

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

MEETING DATE: February 7, 2012

FILE NO: 22891

PROPERTY: 1450 Lincoln Road –  
Lincoln Bay Towers

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 for the demolition of the existing balcony railings and the construction of new railing design for the entire building, as well as design modifications to the west elevation of the existing building.

**ORDER**

The applicant, Lincoln Bay Towers Condominium Association, filed an application with the City of Miami Beach Planning Department for Design Review Approval.

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:

- 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 not consistent with Design Review Criteria 3-8 in Section 118-251 of the Miami Beach Code.
- B. 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 shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
    - a. The final design and details of the proposed exterior railings shall be provided, including a material sample, subject to the review and approval of staff.
    - b. The proposed new paint scheme on the west elevation shall incorporate stucco reveals to clearly demark any change in colors that are on the same plane, in a manner to be reviewed and approved by staff.



- c. In the event that the proposed windows on the west elevation are not installed, the final design details of the west elevation shall be subject to the review and approval of staff.
  - d. 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. 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, prior to the issuance of a Certificate of Completion. 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. Additional landscaping shall be provided on the property, if feasible, in a manner to be reviewed and approved by staff.
  - b. 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.
  - c. The utilization of root barriers and/or structural soil, as applicable, shall be clearly delineated on the revised landscape plan.
  - d. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures; such fixtures and devices shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of backflow preventors, siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
  - e. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms; such transformers and vault rooms, and all other related devices and fixtures, shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of any exterior transformers, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
  - f. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.
- 3. 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 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.

*gfm*

- 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.
- 4. All building signage shall be consistent in type, composed of flush mounted, non-plastic individual letters and shall require a separate permit.
- 5. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
- 6. 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.
- 7. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required, prior to the issuance of a building permit.
- 8. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view, in a manner to be approved by staff.
- 9. All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC).
- 10. 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.
- 11. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- 12. At the time of completion of the project, only a **Final** Certificate of Occupancy (CO) or **Final** Certificate of Completion (CC) may be applied for; the staging and scheduling of the construction on site shall take this into account. All work on site must be completed in accordance with the plans approved herein, as well as any modifications approved or required by the Building, Fire, Planning, CIP and Public Works Departments, inclusive of all conditions imposed herein, and by other Development Review Boards, and any modifications required pursuant to field inspections, prior to the issuance of a CO or CC. This shall not prohibit the issuance of a Partial or Temporary CO, or a Partial or Temporary CC.
- 13. 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.



14. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
15. 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 adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-15, inclusive) hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Design Review Board, as determined by staff, entitled "Lincoln Bay Towers Proposed Building Alterations", as prepared by Arthur J. Marcus Architect, P.A., dated 1-3-12.

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 Design Review 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 Design Review Approval was granted, the Design Review Approval will expire and become null and void, unless the applicant makes 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. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit 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 Design Review Approval will expire and become null and void.

In accordance with Section 118-264 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.



Dated this 10<sup>th</sup> day of February, 2012.

DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: 


THOMAS R. MOONEY, AICP  
DESIGN AND PRESERVATION MANAGER  
FOR THE CHAIR

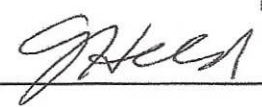
STATE OF FLORIDA )  
                                  )SS  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of February, 2012 by Thomas R. Mooney, Design and Preservation Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



TERESA MARIA  
MY COMMISSION # DD 928148  
EXPIRES: December 2, 2013  
Bonded Thru Budget Notary Services

  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: 12-2-13

Approved As To Form:   
Legal Department: ( 2-10-12 )

Filed with the Clerk of the Design Review Board on 2-10-12 ( RC )

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