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July 28, 2024

VIA CSS

Thomas Mooney
Planning Director
City of Miami Beach Planning Department
1700 Convention Center Drive, 2nd Floor
Miami Beach, FL 33139

Re: PB24-0662: Resiliency Code Amendment to Permit Grocery and Convenience Store as a Conditional Use in Limited CD-3 Zoned Properties

Dear Tom:

Akerman LLP represents 420 Lincoln Rd. Associates LTD, Inc., (the "Applicant"), Ambassador Paul Cejas' company which owns the property at 420 Lincoln Road, Miami Beach, Florida. Ambassador Cejas also owns 1601 Drexel Avenue and 1600 Washington Avenue—together the full City block bounded by Lincoln Road to the north, 16th Street to the south, Washington Avenue to the east and Drexel Avenue to the west (collectively, the "Property").¹ Originally built in the 1940s, 420 Lincoln is a contributing historic building takes up the entire south blockface of Lincoln Road between Drexel Avenue and Washington Avenue, and on the Washington Avenue frontage extends almost the entire depth of the block. See, Figure 1 below. The unique configuration of this historic building, specifically its depth, best accommodates uses which require large footprints but little street frontage such as grocery and convenience stores. Currently, grocery and convenience stores are not a permitted uses at the Property. This application respectfully requests a limited amendment to the City of Miami Beach (the "City")

¹ The Miami-Dade County Property Appraiser further identifies the Property with Folio Numbers 02-3234-006-0020, 02-3234-006-0010 and 02-3234-006-0040.

Note, although the main purpose of this request is to allow these additional conditional uses at Property, the full City block owned by Mr. Cejas is included in this legislation so as to not create use nonconformities should the Property become a unified development site in the future.

Resiliency Code (the "Code") to permit grocery and convenience stores as a conditional use at the Property.



Figure 1. Property (420 Lincoln in yellow)

Request and Reasoning. The Applicant proposes adding the following section to the Code:

""7.2.12.2.b.7. 7. Grocery stores and convenience stores, notwithstanding the prohibited uses listed under Section 7.2.12.2.d and additional limitations in Section 7.3.7.2.a., may be permitted as a conditional use of properties with a lot line on Lincoln Road or 16th Street, east of Drexel Avenue, west of Washington Avenue. Entrance and retail frontage of such use shall be permitted on Washington or Drexel Avenue only."

As mentioned above, 420 Lincoln, a contributing historic building, is sizable—it covers the full length of the City block on the Lincoln frontage and more than three quarters of the full block depth on the Washington frontage. Its ground floor was designed for larger floor plate retail with greater depth and entrances off Lincoln Road and Washington Avenue. Typical uses on in this area, namely restaurants and retail stores, utilize small to modestly sized spaces with substantial street frontage to attract customers in. These kinds of tenants have little interest for the leasable space at the depth of the building and securing tenants for these spaces has been a challenge.

Of course, because of the 420 Lincoln's historic designation, the Applicant cannot make design changes to utilize street frontage to give access the large interior spaces to pedestrians. The leasable areas at the depth of the building will be most attractive for

tenants, such as grocery and convenience stores, that don't depend on substantial street frontages to lure customers in.

The proposed legislation, as drafted, is appropriate for the following reasons:

- Consistent with the Historic Use. Because of its large floorplates and layout, the 420 Lincoln has historically housed uses that require substantial footprints. Namely, pharmacy uses and convenience store uses such as F.W. Woolworth Co. and Liggett's. See Figure 2, below. Although 420 Lincoln has historically housed pharmacy uses, at this time, this application does not seek to permit pharmacy use at the Property so as to not implicate the medical marijuana ordinance. The proposed amendment only request the addition of grocery and convenience stores as a conditional uses.



Figure 2. Historic Photographs

- Conditional Use Process as a Check. The proposed amendment allows grocery and convenience store uses at the Property as a conditional use. Any potential future tenant must still apply to the City's Planning Board for a Conditional Use Permit ("CUP"). CUP review will evaluate transit, loading, parking, trash collection, hours of operations, among other operational standards to ensure the use and operations are compatible with the neighborhood context and will not negatively impact same. All this proposal permits is the *ability to request* a CUP.
- Similar Legislation Recently Enacted. On October 18, 2023, the City enacted Ordinance 2023-4576, which added new Sec. 7.2.12.2.b.6. to the Code to, similarly, provide for convenience stores as a conditional use for the property at 230 Lincoln Road. Like the 420 Lincoln building, 230 Lincoln Road had vacant leasable space at its depth which was best suited for a convenience store use. The need to permit these uses as conditional uses is even greater at the Property which is longer, deeper, and larger than 230 Lincoln Road.

Consistency with Relevant Code Criteria. This Application is consistent with review criteria for LDR amendments as outlined in Sec. 2.4.2.(c) of the Code and with the City's Sea Level Rise and Resiliency Review criteria outlined in Section 7.1.2.4.a.2. of the Code.

