

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: April 12, 2016

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: File No. 7625, **1035 Lincoln Road.**

The applicant, Nike, Inc. is requesting variances to exceed the maximum area allowed for signs and to relocate an allowable sign above the first floor for a new two-story commercial building.

STAFF RECOMMENDATION

Approval of the variances with modifications.

EXISTING SITE

Local Historic District:
Construction Date:

Flamingo Park
Under Construction

ZONING / SITE DATA

Legal Description:

Lots 1 and 2, Block 38, Commercial Subdivision, According to the Plat Thereof, as Recorded in Plat Book 6, Page 5, of the Public Records of Miami-Dade County, Florida.

Zoning:

CD-3, Commercial, high intensity

Future Land Use Designation:

CD-3, Commercial, high intensity

Lot Size:

15,000 S.F. / 2.25 Max FAR

Proposed FAR:

31,500 S.F. / 2.10 FAR, as represented by the architect

Proposed Height:

39'-0" to the top of the roof deck / 2-stories + mezzanine

Proposed Use:

Retail

THE PROJECT

The applicant has submitted plans entitled "1035 Lincoln Road", signed and sealed February 16, 2016.

The applicant is requesting the following variance(s):

1. A variance to exceed by 52 SF the maximum allowed aggregate area of 30 SF for signs in order to install multiple signs on the south façade of the building facing Lincoln Road with an aggregate area of 82 SF.

- Variance requested from:

Section 138-172. Schedule of sign regulations for principal and accessory use signs.

Zoning District, CD-3 – Number: One sign per street frontage for each licensed principal and licensed accessory use, however, multiple signs for the same licensed establishment may be permitted through the design review procedure if the aggregate sign area does not exceed the maximum size permitted under this subsection.

Flat Sign:

20 square feet for the first 25 feet of linear frontage, plus one square foot for every three feet of linear frontage over 25 feet up to a maximum of 30 square feet.

The applicant is proposing three signs for one tenant, 'NIKE', on the south façade facing Lincoln Road. The total aggregate area of the signs exceeds the maximum 30 SF allowed for a single business. The building façade is approximately 98' in length and considering that the maximum sign area is based on the length of the building facing a street, it is conceivable that up to 4 tenants could reasonably occupy the building, and in that case, four (4) 20 SF signs would be permitted facing Lincoln Road. The applicant's request for an aggregate area of 82 SF is consistent with what the Code allows based on the length of the building façade for multiple tenants. Staff finds that the linear frontage of the building with a single tenant occupancy and the location of the property on a corner with three sides facing the public rights-of-way are specific conditions, unique to this property that create practical difficulties resulting in the variances requested.

Staff does however, believes that the illuminated projecting signs are excessive and exceed the minimum variance required for effective signage. As such, staff recommends that this sign be removed and this variance be modified to exceed by 47 SF the maximum allowed area of 30 SF in order to install multiple signs with an aggregate area of 77 SF.

2. A variance to exceed by 9 SF the maximum allowed aggregate area of 30 SF for signs in order to install multiple signs on the west façade of the building facing Lenox Avenue with an aggregate area of 39 SF.

- Variance requested from:

Section 138-172. Schedule of sign regulations for principal and accessory use signs.

Zoning District, CD-3 – Number: One sign per street frontage for each licensed principal and licensed accessory use, however, multiple signs for the same licensed establishment may be permitted through the design review procedure if the aggregate sign area does not exceed the maximum size permitted under this subsection.

Flat Sign:

20 square feet for the first 25 feet of linear frontage, plus one square foot for every three feet of linear frontage over 25 feet up to a maximum of 30 square feet.

Two signs exceeding the maximum aggregate area of 30 SF are proposed on the west side of the building facing Lenox Avenue. Based on the length of the building, which is approximately

143 feet, multiple signs would be permitted for multiple tenants with a total aggregate area that would exceed the area proposed of 39 SF. Staff also recommends that the projecting illuminated sign be removed from this elevation, as noted in variance No. 1 above. With this recommendation, this variance would be modified to exceed by 4.2 SF the maximum allowed area of 30 SF in order to install multiple signs with an aggregate area of 34.2 SF.

Staff finds that the linear frontage of the building with a single tenant occupancy and the location of the property on a corner with three sides facing the public rights-of-way are specific conditions, unique to this property that create practical difficulties resulting in the variances requested.

3. A variance to exceed by 49 SF the maximum allowed aggregate area of 30 SF for signs, in order to install multiple signs on the north façade of the building facing North Lincoln Lane with an aggregate area of 79 SF.

- Variance requested from:

Section 138-172. Schedule of sign regulations for principal and accessory use signs.

Zoning District, CD-3 – Number: One sign per street frontage for each licensed principal and licensed accessory use, however, multiple signs for the same licensed establishment may be permitted through the design review procedure if the aggregate sign area does not exceed the maximum size permitted under this subsection.

Flat:

20 square feet for the first 25 feet of linear frontage, plus one square foot for every three feet of linear frontage over 25 feet up to a maximum of 30 square feet.

- Supplementary section

Sec. 138-171. - General provisions

(e) Signs fronting on an alley are prohibited unless the alley abuts or is adjacent to a parking lot or garage, or where the alley provides a means of entrance to a business, the area of the sign shall be the same as if the sign fronted on a street.

