



Neisen Kasdin

Akerman LLP
Three Brickell City Centre
98 Southeast Seventh Street
Suite 1100
Miami, FL 33131

D: 305 982 5629
neisen.kasdin@akerman.com

Updated: December 12, 2024

VIA Email

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 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 ("420 Lincoln"). Originally built in the 1940s, 420 Lincoln is a contributing historic building that takes up the entire south block face 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 stores. The Applicant wishes to place a high-end grocer tenant at 420 Lincoln akin to brands such as Fresh Market, Sprouts, Whole Foods, Narbone, Joseph's Classic Market, Milam's, Epicure, Lyons Freres, Dean & DeLuca, Erewhon, Golden Hog, Aroma, Citerella, Graziela's, and Plum Market among others.

Currently, grocery store use is not permitted use at 420 Lincoln. This application respectfully requests a limited amendment to the City of Miami Beach (the "City") Resiliency Code (the "Code") to permit grocery stores as a conditional use at 420 Lincoln.



Figure 1. 420 Lincoln

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

"Grocery 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 for properties with a lot line on Lincoln Road, east of Drexel Avenue, and west of Washington Avenue. Entrance and retail frontage of such use shall be not be permitted on Lincoln Road. Such grocery stores shall have a minimum square footage of 5,000 square feet and a minimum 70% food and beverage inventory."

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. 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 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 grocers, which don't depend on substantial street frontages to lure customers in.

Note, in direct response to comments made by the public, the Applicant has revised the legislation to include additional safeguards to ensure the ultimate tenant that applies for a CUP for the grocery store use is, in fact, a bona-fide grocer. The minimum 5,000 square foot area and 70% food and beverage inventory requirements will disqualify mini-markets which operate in substantially smaller spaces and have mostly non-food and beverage inventory. We believe these two requirements, in addition to the Applicant's verbal and written assurances that the intent is to place a quality grocer tenant at 420 Lincoln, is sufficient to address concerns.

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

- Will Support Residential Communities on Lincoln Road and Washington Ave. The City is currently considering legislation that incentivizes residential uses on Lincoln Rd. and Washington Ave. in the hopes of creating a permanent and sustainable community in this area of the City. If passed, these incentives can significantly increase density in this area. Ideally future residents will forgo personal vehicles and use micromobility and public transit day to day. Currently, there are some mini markets, but no bona-fide grocer within a mile of the Property. Future residents would need to walk cross high traffic thoroughfares such as Alton Road and Dade Boulevard to do their weekly grocery shopping. If the goal is creating permanent and sustainable communities that are not car dependent, then we need—within walking distance—uses that meet residents' daily needs such as a grocer. The minimum 5,000 square feet and 70% food and beverage minimum inventory requirements in this legislation will ensure that a future tenant is a bona-fide grocery store and not another mini-market.
- Conditional Use Process as a Check. The proposed amendment allows grocery use 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.
- Consistent with the Historic Floorplates. Because of its large floorplates and layout, 420 Lincoln has historically housed uses that require substantial footprints. Namely, pharmacy uses, and five-and-dime store uses such as F.W. Woolworth Co. and Liggett's. See Figure 2, below. The herein proposed amendment requests the addition of grocery store use, which requires large floorplates, as a conditional use.



Figure 2. Historic Photographs

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 an additional commercial use, grocery stores, to be permitted via CUP at 420 Lincoln. These commercial uses will serve the surrounding community and complement the already permitted commercial uses. As such, the proposed change is 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 an additional commercial use, grocery store, as conditional uses to complement the already permitted commercial uses in the CD-3 district. Further, recently the City passed an ordinance permitting convenience store use via CUP at 230 Lincoln Road, another CD-3 zoned property in close proximity to 420 Lincoln when convenience store use not permitted in other CD-3 zoned properties with frontage on Lincoln. If that proposal did not create an isolated district, neither does this one which covers a much larger property.

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 use to be permitted via CUP only at 420 Lincoln and does not extend to other properties. Should a future tenant obtain CUP approval for the use, their venue 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 for the use. We do not anticipate an increase to the load on public facilities and infrastructure as any future tenant will operate within the existing building footprint. Further, any potential concerns will be 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 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.

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 a grocery store within walking distance.

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 affects 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 a future tenant 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 420 Lincoln. The leasable areas at the depth of 420 Lincoln will be most attractive to tenants, such as grocery 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 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 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 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 and is consistent with the historic floorplates at 420 Lincoln. Additional safeguards, a minimum 5,000 square feet of floor area and 70% food and beverage inventory, help ensure that the ultimate tenant for the space is a bona fide grocer use that serves the current and future residents of this area. 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)
Michael Belush, City of Miami Beach (michael.belush@miamibeachfl.gov)