

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: December 01, 2015

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: Design Review File No. 23218
1450 Lincoln Road – Lincoln Bay Towers

The applicant, Ronald Stroia, is requesting Design Review Approval to reconstruct an existing projecting marine structure/deck located along the waterside of the property including a variance to reduce the required seaward side yard setback for a deck.

Recommendation:

Approval with conditions

LEGAL DESCRIPTION:

Lot 1 less the east 117.5 feet thereof, Block 43, Alton Beach Bay Front, According to the Plat Thereof, as Recorded in Plat Book 4, Page 125, of the Public Records of Miami-Dade County, Florida.

HISTORY:

On February 07, 2012, under DRB File No. 22891, the Design Review Board approved an application for exterior modifications that removed the solid masonry balcony railings, as well as the vertical picket railings and constructed horizontal-only railings around the perimeter of each balcony. Additionally, the Board approved the expansion of the masonry openings along the center portion of the west elevation, and the installation of larger window openings at each floor above the parking levels, along with a new painted design on the west elevation.

SITE DATA:

Zoning:	RM-2 (Residential Multifamily, Medium Intensity)
Future Land Use:	RM-2 (Residential Multifamily, Medium Intensity)
Lot Size:	~25,885 SF
Existing Use/Condition:	Residential Condominium
Proposed Use:	Same

EXISTING STRUCTURE:

Ten-story multifamily building (1968 R.S. Schneider & Associates)

LAND USES:

East: Six-story multifamily building
North: Lincoln Road street end
South: Capri Development | Two-story MiMo buildings
West: Biscayne Bay

THE PROJECT:

The applicant has submitted sheets entitled "Lincoln Bay Towers Viewing Platform & Seawall Repair Project" as prepared by design architects **Cummins Cederberg Inc. Engineer** signed, sealed and dated October 12, 2015.

The applicant seeks to repair the existing seawall and reconstruct the existing conditions with similar materials and dimensions and located in the same footprint. The exact reconstruction requires obtaining a variance to eliminate the required side setback for a marine projection.

The applicant is requesting the following variance(s):

1. A variance to waive 7'-6" of the minimum required side setback of 7'-6" in order to reconstruct the existing marine projection/deck at 0'-0" from the north side property line.
 - Variance requested from:

Docks are required to have a minimum setback of 7'-6" from the side property line(s). The existing dock has a non-conforming setback of 0'-0" from the north side property lines. The applicant proposes to reconstruct the existing dock with the original configuration which requires a variance. An existing dock was legally expanded to its current setback configuration with Permit No. 82890 in 1969. The applicant is requesting to remove and replace the existing dock with a new dock in the same location. The existing pool deck also built in 1969 has a nonconforming side (north) setback of 0'-0"; as such, the reconstruction to extend this configuration is logical and compatible with the immediate area since it has been existence for nearly 50 years. There are no abutting properties that will be negatively impacted by the reconstruction. Additionally, the agreement to allow a waterside public Baywalk to extend around the proposed reconstruction provides adequate mitigation.

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:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. The proposed dock does not comply with the required 7'-6" setback from the (north) side property line. (Variance requested as noted in this report).

The above noted comments 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.

CONSISTENCY WITH COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **residential use** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan and the proposed Public Baywalk is **consistent** with several Objectives and Policies within the 'RECREATION AND OPEN SPACE ELEMENT' and 'TRANSPORTATION ELEMENT' of the City's Comprehensive Plan.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Satisfied
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; a variance is required.

4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; a variance is required.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Satisfied
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Applicable
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Not Applicable
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Not Applicable

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Not Applicable
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Not Applicable
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Satisfied
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Not Applicable
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable

STAFF ANALYSIS:

The existing building was constructed in 1969, under DRB File No. 22891, and is a simple ten-story masonry box with a regimented pattern of punctured masonry openings located on the upper eight (8) floors above two (2) levels of parking. The building has an existing pool and nonconforming deck that was built in 1969, constructed in accordance with Building Permit #82853. Also built in 1969, the building contains a nonconforming concrete marine structure/deck that serves as a viewing platform that projects westward within the Bay 9'-0" and extends 75'-0" along the rear property line, constructed in accordance with Building Permit #82890. The overwater portion of the pool deck and viewing platform consists of all concrete piles, support beams and a concrete slab. The applicant seeks to repair the existing seawall and reconstruct the existing conditions with similar materials and dimensions and located in the same footprint. The exact reconstruction requires obtaining a variance to eliminate the required side setback for the marine projection.

