


# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

FROM: Thomas R. Mooney, AICP  
Planning Director 

SUBJECT: HPB20-0447, **4101 Collins Avenue.**

DATE: April 13, 2021

An application has been filed requesting variances from the Dune Preservation Overlay District requirements.

#### **RECOMMENDATION**

Denial of the variances

#### **EXISTING SITE**

Local Historic District:	Collins Waterfront
Classification:	Contributing
Construction Date:	1955
Architect:	Carlos B. Schoeppel

#### **ZONING / SITE DATA**

Legal Description:	Lots 1, 2 and 7 and south 25 feet of lots 3 and 6 and lot 8, Block 35, of the Oceanfront property of Miami Beach Improvement Company Subdivision, according to the plat thereof, recorded in plat book 5, pages 7 and 8 of the Public Records of Miami-Dade County, Florida, and 16-foot alleyway between lots 1 and 2 and the south one half of lot 3 on the east and lots 7 and 8 and the south one half of lot 6 on the west, block 35 of the aforesaid subdivision, public records of Miami-Dade County, Florida.
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Zoning:	RM-3, Residential multifamily high intensity
Future Land Use Designation:	RM-3, Residential multifamily high intensity

Existing Use/Condition:	Hotel
Proposed Use:	Same

#### **THE PROJECT**

The applicant has submitted plans entitled "Best Western Plus Atlantic Beach Resort", prepared by IAA Design Associates P.A., dated February 8, 2021. The project consists of improvements to the rear of the property including a new perimeter fence, ramp and walkway from the elevated pool deck to the beach walk and a second walkway at the ground level from the garage to the

beach walk. Variances are requested from the requirements of the Dune Preservation Overlay District as noted in the Analysis section.

### **COMPLIANCE WITH ZONING CODE**

A preliminary review of the project indicates that the application appears to be consistent with the City Code, in addition to the variances requested herein.

This 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 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the **hotel** use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

### **PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that DO NOT 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 DO NOT 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.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Applicable**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not Applicable**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Not Applicable**
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.  
**Satisfied**
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.  
**Satisfied**
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.  
**Not Applicable**
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.  
**Not Applicable**
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.  
**Not Applicable**
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.  
**Not Applicable**
- (10) In all new projects, water retention systems shall be provided.  
**Not Applicable**

- (11) Cool pavement materials or porous pavement materials shall be utilized.

**Partially Satisfied**

**The pavers set in sand proposed for the walkways will allow for permeability however, it has not been demonstrated that the paver or concrete material will be treated in a manner which is consistent with cool pavement materials.**

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

**Satisfied**

**VARIANCE ANALYSIS**

The applicant is proposing improvements to the rear of the property including a new perimeter fence, a walkway and ramp from the elevated pool deck to the beach walk and a second walkway at the ground level from the garage to the beach walk. The applicant is requesting the following variances:

1. A variance to construct new walkways and ramp with concrete and pavers where only wood materials are allowed for structures located within the Dune Preservation Overlay District.
2. A variance to exceed the maximum allowable number of dune crossings for a site with less than 300 linear feet of frontage and to construct the crossing in a non-wood material in order to provide two concrete and paver dune crossings in the Dune Preservation Overlay District.

- Variances requested from:

**Sec. 142-774. - Uses and structures permitted.**

Uses and structures permitted under this division shall be designed to accommodate and channel pedestrian movement in such a manner as to protect and enhance vegetation and the beach. No land or structure shall be used, in whole or in part, except for one or more of the following permitted uses:

(4) Promenade linkage shall be constructed of wood materials and shall conform to the design specifications established in the beachfront park and promenade plan. Sites having less than 300 linear feet of oceanfront frontage shall be limited to one dune crossing and/or promenade linkage. Sites having more than 300 linear feet of oceanfront frontage shall be permitted one crossing or linkage per each additional 100 linear feet of frontage or part thereof. In no instance, however, shall the total aggregate number of crossings and linkages exceed four per site.

