

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: June 23, 2020

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB20-0346, a.k.a. PB 18-0222. 10 Star Island Drive – Lot Split Modification.**

An application has been filed requesting modifications to a previously approved lot split approval to divide the site comprised of three (3) platted lots into three (3) individual buildable parcels. Specifically, the applicant is requesting modifications to the conditions of approval for Lot 10 to modify the condition prohibiting variances, pursuant to Chapter 118, Article VII of the City Code.

RECOMMENDATION:

Approval with conditions

HISTORY

June 25, 2019: The Board approved the Division of Land/Lot split for this property. 10,11,12 Star Island Drive (PB18-0222).

This application was initially scheduled for the May 19, 2020 Planning Board meeting. Due to the COVID-19 pandemic, the meeting was cancelled, and the application was automatically continued to the next available meeting date.

EXISTING STRUCTURES/SITE:

The subject application includes one existing parcel of approximately 40,000 Square feet, which was part of a previously approved lots split (10,11,12 Star Island Drive) of approximately 120,000 square feet. The applicant is proposing modify the condition prohibiting variances for lot 10 (10 Star Island Drive).

The subject site is currently vacant except for two existing docks which will have to be modified or removed to comply with the current setback requirements for docks.

ZONING / SITE DATA:

Legal Description: LOTS 10, 11, AND 12 OF CORRECTED PLAT STAR ISLAND, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 31 AT PAGE 60, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Zoning: RS-1 Single-Family Residential District

Future Land Use: Single Family Residential Category (RS)

Lot Size: 40,000 Square Feet for the subject property (10 Star Island Drive)

REVIEW CRITERIA:

Pursuant to Section 118-321(b) of the City Code, in reviewing an application for the division of lot and lot split, the Planning Board shall apply the following criteria:

1. **Whether the lots that would be created are divided in such a manner that they are in compliance with the regulations of these land development regulations.**

Consistent– As previously noted, the minimum lot size and lot width requirements for RS-1 Zoning district are 30,000 square feet lot size and 100 feet lot width. The area for each of the three lots are 40,000 square feet with a lot width of 100 feet.

2. **Whether the building site that would be created would be equal to or larger than the majority of the existing building sites, or the most common existing lot size, and of the same character as the surrounding area.**

Consistent– As previously noted, the surrounding lots in the RS-1 zoning district consist of lots that have an average size of 45,217 square feet. The lot split will created three (3) lots consistent with the majority of the existing lot sizes.

3. **Whether the scale of any proposed new construction is compatible with the as-built character of the surrounding area, or creates adverse impacts on the surrounding area; and if so, how the adverse impacts will be mitigated. To determine whether this criterion is satisfied, the applicant shall submit massing and scale studies reflecting structures and uses that would be permitted under the land development regulations as a result of the proposed lot split, even if the applicant presently has no specific plans for construction.**

Consistent– As previously noted, no adverse impacts are expected to be created by the lot split and any future homes. The scale of the proposed homes will be reviewed by the Design Review Board to ensure that they are compatible with the as-built character of the surrounding area.

4. **Whether the building site that would be created would result in existing structures becoming nonconforming as they relate to setbacks and other applicable regulations of these land development regulations, and how the resulting nonconformities will be mitigated.**

Partially Consistent– As previously noted, there is an existing dock which spans the lots, which will have to be removed or modified to comply with the setback requirements for each lot.

5. **Whether the building site that would be created would be free of encroachments from abutting buildable sites.**

Partially Consistent– As previously noted, there is an existing dock which spans the lots, which will have to be removed or modified to comply with the setback requirements for each lot.

6. **Whether the proposed lot split adversely affects architecturally significant or historic homes, and if so, how the adverse effects will be mitigated. The Board shall have the authority to require the full or partial retention of structures constructed prior to 1942 and determined by the Planning Director or designee to be architecturally significant under section 142-108 (2) of the City Code.**

Consistent– The site is currently vacant, with the exception of the previously noted docks.

ANALYSIS:

As previously approved, the combined site consisted of a single owner who received approval to divide the property along the platted lot lines into three (3) separate parcels. As part of the original approval, the following condition was placed in the Final Order:

B.1.h. Variances shall be prohibited for any construction on each of the lots.

Typically, when lots splits have been approved in the past, the Board has imposed a condition prohibiting variances associated with the construction of any new home. Since the approval of the lot split, Lot 10 was sold, and the current owner is requesting a modification to the following condition of approval as follows:

B.1.h. Variances shall be prohibited for any construction on ~~each of the~~ lots 11 and 12.

