

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: January 3, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB16-0090 (a.k.a. DRB0416-0015)
1600-1634 Alton Road "1212 Lincoln Road" – Commercial Development

The applicants, ARRP Miami LLC, 1212 Lincoln, LLC, and Wells Fargo Bank, are requesting modifications to a previously approved Design Review Approval for the construction a new five-story commercial building with accessory parking and a hotel component that included multiple variances. Specifically, the applicants are requesting modifications in order to adjust the elevation to incorporate a taller first floor and variances to exceed the maximum height of a roof deck and to exceed its maximum area allowed.

RECOMMENDATION:

Approval with conditions

Approval of the variances

LEGAL DESCRIPTION:

Lots 1 thru 9 of Block 45 of the "Commercial Subdivision", According to the Plat Thereof, as Recorded in Plat Book 6, Page 5, of the Public Records of Miami-Dade County, Florida.

HISTORY:

On July 5, 2016, the Design Review Board approved a five-story commercial use building, pursuant to DRB0416-0015, including the following variances:

1. A variance to reduce the minimum required front pedestal setback of 20'-0" for residential uses in order to construct a building with hotel uses on the third (3rd) and fourth (4th) floors at 0' setback from the front property line, facing Alton Road.
2. A variance to reduce the minimum required tower front setback of 30'-0" for residential uses in order to construct a building with hotel uses on the fifth (5th) floor at 0' setback from the front property line, facing Alton Road.
3. A variance to reduce by 5'-0" the minimum required pedestal rear setback of 15'-0" for residential uses in order to construct a building with hotel uses on the first (1st) and second (2nd) floors at 10'-0" from the rear property line facing the alley.
4. A variance to reduce the minimum required pedestal rear setback of 15'-0" for residential uses in order to construct a building with hotel uses on the third (3rd) and fourth (4th) floors at 0' setback from the rear property line facing the alley.
5. A variance to reduce the minimum required tower rear setback of 22'-6" for residential uses in order to construct a building with hotel uses on the fifth (5th) floor at 0' setback from the rear property line facing the alley.

6. A variance to reduce the minimum required pedestal street side setback of 37'-9" for residential uses in order to construct a building with hotel uses setback from 15'-7 to 0' from the north side property line, facing Lincoln Road.
7. A variance to reduce the minimum required tower street side setback of 37'-9" for residential uses in order to construct a building with hotel uses on the fifth (5th) floor at 0' setback from the north side property line, facing Lincoln Road.
8. A variance to reduce the minimum required pedestal rear setback of 5'-0" for commercial uses in order to construct a building at 0' setback from the rear property line.
9. A variance to reduce the minimum required tower rear setback of 5'-0" for commercial uses in order to construct a building at 0' setback from the rear property line.

An application was approved by the Planning Board at the May 24, 2016 for new construction greater than 50,000 square feet in the CD-2 zoning district.

SITE DATA:

Zoning:	CD-2 MEDIUM INTENSITY COMMERCIAL DISTRICT
Future Land Use:	CD
Lot Size:	70,666 SF / 1.62 acre
Proposed FAR:	2.0 – 141,332 SF Total Area as represented by the applicant
Permitted FAR:	2.0 – 141,332 SF
Proposed Height:	60'-0" 5 stories / 77'-0" to greatest architectural projection
Permitted Height:	60'-0" / 5 stories
Proposed Uses:	
Hotel:	100 Units / 44,938 SF
Retail:	92,725 SF
Parking:	447 Spaces

LAND USES:

North: (across Lincoln Road) Commercial
South: (across 16th Street) Commercial
East: (across Alton Road) Commercial / Regal Cinemas
West: (across Alton Court) Public Parking/Multifamily Residential

THE PROJECT:

The applicants have submitted plans entitled "1212 Lincoln Road: Design Review Board Variance Request", as prepared by **Perkins + Will** and **Urban Robot LLC** dated October 28, 2016.

The applicants are requesting modifications to a previously approved design, including changes to the height of the ground floor component.

The applicants are requesting the following new variance(s):

1. A variance to exceed by 2'-0" the maximum height allowed of 3'-0" above the main roof line for accessible roof deck to construct 8,974 sf of deck area at five feet (5'-0") above the main roof line.

2. A variance to exceed by 50% the maximum roof deck area allowed of 50% of the enclosed floor below in order to construct an accessible roof deck with 100% of the area of the enclosed floor below.

- Variances requested from:

Sec. 142-1161. - Height regulation exceptions.

(a) The height regulations as prescribed in these land development regulations shall not apply to the following when located on the roof of a structure or attached to the main structure.

(3) Decks, not to exceed three feet above the main roofline and not exceeding a combined deck area of 50 percent of the enclosed floor area immediately one floor below.

The project has previously obtained variances to construct the hotel use up to the front property lines facing Alton Road and Lincoln Road, which allows an accessible roof deck to be located at zero setback on both streets without any other variance. Accessible roof decks cannot exceed 50% of the area of the floor immediately below and in this case, the applicant is proposing to occupy the entire area of the hotel use. Although, the total area of the floor immediately below is 56,227 sf including the parking, only the area of the hotel (14,268 sf) can be used to determine the maximum 50% area for the roof deck above. If the floor below were entirely hotel units, the roof deck area allowed without a variance could have been larger than the proposed area. The maximum roof deck area allowed cannot exceed 3'-0" above the main roof and the applicant is also requesting a variance to increase the height of some portions up to 5'-0". The roof deck will also have more than 30% of its area landscaped.