Review Standards for LDR Amendments. The Application is consistent with the criteria in Sec. 2.4.2.(c) as follows:

1. Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.

The Property has a land use designation of CD-3. The CD-3 district is the most intense of the commercial district in the City. The proposed amendment would allow for two additional commercial uses, grocery and convenience stores, to be permitted via CUP at the Property. These commercial uses will serve the surrounding community and complement the already permitted commercial uses. As such, the proposed change consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans

2. Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.

The proposed amendment adds two additional commercial uses, grocery and convenience store, as conditional uses to complement the already permitted commercial uses in the CD-3 district. Further, just a few months ago the City passed an ordinance permitting convenience store use via CUP at 230 Lincoln Road, another CD-3 zoned property in close proximity to the Property. Therefore, the proposed change does not create an isolated district unrelated to adjacent or nearby districts. There are also a number of smaller food stores on Washington Avenue.

3. Whether the change suggested is out of scale with the needs of the neighborhood or the city.

The proposed change is limited to allow for the uses to be permitted via CUP only at the Property and does not extend to other properties. Should future tenants obtain CUP approval for the use, their venues will directly serve the neighborhood.

4. Whether the proposed change would tax the existing load on public facilities and infrastructure.

The proposed amendment only allows for the ability to apply for a CUP to permit the uses. We do not anticipate an increase to the load on public facilities and infrastructure as future tenants will operate within the existing building footprint. Further, any potential concerns will flagged and closely examined during review of a future CUP application.

5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

The proposed amendment does not modify district boundaries.

6. Whether changed or changing conditions make the passage of the proposed change necessary.

As previously stated, because of the 420 Lincoln's historic designation, no design changes can be made to the building to maximize street frontage and enhance interactions with pedestrians. The proposed amendments are necessary in order to attract viable tenants to the vacant leasable space at the depth of the building. Actually, by prohibiting these uses, the City has prevented the operation of the uses for which this historic building's ground floor was specifically designed for.

7. Whether the proposed change will adversely influence living conditions in the neighborhood.

The proposed amendment will not adversely affect living conditions in the neighborhood. In fact, should a future tenant secure a CUP the neighborhood would benefit by having, for example, a grocery store within walking when currently (according to Google Maps) the closest major grocery store is Trader Joe's at 1683 West Avenue over half a mile away from the Property.

8. Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.

The proposed change only allows future tenants to apply for a CUP for the use. During CUP application process, traffic will be closely reviewed. The Planning Board will not approve a CUP application that excessively increases traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety

9. Whether the proposed change will seriously reduce light and air to adjacent areas.

The proposed change only will not affect light and air to adjacent areas.

10. Whether the proposed change will adversely affect property values in the adjacent area.

The proposed change will not adversely affect property values in the adjacent areas.

11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

The proposed change will not be a deterrent to the improvement or development of adjacent property. Again, the proposal would only allow future tenants to request a CUP.

12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

As discussed in detail above, typical uses in the area such as restaurants and retail stores utilize small to modestly sized spaces with substantial street frontage to attract customers in. These kinds of tenants have little use or interest for the leasable space at the depth of the 420 Lincoln. The leasable areas at the depth of the 420 Lincoln will be most attractive to tenants, such as grocery and convenience stores, which have large interior spaces and don't depend on substantial street frontages to lure customers in. The proposed change will allow potential tenants to seek a CUP and use the depth of the Property according to the most historically practical use. Revenues from these new tenants will also help with the costs of preserving and maintaining this contributing historic building.

13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.

The proposed change is tailored to address the practical needs of this Property.

Sea Level Rise and Resiliency Criteria. The proposed amendment is consistent with the criteria in Section 7.1.2.4.a.2. of the Code, to the extent applicable, as follows:

1. Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.

The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

2. Whether the proposal will increase the resiliency of the city with respect to sea level rise.

The proposal is a limited amendment to the list of conditional uses in the CD-3 zoning district to allow for grocery and convenience stores at the Property via CUP. It does not affect the City's resiliency efforts.

3. Whether the proposal is compatible with the city's sea level rise mitigation and resiliency efforts

Again, the proposal is a limited amendment to the list of conditional uses in the CD-3 zoning district to allow for the possibility of grocery and convenience stores at the Property. It does not affect the City's resiliency efforts.

Conclusion. The proposed amendment will reinstate ability to operate the uses similar to the historic uses of this building which are the most practical and viable uses for a building of great depth and width. The amendment is narrowly tailored so as to address the practical needs of this Property, is consistent with the historic use of the 420 Lincoln and is similar to legislation adopted by the City in the last couple of months to address the similar practical needs of the nearby property at 230 Lincoln Road. For these reasons, we respectfully request approval of the amendment. Should you have any questions or concerns, feel free to contact us. Thank you for your consideration.

Sincerely,

AKERMAN, LLP

Neisen O. Kasdin

Enclosures

cc: Cecilia Torres-Toledo, Akerman LLP (cecilia.torres-toledo@akerman.com)
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