The requested modification to the conditions of approval in the Planning Board Order would allow the filing of an application to the Design Review Board with variances. The variance requested is from *Section 142-105(b)(4)(d)(1)*:

d. Non-air conditioned understory space located below minimum flood elevation, plus freeboard. Notwithstanding the above, for those properties located in the RS-1, RS-2, RS-3, RS-4 single-family residential districts, where the first habitable floor has been elevated above existing grade in order to meet minimum flood elevation requirements, including freeboard, the following shall apply to the understory area(s). For purposes of this subsection, 'understory' means the air-conditioned and/or non-air-conditioned space(s) located below the first elevated habitable floor.

1. *The height of the area under the main structure may have a maximum floor to ceiling clearance of **seven feet six inches** from the lowest level slab provided.*

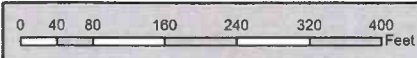
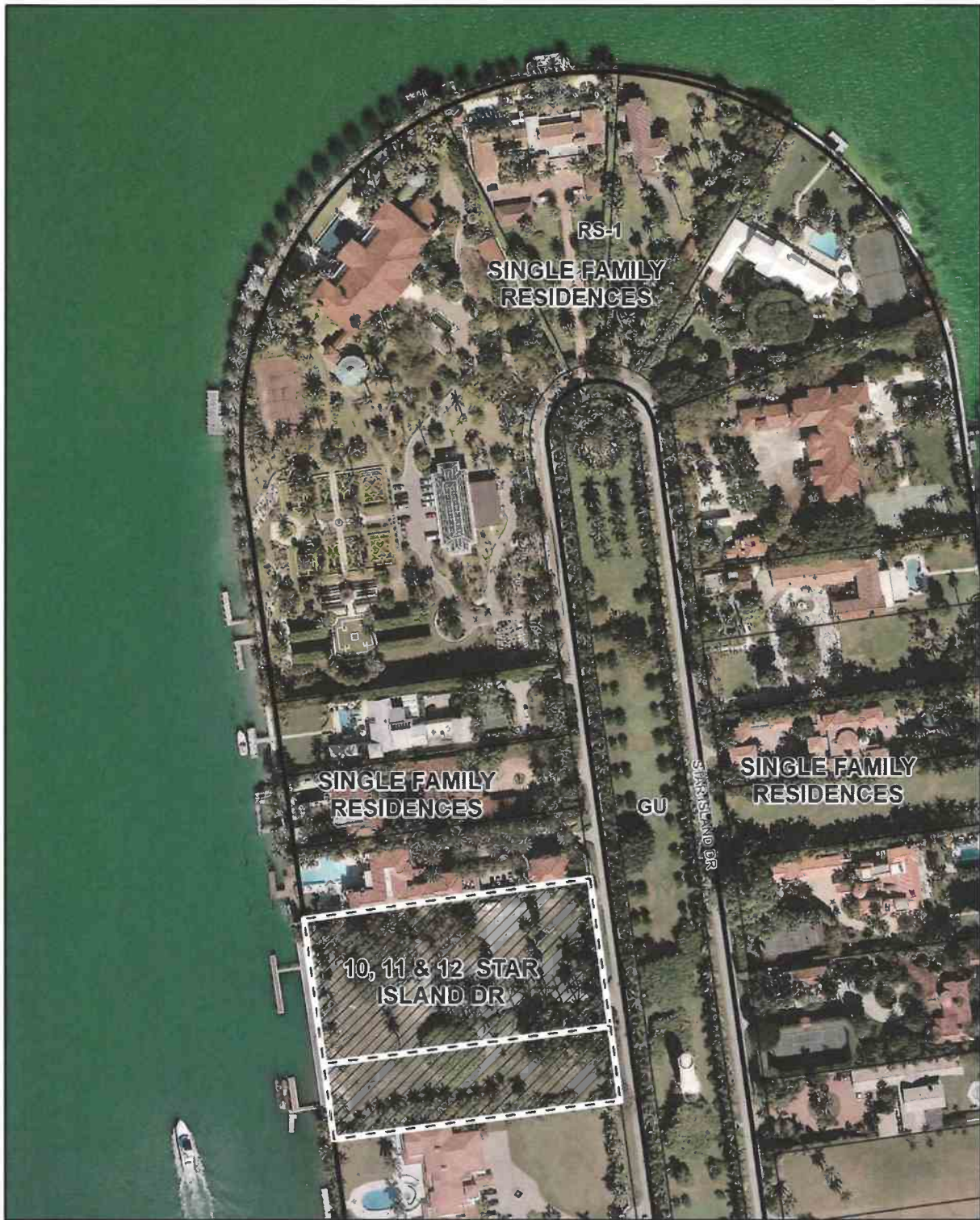
The applicant would like the ability to request a variance from the bolded section of the city code above, in order to increase the maximum allowed ground floor clearance from 7'-6" to 10'-6".

