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 RECORDED 09/03/2008 14:31:42  
 HARVEY RUVIN, CLERK OF COURT  
 MIAMI-DADE COUNTY, FLORIDA

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

**PROPERTY:** 1228 West Avenue

**FILE NO.** 1879

**IN RE:** The Application by Bayview Terrace, a condominium, requesting Conditional Use approval to rebuild in the same location as it existed in the past, a boat dock consisting of 5 slips and 12 mooring piles projecting a total of 71 feet waterward from the existing seawall, for the exclusive use of the unit owners.

**LEGAL DESCRIPTION:** See Attached

*Lot 4, Block 80 of "Subdivision of Block eighty of the Alton Beach Realty Company a part of Alton Beach Bayfront Subdivision". According to the Plat thereof as recorded in Plat Book 6 at page 12 of the public records of Miami-Dade County, Florida.*

**MEETING DATE:** August 26, 2008

**CONDITIONAL USE PERMIT**

The applicant, Bayview Terrace, a condominium, is requesting a Conditional Use Permit pursuant to Section 118-193 of the Land Development Regulations of the Code of the City of Miami Beach, Florida. 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-3 Residential Multifamily High intensity;

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

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;

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

That the public health, safety, morals, and general welfare will not be adversely affected if the applicant complies with the conditions stated herein;

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

*As per us exhibit 11*

this matter, and the staff report and analysis, which is adopted herein, including the staff recommendation, that the modification to the previously approved Conditional Use Permit as requested and set forth above be GRANTED, subject to the conditions below, which have been accepted by the applicants:

1. The Planning Board shall maintain jurisdiction on this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of the progress report in a non-substantive manner, to impose additional conditions to address possible problems, and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. The mooring of commercial vessels shall be strictly prohibited. The proposed docks shall be for the exclusive use of the residents of the subject property. Rental of dock facilities to non-residents shall be prohibited.
3. Pursuant to Section 66-113 of the City Code, no vessel shall be docked or moored so that its projection into the waterway would be beyond the permissible projection approved herein.
4. The applicant shall remove all debris from the water after installation of all marine structures proposed and shall indicate this on the plans prior to the issuance of a building permit. The debris shall be removed prior to the issuance of a Certificate of Completion for any new marine structure.
5. The only lights permitted shall be those required by DERM, the U.S. Coast Guard and any other permitting agency for navigational safety, including but not limited to navigational reflectors on the mooring piles. One electric light equipped with a motion sensor may be installed at the terminal platform for security purposes. Lights and reflectors shall be indicated on the plan and shall be subject to the review of staff prior to the issuance of a building permit, and shall be the minimum height and number required to meet the standards of DERM, the U.S. Coast Guard or any other permitting agency.
6. Lighting associated with, but not limited to, the deck, vessel or marine structure shall be installed in such a manner as to minimize glare and reflection on adjacent properties and not to impede navigation. All lighting shall be erected so as to direct light only on the premises on which they are located, and shall be contained on site.
7. The project shall receive final approval by the Miami-Dade County Department of Resource Management (DERM), as well as any other county, state or federal permitting agency as may be required.
8. The Applicant has been advised by the City that there are future plans to construct a section of public bay walk ("section") parallel to the Applicant's seawall. The section of bay walk will not be opened until there is a bay walk connecting to this section of the bay walk at either the northerly end of the section terminating at the western extension of the north property line of the Applicant's property or southerly end of the section terminating at the western extension of the south property line of Applicant's property.

- a) This bay walk would 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 bay walk, subject to the limitations of Section 768.28, Florida Statutes.
  - b) At such time as the section of the bay walk is constructed, the bay walk will be designed to intersect with the Applicant's dock. This intersection shall be designed, installed, constructed and maintained at the sole cost of the City. If the intersection of this section of bay walk requires some modifications of the Applicant's dock, then those modifications shall be subject to the reasonable approval of the Association, but in no event shall the bay walk or modifications impair or diminish the Applicant's use and enjoyment of its dock and pier. Such modifications shall be made at the sole cost of the City.
  - c) The Applicant may install operable and lockable fences, gates or other operable barriers ("gates") to restrict (including prohibit) public access to the Applicant's upland property and to the Applicant's pier and dock. The gates shall be permitted at the bottom of the stairs leading from the baywalk to the Applicant's upland property and at the intersection of the pier/dock with the bay walk to block access to the waterward side of Applicant's dock/pier (but not to block access across the baywalk at the intersection itself). These "gates" shall be subject to the review and approval of staff but only as to aesthetics and to ensure conformity with this condition.
  - d) In the event Applicant's seawall requires repair or maintenance, then the City, at its sole cost, and providing such work cannot otherwise be reasonably accomplished, shall remove this section of the bay walk, or necessary portions thereof, so that the Applicant can have access to the seawall for such repairs or maintenance. At the conclusion of the repairs or maintenance, the reconstruction of this section of the bay walk shall be at the sole cost of the City.
  - e) The applicant shall not, at any time, take any action which will impair public access in perpetuity to the public baywalk or to the section.
  - f) The applicant shall assist the City in securing permits for the public baywalk westward of the seawall to the extent the applicant's consent, approval or support is reasonably required for the approval or processing of permits.
9. If the applicant sells, leases or otherwise conveys the property, these conditions shall run with the land, and the applicant's successors and assigns shall be obligated to comply with these conditions.
  10. A building permit shall be obtained within 18 months of this public hearing, and the project completed in accordance with the requirements of the Florida Building Code and any other codes as they may apply, regarding the design and construction of marine structures, as well as conditions imposed by DERM in their permit. No building permit shall be issued until this Conditional Use Permit has been recorded in the Public Records of Miami-Dade County.

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- 11. This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant.
- 12. 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.
- 13. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-7 of said Code and such enforcement procedures as are otherwise available. 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 Conditional Use permit.

Dated this 3 day of September, 2008.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]  
Jorge G. Gomez, Planning Director  
For Chairman

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 3 day of September, 2008, by Jorge G. Gomez, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

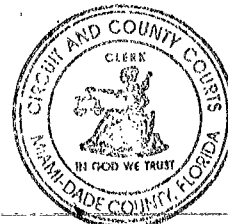
[NOTARIAL SEAL] Notary Public State of Florida  
Randy Cesar  
My Commission DD517341  
Expires 02/13/2010

Randy Cesar  
Notary:  
Print Name: Randy Cesar  
Notary Public, State of Florida  
My Commission Expires:  
Commission Number:

Approved As To Form:  
Legal Department [Signature] 8-29-08)

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STATE OF FLORIDA, COUNTY OF DADE  
I HEREBY CERTIFY that this is a true copy of the  
original filed in this office on 3rd day of  
September, AD 2008  
WITNESS my hand and Official Seal.  
HARVEY RUBIN, CLERK, of Circuit and County Courts  
By: [Signature] 0144 D.C.



[Signature]