



# MIAMI BEACH

OFFICE OF THE CITY MANAGER  
NO. LTC # 170-2013

## LETTER TO COMMISSION

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2013 MAY 13 PM 3:55  
CITY CLERK'S OFFICE

TO: Mayor Matti Herrera Bower and Members of the City Commission  
FROM: Jimmy L. Morales, City Manager  
DATE: May 13, 2013  
SUBJECT: Update on Public Baywalk Along West Avenue

The purpose of this LTC is to update the Mayor and City Commission on the status of public bay walks at the rear of the properties along West Avenue from 5<sup>th</sup> Street to Lincoln Road.

### RECENT UPDATES

- At Site # 3, the South Bay Club Condominium (800 West Avenue), as part of an extensive pool deck renovation project that was approved by the Design Review Board (DRB) on May 7, 2013, has agreed to enter into an agreement to provide an easement and partial release of riparian rights for a future bay walk along the rear of its property. Such bay walk would connect directly to the properties to the south (Site # 2, 650 West Avenue – Floridian) and to the north (Site # 4, 900 West Avenue – Southgate Towers). The administration will work with the project architect and/or engineer to try and incorporate the bay walk into plans proposed for the repair of existing dock facilities.
- At Site # 4, Southgate Towers (900 West Avenue), the owners of the property have proffered to provide a public easement for, and to construct, a future upland public bay walk along the entire western portion of the subject site, at such time that the neighboring property to the south, the South Bay Club (800 West Avenue), also grants a similar easement for the construction of a public bay walk.
- At the western terminus of 10<sup>th</sup> Street, the City recently received a 50/50 matching grant from the Florida Inland Navigation District (FIND) for \$472,820. This grant will address shoreline erosion, improve storm water drainage, and establish public bay walk access by funding bulkhead, storm drainage and street-end park improvements for the western terminus of 10<sup>th</sup> Street. Construction of the bulkhead and storm drainage improvements are expected to begin in March, 2013 and last approximately 6 months. The failing seawall will be replaced with a standard sheet pile seawall structure that meets the new Storm Water Management Master Plan design criteria. In April, 2013, FDOT will begin reconstructing the drainage system on Alton Road. As part of FDOT's plans, a storm water force main will be constructed to discharge into Biscayne Bay by way of 10th Street. In order to minimize the duration of construction in this area and disturbance to the adjacent properties, the City will include a portion of the storm water force main into the street end project through the agreement with FDOT. Also, the City has been in discussion with the property owner to the immediate south (Southgate Tower) regarding streetscape improvements, including a redesign of the public bay walk, landscaping and access points. These

above ground improvements will be constructed at the conclusion of the below ground infrastructure work, using a portion of the FIND grant funds.

- At Site # 5, the Mondrian Hotel (1000-1200 West Avenue), the DEP (State) environmental permit application for the public bay walk is being processed for the bay walk and the proposed waterward relocation of two (2) existing submerged land leases for the Mondrian docking facilities; the relocation of the docking facilities would prevent a net loss of boat slip area. The State has provided an initial indication that the permitting of the bay walk, including authorization to use State submerged lands, is feasible. However, a position has not yet been issued regarding the feasibility of the docking facility lease relocation. Additional feedback from the DEP is expected to be forthcoming, but the timeframe for the design approach that will ultimately be approved, as well as the completion of the permitting process, cannot yet be determined. Following conceptual approval of an overall project approach from the State, permit applications will then be submitted to the applicable Federal and County regulatory agencies for consideration.
- At Site #10, the Flamingo property (1500 Bay Road), the construction of a publicly accessible upland bay walk is substantially completed. On May 21, 2013 a grand opening of this bay walk is planned, at which time the bay walk is scheduled to be fully accessible to the public.
- At Site #12, the Lincoln Bay Condominium (1450 Lincoln Road), as part of a recent DRB approval, the condo association has agreed to allow the City to design, permit and construct an over-water public bay walk section westward of the subject property's seawall and pool deck. This agreement, which has been drafted and is being considered by the condo association officers, includes the release of riparian rights necessary to construct the public bay walk segment.

### **CURRENT STATUS**

The City's environmental consultant, Coastal Systems International, has developed a Baywalk Master Plan that includes the following properties between 5<sup>th</sup> Street and Lincoln Road. Attached is a map of the different bay walk sites and the following is the current status of each segment:

#### **Site 1. 520 – 540 West Avenue: Bentley Bay Condominium (DRB File 9802)**

A bay walk has been constructed upland and is accessible. The bay walk was recently connected to the Floridian property to the north, as the portion of the block wall separating the bay walks of the respective properties was removed and the grade adjusted to allow a direct connection between the Bentley Bay and the Floridian bay walks.

#### **Site 2. 650 West Avenue: Floridian Condominium (DRB File 5517)**

A bay walk has been constructed upland and is accessible. This bay walk is now connected to the Bentley Bay to the south. To the north, no bay walk presently exists. According to the plans approved by the County's Shoreline Development Review Committee (SDRC), as well as existing site conditions, this bay walk is publicly accessible.

Site 3. 800 West Avenue: South Bay Club Condominium

As part of an extensive pool deck renovation project that was approved by the Design Review Board (DRB) on May 7, 2013, the South Bay Club has agreed to enter into an agreement to provide an easement and partial release of riparian rights for a future bay walk within the proposed scope of work. Such bay walk would connect directly to the properties to the south (Site # 2, 650 West Avenue – Floridian) and to the north (Site # 4, 900 West Avenue – Southgate Towers). The administration will work with the project architect and/or engineer to try and incorporate the bay walk into plans proposed for the repair of existing dock facilities.