Staff is supportive of the proposed reconstruction, as the applicant has previously agreed to allow the construction of an over-water public Baywalk west of the property, which mitigates any adverse impacts of a 0'-0" north side setback for a marine projection of the Lincoln Bay Towers' existing elevated pool deck. Additionally, the public Baywalk, when constructed, will provide a

connection from the recently completed Lincoln Road street end with the existing public Baywalk of the Capri project, abutting the property to the south.

This is a very significant and noteworthy gesture on the part of the applicant that provides a substantial public benefit and further connections along the bay. Additionally, it would be consistent with the City's Public Baywalk Master Plan (attached), which is designed to increase pedestrian and alternative vehicle mobility, reduce impact on neighborhood roadways and accomplish goals and objectives in the City's Comprehensive Plan as further outlined below:

2025 COMPREHENSIVE PLAN: RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 3: COORDINATION OF PUBLIC AND PRIVATE RESOURCES

The City of Miami Beach shall continue to work with public agencies, such as Miami-Dade County Department of Environmental Resources Management, the Army Corps of Engineers, the Florida Department of Environmental Protection and private sector organizations and corporations, through the zoning process, to enhance and improve existing recreation/open space facilities in Miami Beach.

OBJECTIVE 5: PUBLIC ACCESS CORRIDORS

To develop a network of greenways, scenic open space vistas, beachfront promenades, bicycle and pedestrian trails, and multi-purpose public access corridors to waterways, the beach and outdoor recreational opportunities in order to preserve natural ecosystems and to enhance the quality of urban life.

TRANSPORTATION ELEMENT

OBJECTIVE 5: PEDESTRIAN AND BICYCLE CIRCULATION

Policy 5.8: Beachwalk and Baywalk Projects

The City shall continue the implementation of the Beachwalk and Baywalk Projects in order to further the City's vision of having a continuous on-grade recreational path running north/south along the coast linking the City's South, Middle and North Beach Neighborhoods. Such Projects would combine to form one interconnected recreational path that is ADA accessible and environmentally compatible with the dune and marine environment.

Policy 9.5: Multimodal Transportation

Within each Transportation Concurrency Management Area, infill and redevelopment shall be encouraged which is supportive of mobility alternatives including walking, bicycling and use of transit, particularly those associated with the completion of the Beachwalk and Baywalk projects.

Staff believes that this can be addressed by conditions in the order. In accordance with City Code Section 118-254 (c) *Decisions of the Design Review Board*:

'The board may require such changes in the plans and specifications, and conditions, as in its judgment may be requisite and appropriate to the maintenance of a high standard of architecture, as established by the standards contained in these land development regulations and as specified in the city's comprehensive plan and other specific plans adopted by the city of pertaining to the areas identified in subsection 118-252(a).'

Such Baywalk is necessary to connect the recently completed Lincoln Road Street End to the existing Public Baywalk to the immediate south of the subject property ('Capri' site). This condition is based on a particularized evaluation and assessment of the subject project, the

rational nexus between such project and impacts to the local transportation network, and the rational nexus and rough proportionality between the project and impacts to the transportation network and the baywalk project.

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 aforementioned Design Review criteria and/or Practical Difficulty and Hardship criteria.

TRM/JGM

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**DESIGN REVIEW BOARD
City of Miami Beach, Florida**

MEETING DATE: December 01, 2015

FILE NO.: 23218

PROPERTY: **1450 Lincoln Road**

APPLICANT: Ronald Stroia

LEGAL: Lot 1 less the east 117.5 feet thereof, Block 43, Alton Beach Bay Front, According to the Plat Thereof, as Recorded in Plat Book 4, Page 125, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval to reconstruct an existing projecting marine structure/deck located along the waterside of the property including a variance to reduce the required seaward side yard setback for a deck.

