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FORT LAUDERDALE CITY COMMISSION
JUNE 20, 2000**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE, FLORIDA
JUNE 20, 2000**

Meeting was called to order at 6:30 P.M. by Mayor Naugle on the above date, City Commission Meeting Room.

Roll call showed:

Present: Commissioner Gloria F. Katz
Commissioner Carlton B. Moore
Commissioner Cindi Hutchinson
Commissioner Tim Smith
Mayor Naugle

Absent: None

Also Present:

City Manager F. T. Johnson
City Attorney Dennis E. Lyles
City Clerk Lucy Masliah
Sergeant at Arms Sgt. Waldman

Invocation was offered by *Dr. Diane Mann*, Pastor, Fourth Avenue Church of God.

Pledge of Allegiance to the Flag.

Motion made by Commissioner Moore and seconded by Commissioner Smith that the agenda and minutes of the meeting as shown below be approved:

Regular Meeting June 6, 2000

Roll call showed: YEAS: Commissioners Smith, Moore, Hutchinson, Katz, and Mayor Naugle.
NAYS: none.

NOTE: All Items were presented by Mayor Naugle unless otherwise shown, and all those desiring to be heard were heard. Items discussed are identified by the agenda number for reference. Items not on the agenda carry the description "OB" (Other Business).

Presentations (OB)

1. Expressions of Sympathy

Mayor Naugle read aloud and presented Expressions of Sympathy, on behalf of the City Commission, to the families of *Earl T. Shinoster, Robert Trent Jones, and Eugene C. Brett.*

**Amendment to the Comcast Corporation
Cable Television Franchise Agreement** (R-2)

A resolution was presented authorizing the proper City officials to execute an amendment to the Comcast Corporation Cable Television Franchise Agreement to extend the term of the existing franchise for a specified period; amend the definition of "Annual Gross Revenues;" altering the manner of payment of fees; and, addressing issues subject to final determination such as nondiscriminatory access to the cable system and pass-through costs. (Also see Item O-1 on this Agenda).

Commissioner Smith introduced a written resolution entitled:

RESOLUTION NO. 00-78

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING AND DIRECTING THE PROPER CITY OFFICIALS TO EXECUTE AN AMENDMENT AND EXTENSION TO AMENDED FRANCHISE AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE AND COMCAST CABLEVISION OF BROWARD COUNTY, INC., AS "FRANCHISE," AND COMCAST CABLE COMMUNICATIONS, INC., AS "GUARANTOR," PROVIDING FOR A TWELVE-MONTH EXTENSION OF THE FRANCHISE TERM, SUCH EXTENDED TERM TO EXPIRE ON JUNE 25, 2001; AND TO MODIFY NUMEROUS OTHER PROVISIONS OF THE AMENDED FRANCHISE AGREEMENT, ALL SUBJECT TO CERTAIN TERMS AND CONDITIONS.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Smith, Moore, Hutchinson, and Katz. NAYS: Mayor Naugle.

At 8:37 P.M., Commissioner Hutchinson left the meeting. She returned at 8:38 P.M., and Commissioner Moore left the meeting. He returned at 8:40 P.M.

**Development of Significant Impact/ABA –
Riviera Resort Club Developers, Inc. –
Fortune House Resort Hotel (PZ Case No. 4-R-00)** (R-3)

At the regular meeting of the Planning & Zoning Board on April 26, 2000, it was recommended by a vote of 9 to 0 that the following application be approved.

Applicant: Riviera Resort Club Developers, Inc.
Request: Development of Significant Impact/ABA
Location: 505 North Fort Lauderdale Beach Boulevard

Having affirmed to speak only the truth by virtue of an oath administered by the City Clerk, the following individuals offered comment on this item.

Mr. Scott Miller, Development Review Coordinator, stated this was an application for a development of significant impact on the beach at 505 North Fort Lauderdale Beach Boulevard. It was a development of significant impact for three reasons. First, in the ABA zoning district, a hotel use was automatically a development of significant impact. In addition, a setback reduction was being requested, as well as a reduction in the floor area ratio (FAR).

Mr. Miller stated the site was 1.74 acres, and a 278-suite hotel with 9,100 square feet of restaurant space, 12,800 square feet of meeting room space, and 14,000 square feet of retail space was proposed. The structure would be 229' tall, with the restaurant and retail area on the ground floor fronting on North Fort Lauderdale Beach Boulevard. In addition, a second retail area was proposed fronting on Viramar Street. Mr. Miller advised that the hotel use was permitted in the ABA zoning district, and the facility would be marketed as a condominium hotel with each suite or block of suites sold to individual owners. He explained that the entire property had to be licensed as a hotel pursuant to the ABA zoning district and the laws of the State of Florida.

Mr. Miller reported that the ownership arrangement proposed differed from the typical time-share interval ownership program in that an owner placed the unit up for rent as a hotel room at certain times and used it personally at other times. He advised that the concerns of staff and the Planning & Zoning Board had been that if there was no limitation on the length of stays by unit owners, the building could become a seasonal residence and undermine the intent of the ABA district as a tourist destination. He reported that the applicant had proffered a limitation on stays, which had been incorporated by staff as condition 7. It was his understanding that the applicant's representative wished to make some modification to the language of condition 7.