As the building is adjacent to a public parking lot and provides a means of entrance from the alley, signs are permitted following the same regulations for signs facing a street. The applicant is proposing three (3) signs facing North Lincoln Lane with an aggregate area that exceeds 30 SF. The building, which has approximately 98' feet of frontage on the alley, is restricted to the maximum area of 30 SF, which is the sign area that would be allowed for a tenant that has 55 feet of linear frontage. The length of the building on this side is larger than the typical building length of most single tenants in the historic district. This condition imposes limitations on the maximum area allowed for signs. Staff finds that the linear frontage of the building with a single tenant occupancy and the location of the property on a corner with three sides facing the public rights-of-way are specific conditions, unique to this property that create practical difficulties resulting in the variances requested. Staff also recommends that the illuminated projecting sign be removed as previously noted. With this recommendation, the variance request would be modified to exceed by 46 SF the maximum allowed area of 30 SF in order to install multiple signs with an aggregate area of 76 SF.

4. A variance to relocate an allowable flat sign from the first floor to the second floor of the building on the north facade facing North Lincoln Lane.

- Variance requested from:

Sec. 138-171. - General provisions.

(g) Signs located above the ground floor shall be limited to the name of the building or the use that encompasses the largest amount of floor area on the building.

Signs above the ground floor are allowed as building identification sign and are required to be located on the building's parapet. The applicant is proposing a flat sign on the second floor of the building façade. Because the sign is fronting on an alley that is narrower than a regular street, a sign located at the top of the building may not be as visible as the proposed sign at the pedestrian level. Pedestrian and vehicular traffic has been increasing through this alley in recent years due to the commercial activity on Lincoln Road and the location of the proposed sign is appropriate based on the commercial activity of the surrounding area. Staff is supportive of this variance request and recommends approval as proposed. As previously noted in variance requests Number 1, 2 and 3, the building size and location create practical difficulties that justify this variance request.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose

of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

COMPLIANCE WITH ZONING CODE

The application, as submitted, appears to be consistent with the applicable requirements of the City Code, with the exception of the variance(s) requests herein. This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

STAFF ANALYSIS

The project was originally approved by the Board on April 14, 2015. Subsequently, in November, 2015, a modification to a condition of the final order was approved by the Board to transfer the project approval to a new owner, Playa Retail Investments, LLC. The tenant of the building, Nike, Inc. is requesting variances for the installation of several signs on the building as part of this application.

The new two-story retail building will contain approximately 31,500 SF for a single tenant, 'Nike'. The Code allows a sign area of 20 SF for up to 25 feet of linear frontage, and one additional SF of sign area for every three (3') feet of additional frontage, with a maximum sign area of 30 SF for each licensed business establishment. Because only one business will occupy the building, the maximum sign area allowed on each street side is 30 SF. This requirement imposes limitations for a business that occupies an entire building. The applicant is proposing a sign area on each street façade that exceeds the maximum area allowed for a single tenant; therefore, variances are required for each building side, including the relocation of a sign to the second floor. Staff has no objections to the variances requested considering the size of the building and the fact that it will house only one tenant.

Based on the length of the building façade facing each street, multiple tenants could be permitted in the building. Each tenant would be allowed a minimum of 20 SF and maximum of 30 SF for a sign. If separate tenants were proposed, the building could potentially have a total aggregate sign area larger than what the applicant is proposing without the need for variances.

Staff finds that the size of the building, its single tenant occupancy and the location of the property on a corner with three sides facing the public rights-of-way are specific conditions, unique to this property that create practical difficulties resulting in the variances requested. Staff is supportive of the design and location of most of the signs except for the three (3) projecting illuminated signs. Staff recommends that these signs be removed as they are excessive and not compatible with the design of the building.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application be **approved** subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the Practical Difficulty and Hardship criteria, as applicable.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: April 12, 2016

FILE NO: 7625

PROPERTY: 1035 Lincoln Road

APPLICANT: Nike, Inc.

LEGAL: Lots 1 and 2, Block 38, Commercial Subdivision, According to the Plat Thereof, as Recorded in Plat Book 6, Page 5 of the public records of Miami Dade County, Florida.

IN RE: The application for variances to exceed the maximum area allowed for signs and to relocate an allowable sign above the first floor for a new two-story commercial building.

ORDER

The City of Miami Beach Historic Preservation 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:

I. Certificate of Appropriateness

A. Certificate of Appropriateness has not been requested as part of this application.

II. Variance(s)

A. The applicant filed an application with the Planning Department for the following variance(s), which were either approved by the Board with modifications, or denied (Underlying denotes new language and ~~stricken through~~ denotes stricken language):

1. A variance to exceed by 47 ~~52~~ SF the maximum allowed aggregate area of 30 SF for signs in order to install multiple signs on the south façade of the building facing Lincoln Road with an aggregate area of 77 ~~82~~ SF (Variance Modified).
2. A variance to exceed by 4.2 ~~9~~ SF the maximum allowed aggregate area of 30 SF for signs in order to install multiple signs on the west façade of the building facing Lenox Avenue with an aggregate area of 34.2 ~~39~~ SF (Variance Modified).
3. A variance to exceed by 46 ~~49~~ SF the maximum allowed aggregate area of 30 SF for signs in order to install multiple signs on the north façade of the building facing North Lincoln Lane with an aggregate area of 76 ~~79~~ SF (Variance Modified).
4. A variance to relocate an allowable flat sign from the first floor to the second floor of the building on the north facade facing North Lincoln Lane.

- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

- C. The Board hereby grants the requested variance(s) and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.

- A. Where one or more parcels are unified for a single development, the property owner shall execute and record an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. 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.
- C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- E. The Final 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.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. 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 are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "1035 Lincoln Road", signed and sealed February 16, 2016, as approved by the Historic Preservation Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this Order shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20____.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
PRESERVATION AND DESIGN MANAGER
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by Deborah Tackett, Preservation and Design Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: _____

Approved As To Form:

City Attorney's Office: _____ ()

Filed with the Clerk of the Historic Preservation Board on _____ ()

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