Staff does not anticipate any negative impact from the proposed roof deck, as it is located at the north side of the property, largely distant from the adjacent property to the south and separated by streets from other neighboring properties on the north. Based on the large area of the property and irregular shape, staff finds that the variance requests satisfies the practical difficulties criteria of the Code and recommends that the variances be approved.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

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 the requested variances if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicants have 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.

CONSISTENCY WITH COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **commercial use** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive 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 variances:

- Sec. 138-204. - Artistic or super graphics.
Artistic or super graphics and/or neon banding that have no commercial association are permitted, and may or may not face a street, with the approval of the design review board.

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.

ACCESSIBILITY COMPLIANCE

Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building Construction). These and all accessibility matters shall require final review and verification by the Building Department prior to the issuance of a Building Permit.

CONCURRENCY DETERMINATION:

In accordance with Chapter 122 of the Code of the City of Miami Beach, the Transportation and Concurrency Management Division has conducted a preliminary concurrency evaluation and determined that the project does not meet the City's concurrency requirements and level-of-service standards. However, the City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division will make the determination of the project's fair-share mitigation cost.

A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.

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 is 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.
Not Satisfied; the proposed project requires several variances to be granted by the Design Review Board.
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; the proposed project requires several variances to be granted by the Design Review Board.
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; the proposed project requires several variances to be granted by the Design Review Board.
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.

Satisfied

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

Satisfied

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.

Satisfied

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.

Satisfied

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

Not satisfied; a roof plan showing the location of mechanical equipment and details of the associated screening has not been provided

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.
Satisfied; the proposed first floor retail component continues to activate the street level transparency and achieves pedestrian compatibility and creates visual interest.
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.
Satisfied; the location of all of the required loading spaces and delivery of goods have been arranged along the alley.

ANALYSIS

DESIGN REVIEW

The applicant is seeking design modifications to a previously approved Design Review Board approval. Aside from the requested variances which pertain to the pool deck of the hotel, the exterior alterations include the proposed changes to the height of the ground floor retail component of the project. The design now intends to raise the first floor of the building to twenty (20) feet from the original sixteen (16) feet. The change is contemplated to ensure compatibility and resilience for the future commercial development. Staff is supportive of this proposed modification and supportive of the exterior revisions to the hotel element's roof deck.

VARIANCE REVIEW

The site contains 1.62 acres of lot area from the aggregation of 9 platted lots. This creates a property with approximately 472'-0" of linear frontage along Alton Road, two side facing a street conditions (16th Street and Lincoln Road), as well as a rear property line that abuts an alley, Alton Court, all of which combine for architectural challenges for strict adherence to underlying regulations due to determinations of front, rear, side facing street setback compliance for zoning purposes. As identified under the 'Project' description, the variances being requested pertain to the hotel use of the new development. Specifically, variances to increase the size of the accessible roof deck and to exceed the maximum height allowed.

The site conditions of the property are practical difficulties for the applicant to develop the mixed-use building. Staff finds that the shape and size of the lot justify the requested variances in order to develop the site with an urbanistic responsible, mixed-use building. Staff recommends approval of the variance requests.

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 Practical Difficulty and Hardship criteria.

TRM/JGM

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: January 3, 2017

FILE NO: DRB16-0090 (a.k.a. DRB0416-0015)

PROPERTY: 1600-1634 Alton Road "1212 Lincoln Road"

APPLICANTS: ARRP Miami LLC, 1212 Lincoln LLC, and Wells Fargo Bank

LEGAL: Lots 1 thru 9 of Block 45 of the "Commercial Subdivision", According to the Plat Thereof, as Recorded in Plat Book 6, Page 5, of the Public Records of Miami-Dade County, Florida.

IN RE: The applicants, ARRP Miami LLC, 1212 Lincoln, LLC, and Wells Fargo Bank, are requesting modifications to a previously approved Design Review Approval for the construction a new five-story commercial building with accessory parking and a hotel component that included multiple variances. Specifically, the applicants are requesting modifications in order to adjust the elevation to incorporate a taller first floor and variances to exceed the maximum height of a roof deck and to exceed its maximum area allowed.

ORDER

The applicant filed an application with the City of Miami Beach Planning Department for Design Review Approval and for one or more variances.

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 a 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 2, 3, 5, and 14 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. All of the original conditions of approval by this Board, as reflected in the Final Order dated July 5, 2016, pursuant to DRB0416-0015, shall remain in effect except as modified herein.

2. The height of the ground floor retail component shall be permitted to be increased as proposed, the first floor of the building may be measured up to twenty (20) feet.

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 exceed by 2'-0" the maximum height allowed of 3'-0" above the main roof line for accessible roof deck to construct 8,974 sf of deck area at five feet (5'-0") above the main roof line.
 2. A variance to exceed by 50% the maximum roof deck area allowed of 50% of the enclosed floor below in order to construct an accessible roof deck with 100% of the area of the enclosed floor below.
- B. The applicants have 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 applicants have 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 **Approves** the Variance request(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.
 2. 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.
 3. 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.

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.

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

- A. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney. If there is a roadway or right-of-way between parcels, that parcel separated from the remaining development shall not be considered a unified development site and shall not be joined into the covenant in lieu of unity of title or unity of title for the actual unified development site.
- B. The applicants shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the proximity of the new building to the public right-of way.
- C. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.
- D. 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.

- E. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- F. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- G. 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.
- H. 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.
- I. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- J. 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 I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "1212 Lincoln Road: Design Review Board Variance Request", as prepared by **Perkins + Will** and **Urban Robot LLC** dated October 28, 2016, 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 set forth in this Order. 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 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 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.

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: _____
JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He 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 Design Review Board on _____ ()