Staff has no objection to the requested modification, as it would only allow the applicant to file the application for the requested variance. The Design Review Board has final authority to review the hardship criteria and practical difficulties, as well as design implications, associated with the variance request.

STAFF RECOMMENDATION:

In view of the foregoing analysis, staff recommends that the application be approved subject to the conditions enumerated in the attached Draft Modified Order.

ZONING/SITE PLAN



**PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA**

PROPERTY: 10, 11, and 12 Star Island Drive

FILE NO. PB20-0346, a.k.a. PB 18-0222

IN RE: An application has been filed requesting modifications to a previously approved lot split approval to divide the site comprised of three (3) platted lots into three (3) individual buildable parcels. Specifically, the applicant is requesting modifications to the conditions of approval for Lot 10 to modify the condition prohibiting variances, pursuant to Chapter 118, Article VII of the City Code.

LEGAL DESCRIPTION: LOTS 10, 11, AND 12 OF CORRECTED PLAT STAR ISLAND, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 31 AT PAGE 60, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

MEETING DATE: June 25, 2019; June 23, 2020

**DIVISION OF LAND/LOT SPLIT
MODIFIED FINAL ORDER**

The applicant, Star West Property LLC as owner of 10 Star Island Drive, requested modifications to a previously approved lot split approval to divide the site comprised of three (3) platted lots into three (3) individual buildable parcels. Specifically, the applicant is requesting modifications to the conditions of approval for Lot 10 to modify the condition prohibiting variances, pursuant to Chapter 118, Article VII of the City Code.

The City of Miami Beach Planning Board 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 record for this matter:

- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is consistent with Planning Board "Division of Land/Division of Land/Lot Split" criteria in Section 118-321.B of the City Code.
- B. The project would remain consistent with the criteria and requirements of Section 118-321.B of the City Code, subject to the subject to the following conditions, to which the Applicant has agreed:
 - 1. The three (3) lots created pursuant to this lot split application at 10,11 and 12 Star Island Drive, shall comply with the following:
 - a. The subject lots shall not be subdivided any further.

- b. Design Review Board review and approval shall be required for any new home on each lot.
 - c. The building parcels created by this lot split shall be as depicted on the signed and sealed surveys by American Services of Miami, CORP., dated 04-11-2019.
 - d. Individual underground utility, water, sewer, electric, telephone and cable connections, as well as the payment of any applicable impact fees, shall be the responsibility of the owners of each respective lot.
 - e. If required, the removal and replacement of all or portions of the sidewalk curb and gutter along all portions of each lot shall be the responsibility of the applicant.
 - f. The maximum unit size for each lot shall be limited to the lesser of 50% or the maximum permitted at the administrative level at the time of building permit.
 - g. The maximum lot coverage for each lot shall be limited to the lesser of 30% or the maximum permitted at the administrative level at the time of building permit.
 - h. Variances shall be prohibited for any construction on ~~each of the~~ lots 11 and 12.
 - i. Prior to the issuance of a Building Permit the existing Docks shall be removed or modified to comply with setbacks and projection requirements for each lot, per Section 66-113 and 142-1132 of the City Code.
 - j. Prior to the issuance of a Building Permit, a tree report prepared by a certified arborist for all of the existing trees on site shall be submitted for the review and evaluation of the CMB Urban Forester. Any trees identified to be in good health shall be retained or relocated if determined to be feasible by the CMB Urban Forester.
 - k. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
2. The applicant and/or owner, for each lot created herein, both now and in the future, shall abide by all the documents and statements submitted with this application for Division of Land/Lot Split, as well as all conditions of this Order. The conditions of approval for this Lot Split are binding on the applicant, the property owners, and all successors in interest and assigns.

3. The Planning Board shall maintain jurisdiction of this Lot Split approval. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board. The Board reserves the right to modify the Lot Split approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address problems and to determine the timing and need for future progress reports. This Lot Split is also subject to modification or revocation under Section 118-323 of the City Code.
4. The applicant and/or owner of each property shall resolve all outstanding violations and fines on each respective property, if any, prior to the issuance of a building permit for any home proposed.
5. 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 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.
6. The executed Order for the Division of Land/Lot Split shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant.
7. The Lot Split approval approved herein shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the City Code, and shall be subject to enforcement procedures set forth in Section 114-8 of the City Code and such other enforcement procedures as are permitted by law. 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 approval.
8. 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.

IT IS HEREBY 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 staff recommendations, as modified by the Planning Board that the Division of Land/Lot Split as requested and set forth above be GRANTED, subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-8, inclusive) hereof, to which the applicant has agreed.

Dated this _____ day of _____, 2020.

