

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

PROPERTY: 1030 15th Street

FILE NO. 2223

IN RE: The application for a modification to a previously issued Conditional Use Permit, pursuant to Section 118, Article IV of the City Code. Specifically, the applicant requested a modification to the CUP regarding the prohibition of variances.

**LEGAL
DESCRIPTION:** See Exhibit A

MEETING DATE: February 24, 2015, April 19, 2016

DRAFT - MODIFIED CONDITIONAL USE PERMIT

The applicant, Shoma Lincoln Investments, LLC, requested modification to a previously issued Conditional Use Permit, pursuant to Section 118, Article IV of the City Code. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

That the property in question is located in the RM-1, Residential Low Intensity zoning district; and

That the use is consistent with the Comprehensive Plan for the area in which the property is located; and

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan; and

That structures and uses associated with the request are consistent with the Land Development Regulations; and

That the public health, safety, morals, and general welfare will not be adversely affected; and

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE 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 the staff recommendations, as approved by the Planning Board, and accepted by the applicant, that modifications to the Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions: (Underline denotes new language; ~~Strikethrough~~ denotes deleted language)

1. Within 180 days from the approval of this lot split application a Covenant in Lieu of Unity of Title shall be submitted in a format acceptable to the City Attorney, and a transition plan detailing how the north half of the parking lot will be modified, or this approval shall be deemed null and void.
2. The two (2) lots modified pursuant to this lot split application at 1030 15th Street, North Lot & South Lot, shall comply with the following:
 - a. The building parcels shall be as depicted on the signed and sealed surveys by Miguel Espinosa Land Surveying Inc., dated 6/06/2014.
 - b. The existing parking lot on the South Lot shall be upgraded to meet all the minimum parking lot standards set forth in the State, County, and City of Miami Beach zoning code, in a manner to be reviewed and approved by staff, prior to the issuance of a building permit for the proposed new residential construction on the North Lot.
 - c. No variances from the regulations of Chapter 142, Article II, Division 3, of the City Code, shall be permitted for either parcel (North Lot & South Lot), with the exception of variances related to height, subject to the review and approval of the Design Review Board.
 - d. If not already existing, 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.
3. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
 - a. A raised concrete curb shall be provided along the base of the existing concrete wall facing the alley in order to retain soils and drainage on site.
 - b. The existing Inkberry shrub (*Scaevola plumieri*) in the public ROW facing Lenox Ave shall be removed and replaced with sod. The existing Royal Palm in conflict with the overhead utility lines facing Lenox Ave shall be removed and replaced with a small size canopy shade tree subject to the review and approval of Staff.

- c. All landscape areas covered with white gravel shall be removed and replaced with salt tolerant native plant material.
 - d. The proposed Boston Fern (*Neprolepis exaltata*) facing both Lenox and Michigan Ave shall be replaced with a hardier and easier to maintain plant material that would naturally not exceed 24" in height at maturity and would not require periodic pruning in order to maintain such height.
 - e. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the final revised landscape plan.
 - f. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
4. 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.
 5. The Planning Board shall maintain jurisdiction of this Lot Split approval. The applicant shall provide a progress report to the Board 90 days after the Historic Preservation Board has issued a Certificate of Appropriateness for the proposed project on the North Lot. 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 City Code Sec. 118-323.
 6. 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.
 7. 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 and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
 8. 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 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.
 9. 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.

Exhibit A

Lots 1,2,3, and 4, Block 69 “Lincoln Subdivision”, According to the Plat Thereof, as Recorded in Plat Book 9, At Page 69, of the Public Records of Miami-Dade County, Florida.

And

Lots 1 and 24 and 20 feet of Alley Lying Between Lots 1 and 24, Block 93, Ocean Beach FLA Addition No. 3, According to the Plat Thereof, as Recorded in Plat Book 2, At Page 81, of the Public Records of Miami-Dade County, Florida.

New legal description for the modified conditional use permit is:

Lots 1 and 24 and 20 feet of Alley Lying Between Lots 1 and 24, Block 93, Ocean Beach FLA Addition No. 3, According to the Plat Thereof, as Recorded in Plat Book 2, At Page 81, of the Public Records of Miami-Dade County, Florida, And a 3 Foot Proposed Reservation Easement Along the Southern Boundary of Lots 1,2,3, and 4, Block 69 “Lincoln Subdivision”, According to the Plat Thereof, as Recorded in Plat Book 9, At Page 69, of the Public Records of Miami-Dade County, Florida.