(6) Walkways and ramps constructed of wood materials and which are not more than six feet in width.

The applicant is proposing new walkways and ramp at the rear of the property, specifically within the Dune Preservation Overlay District. The area is presently open and unencumbered with permanent structures. Previously, the property contained an elevated wood walkway that connected the pool deck to the former boardwalk. This elevated walkway was removed following the demolition of the boardwalk and the construction of the existing at grade beach walk. Currently, the applicant is proposing to introduce two separate dune crossings constructed with concrete and paver materials. As per Section 142-772 of the City Code, the purpose of the Dune Preservation Overlay district is to “promote recreational, open space and related uses. Detailed review of all uses and structures is required because this area functions as a transitional zone

between the intensely developed uplands and the dune and beach. It accommodates uses and structures which are compatible and supportive of the beachfront park system and the natural beach environment”.

Variance #1 is associated with the concrete and paver materials proposed. As stated in the letter of intent submitted by the applicant, the non-wood materials are proposed due to safety and durability concerns. The concrete material is however, inconsistent with the requirements of the Dune Preservation Overlay and staff is confident that regular maintenance of a wood ramp and walkway structure can resolve any potential safety issues.

Variance #2 is associated with the maximum number of dune crossings within the overlay district. Properties that have an oceanfront frontage of 300’-0” or less are permitted to have a maximum of one crossing within the Dune Preservation Overlay District. The subject property has a frontage along the ocean of 125’-0”. Staff would note that the approximately 3,800 square foot overlay area is largely unencumbered and could accommodate a structure that combines both access points into one dune crossing. Therefore, staff does not believe the variance request satisfies the hardship or practical difficulties criteria and recommends that the structures be redesigned as noted above, provided there are no Florida Building or Life Safety code requirements that mandate a separation of paths.

In summary, staff does not find that the applicant has demonstrated hardship or practical difficulty and believes that compliance with the requirements of the Dune Preservation Overlay will not limit the reasonable use of the property. As such, staff recommends denial of variances as noted below.

#### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application be **denied**.

**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: April 13, 2021

PROPERTY/FOLIO: 4101 Collins Avenue / 02-3226-001-1980

FILE NO: HPB20-0447

IN RE: An application has been filed by Lucerne Investments LLC requesting variances from the Dune Preservation Overlay District requirements.

LEGAL: Lots 1, 2 and 7 and south 25 feet of lots 3 and 6 and lot 8, Block 35, of the Oceanfront property of Miami Beach Improvement Company Subdivision, according to the plat thereof, recorded in plat book 5, pages 7 and 8 of the Public Records of Miami-Dade County, Florida, and 16-foot alleyway between lots 1 and 2 and the south one half of lot 3 and the east and lots 7 and 8 and the south one half of lot 6 on the west, block 35 of the aforesaid subdivision, Public Records of Miami-Dade County, Florida.

**ORDER**

The City of Miami Beach Historic Preservation 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. Certificate of Appropriateness**

A. No request for a Certificate of Appropriateness has been filed as a part of this application.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

**II. Variance(s)**

A. The applicant filed an application with the Planning Department for the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were denied by the Board:

1. A variance to construct new walkways and ramp with concrete and pavers where only wood materials are allowed for structures located within the Dune Preservation Overlay District.
2. A variance to exceed the maximum number of one (1) dune crossing for a site with less than 300 linear feet of frontage in order to provide two (2) dune crossings in the Dune Preservation Overlay District.

- B. The applicant has submitted plans and documents with the application that **DO NOT** 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 **DO NOT** 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.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

- C. The Board hereby **denies** the requested variances.

**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.**

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 recommendation, that the application is DENIED for the above-referenced project.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT  
HISTORIC PRESERVATION AND ARCHITECTURE OFFICER  
FOR THE CHAIR

[illegible]

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Deborah Tackett, Historic Preservation and Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

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

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ ( )

Filed with the Clerk of the Historic Preservation Board on \_\_\_\_\_ ( )