Site 4. 900 West Avenue: Southgate Towers Apartments (Rentals)

Currently, no bay walk exists at this property. On March 5, 2013, the DRB approved a substantial renovation to the rear pool deck at Southgate Towers (DRB File No. 22945). As part of this approval, Southgate Towers has agreed to enter into and record a public easement for the construction and maintenance of an upland public bay walk, at such time that 800 West Avenue, South Bay Club (Site #4), grants an easement to permit a public bay walk on Site #4. See update above.

Western Terminus of Tenth Street

See update above.

A portion of the funding for the street-end work is also part of the design review approval provided as part of the Mondrian Hotel project, but would only become available in the event the overwater baywalk behind that project cannot be approved by all applicable regulatory authorities. The previous challenge to the funding of the 10<sup>th</sup> Street terminus by the Mondrian Hotel has been withdrawn.

Site 5. 1000-1200 West Ave: Mondrian Hotel/Mirador Condos

Pursuant to the Final Order for DRB File 20181, an overwater public bay walk has been proffered by the Mondrian Hotel, designed and was made part of the permit plans for the Mondrian Hotel project. As a condition of this approval, the applicant has posted \$450,000.00 in escrowed funds, in order to ensure the construction of the baywalk; such escrow is currently being held by a third party pursuant to an escrow agreement. While a prior application for the baywalk included plans for a marina, which were not received favorably by the State DEP, the applicant has now put together a new application, for a bay walk in consultation with City staff and the City's outside environmental consultant. The upland baywalk east of the seawall, which was an option provided for in the DRB Final Order, has not received the approval of the immediately abutting condominium associations to the north and south of the Mondrian Hotel and staff does not expect any such authorization to be forthcoming. See update above

Site 6. 1228 West Avenue: Bay View Terrace (Condo)

As part of a recent Conditional Use approval by the Planning Board for the reconstruction of a pier and dock lost during a hurricane, the Condominium Association agreed to design their replacement pier and dock so that it can accommodate an overwater baywalk connection behind its property. Such agreement is part of the Conditional Use Approval issued by the Planning Board on August 26, 2008 (PB File No. 1879). No arrangements were made for private funding of this connection.

Site 7. 1250 West Avenue: Bay Garden Manor (Condo)

No land use board order on this property was ever imposed as it pre-dates the creation of the design review process, and no bay walk exists. Staff has evaluated the feasibility of a baywalk at this location and it appears that an overwater, as opposed to upland, connection would be the most feasible option. There is no timetable for this to be part of any future project.

Site 8. Monad Terrace: Single Family Homes

No land use board order on this property was ever imposed as it pre-dates the creation of the design review process, and no bay walk exists. While these properties are single family homes, the properties are zoned for multi-family residential. Any future aggregation of the bayfront lots for a larger new development along the water would present an opportunity for an upland public baywalk that could connect directly to the property to the immediate north (Waverly). Staff has evaluated the feasibility of a baywalk at this location absent the aggregation of the bayfront lots and it appears that an overwater, as opposed to upland, connection would be the most feasible option, with cooperation by the homeowners.

Site 9. 1330 West Avenue: Waverly (DRB File 9024)

An upland public bay walk has been constructed, pursuant to Design Review Board and County Shoreline Development Review Committee Orders. Litigation with the condominium association regarding public access has concluded in favor of the City, and the association has completed repairs to the seawall. This portion of the baywalk is now open to the public.

Western Terminus of Fourteenth (14<sup>th</sup>) Street

Public Park and accessible public bay walk are completed and open.

Site 10. 1500 Bay Road: Flamingo (DRB File 9191)

The Grand Flamingo project was approved by the Design Review Board (DRB) on November 4, 1997. Since the original approval, the subject project has become legal non-conforming in terms of overall height, FAR, parking, and with regard to the parking pedestal design. Condition 9 of the Final Order for the project states the following:

*A baywalk extension, from the south side of the property north into the future park area, shall be required.*

Although a bay walk was constructed, with direct access from the 14<sup>th</sup> Street Park, the above noted condition was not complied with as public access to the bay walk, as required by the DRB Final Order, was prohibited. The owners of the Flamingo sued the City on issues involving public baywalk access. The Flamingo and the City entered into a settlement agreement in September 2009, with the Flamingo agreeing to provide public access to the baywalk by the end of 2011. Plans for a publicly accessible bay walk have been permitted and construction the construction of a publicly accessible upland bay walk is substantially completed. On May 21, 2013 a grand opening of this bay walk is planned, at which time the bay walk is scheduled to be fully accessible to the public. See update above

Site 11. 1445 16<sup>th</sup> Street & 1491 Lincoln Terr.: Mae Capri Condominium (DRB File 17716)

Pursuant to the Final Design Review Board Order, an upland public bay walk has been completed and is open to the public. The public bay walk is operating independent of any north or south connections, but will connect directly to the Flamingo property to the south,

upon completion of the Flamingo bay walk (see above).

Site 12. 1450 Lincoln Road: Lincoln Bay Towers Condominium

Currently, no bay walk exists at this property. The existing rear pool deck extends over the seawall and projects into the bay. Consequently the only method of connection from the western street-end of Lincoln Road to the north side of the Mae Capri baywalk is to construct an overwater connection. A conceptual design for this specific connection between the Lincoln Road Street-end and the Mae Capri Condominium baywalk has been developed by the City. The City is currently ascertaining permitting feasibility from the appropriate regulatory agencies.

As part of a recent DRB approval, the condominium association has agreed to allow the City to design, permit and construct an over-water public bay walk section westward of the subject property's seawall and pool deck. This agreement, which is being finalized for recordation, includes the release of riparian rights necessary to construct the public bay walk segment. See update above.

Lincoln Road Street End

Public park and accessible public bay walk are completed and open.

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