to provide maximum separation from surrounding uses. The proposed package store will only be accessible from the east side of the shopping center, which will help shield the proposed package store use from direct line of sight to any schools, parks, and places of worship in proximity of the existing shopping center.