ORDER

The City of Miami Beach Design Review 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. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. 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 inconsistent with Design Review Criteria 3, and 5 in Section 118-251 of the Miami Beach Code.

- C. The project would be consistent with the criteria and requirements of Section 118-251 if the following conditions are met:
1. Revised elevation, site plan, and floor plan drawings for the proposed new dock at 1450 Lincoln Road shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. 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.
 - b. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
 2. The Applicant is aware that an over-water section of the City's Public Baywalk, located parallel to the Applicant's west property line, is proposed by the City to be constructed in substantial accordance with the Public Baywalk Master Plan, prepared by Coastal Systems International, dated 06-18-09. Such Baywalk is necessary to connect the recently completed Lincoln Road Street End to the existing Public Baywalk to the immediate south of the subject property. This condition is based on a particularized evaluation and assessment of the subject project, the rational nexus between such project and impacts to the local transportation network, and the rational nexus and rough proportionality between the project and impacts to the transportation network and the Baywalk proffered.
 - a. The Applicant agrees to confirm, prior to the issuance of a Certificate of Completion for the improvements contemplated by this order, in a document mutually acceptable to the City and the Applicant, to allow the City, at the City's sole expense, to design, permit, construct, own, and maintain an over-water Public Baywalk, at least 14 Feet in width, section westward of the subject property's seawall and pool deck. Such agreement shall include, but not be limited to, the release of riparian rights necessary to construct the Public Baywalk segment.
 - b. The proposed Baywalk shall be designed, constructed and maintained at the sole expense of the City. The City will indemnify and hold harmless the Applicant from and against all liability from or arising out of negligence of the City in the design, construction, maintenance and operation of the Baywalk, subject to the limitations of Section 768.28, Florida Statutes.
 - c. The proposed Baywalk shall be designed so as to be separate from the Applicant's pool deck and parking lot. Any connection from the Baywalk to the Applicant's property shall only be accommodated at the request of the Applicant.

- d. In the event Applicant's seawall and/or pool deck requires repair or maintenance necessitating access from the water side, the City, at its sole cost, and providing such work cannot otherwise be reasonably accomplished, agrees to remove one or more sections of the Baywalk, or necessary portions thereof, so that the Applicant can have access to the seawall and/or pool deck for such repairs or maintenance. At the conclusion of the repairs or maintenance, the reconstruction of this section of the Baywalk shall be at the sole cost of the City.
- e. The Applicant shall allow and not, at any time, take any action that will impair, public access in perpetuity to the Public Baywalk.
- f. The Applicant shall assist the City in securing permits for the public baywalk westward of its seawall and pool deck to the extent the Applicant's consent, approval or support is reasonably required for the approval or processing of any required permits, including release of riparian rights to the extent necessary to allow the Baywalk to be constructed or used.
- g. If the Applicant seeks to construct a dock at some point in the future, the City agrees to work with the Applicant to reasonably accommodate such dock construction.
- h. The City will police the Baywalk west of the property in a manner consistent with the other sections of baywalks owned by the City, or on which the City has obtained rights of access through easement, covenant or otherwise, and which are open to the general public.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 - 1. A variance to waive 7'-6" of the minimum required side setback of 7'-6" in order to reconstruct the existing marine projection/deck at 0'-0" from the north side property line.
- 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 conditions 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.

II. General Terms and Conditions applying to both 'I. Design Review Approval and II. Variances' noted above.

- A. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.

- B. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- 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 City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.
- H. A traffic mitigation plan, which addresses all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, if required, shall be submitted prior to the issuance of a Building Permit and the final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- I. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy.

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 Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Lincoln Bay Towers Viewing Platform & Seawall Repair Project" as prepared by design architects Cummins Cederberg Inc. Engineer signed, sealed and dated October 12, 2015, and as approved by the Design Review 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 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 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 shall 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_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____