Mr. Miller stated that the project met all the parking and landscaping requirements, and all loading and service activities would occur within the volume of the building rather than out on the street. A traffic study had been performed that had been reviewed by staff and a consultant hired on behalf of the City, and the traffic impacts were determined to be relatively minimal with respect to the street system in the area.

Mr. Miller advised that setback modifications were requested as outlined in the back-up memorandum. He explained that the ABA zoning required a 20' setback from all streets, and part of the criteria for modification related to beach design guidelines. Mr. Miller reported that staff and the Planning & Zoning Board had felt this project was in keeping with the beach design guidelines. He reported that there was also a zoning in progress issue related to the 200' building length or width limitation. Mr. Miller stated the lower portion of the proposed structure was approximately 332' in length in an east/west direction. The area of the building that was greater than 56' in height was 214' in length on an east/west axis and 80' wide on the north/south axis.

Mr. Miller stated that an increase in the FAR was being requested. He explained that the ABA had a maximum FAR of 4, and a 10% increase was being requested to 4.4. In order for the request to be granted, the applicant had to demonstrate that the project met certain design and compatibility ratings based on a scale contained in the ULDR. By virtue of the design and proposal, staff and the Planning & Zoning Board felt the project deserved a rating of 7 on that scale, which allowed for a 10% increase in the FAR.

Mayor Naugle asked what the FAR of the building was including the garage. Mr. Miller said he had not done those calculations, but he could. He explained that the definition of FAR for non-residential buildings did not include the garage, but the calculation could be done. Mr. Miller stated that the project met the A-1-A beach shadow plane, although some shadowing would necessarily occur, primarily to the properties to the north especially during the late fall and winter months.

Mr. Miller said the design guidelines had been satisfied, and there had been general support for the project at the Planning & Zoning Board meeting of April 26, 2000. Staff and the Board recommended approval under 12 conditions as outlined in the back-up material.

Ms. Courtney Callahan, Attorney representing the developer, introduced various members of the development team who were present to answer any questions. She stated that there would be 278 luxury hotel suites in the subject building in the location of the existing East City Grill. Some booklets were distributed about the project, which included a rendering of a model superimposed on the site. In addition, the booklet included a list of construction practices proposed.

Ms. Callahan stated that the setback reductions were being requested to allow for a promenade along A-1-A, Riomar and Viramar Streets, but the tower itself was close to being set back 20' from the streets. She advised that the FAR bonus was being requested because the project was distinctive in terms of color, treatment of A-1-A, and providing neighborhood retail street interaction. Ms. Callahan said the project complied with the current Code and zoning in progress in place at the time the application had been submitted.

Mr. Jeff Falkanger, Architect representing the developer, described the proposed project. He displayed a location map and said he had been aware of concerns about service and loading areas. Therefore, all of these activities would be conducted internally, and there was plenty of stacking room on the site so cars would not be backed out onto the street. He advised that valet parking would also be provided, and taxi queuing would not occur on the street either.

Mr. Falkanger pointed out a large plaza along A-1-A with retail space and covered arcades. He noted that the beach wall had been mimicked on all sides except the west, and there would be plenty of landscaping. He also noted that some neighborhood retail space would also be provided. Commissioner Smith asked what type of retail uses were proposed. Mr. Falkanger replied that there would be restaurants and 2,800 square feet of neighborhood retail uses.

Mr. Falkanger said the western side had two stairways, and the transformer vault would be enclosed. He advised there would be heavy landscaping. Mr. Falkanger stated this would not be a Mediterranean building, and there were balconies with glass railings. He explained that the west side of the building would look just like the other sides. Mr. Falkanger advised that the units on the west side had excellent views of the City and most of them had been sold already.

Mr. Falkanger described the valet and parking arrangements, and he noted that the pool deck had cabanas, landscaping and pavers. He displayed a typical floor plan, and he pointed out the notch in the center of the building to break up the mass of the building. In addition, glass elevators and a glass wall on the outside would provide a dramatic appearance and also helped to break up the building mass. Mr. Falkanger displayed the south elevation, noting the beach shadow lines, along with the entrance to the service area, and the entrance to the hotel lobby.

Mr. Falkanger advised there would be four levels of parking, and there would be meeting rooms on the sixth floor. In addition, a spa was proposed on the mezzanine level. He displayed some pictures at the ground level to demonstrate the pedestrian scale and noted the building was only 18' tall along A-1-A. Mr. Falkanger said the side of the building with the parking would have no openings, so there would be no problems with lights or noise. In order to break up the appearance of the wall, some fake glass would be utilized.

Commissioner Moore asked if the beach wall had lights. Mr. Falkanger replied that no fiber optic lights were planned. Commissioner Smith asked Mr. Falkanger to turn the photographs around for the benefit of the audience. He noted that the building was shown in the context of the beach and in relation to the actual surroundings.

Ms. Callahan believed this building would be very sensitive to the beach and beach area residents. She emphasized that this was a project that did not quite approach the allowed height of 250', and relief was being sought only in ways that made sense to create arcades and encourage pedestrian interaction. Ms. Callahan said the developer was very experienced and very used to dealing with sites even tighter than this one and with surrounding residents. She stated that the development team had met with the Central Beach Alliance before the site plan had even been submitted, and had continued to meet with them throughout the process.

Ms. Callahan stated that this developer had also done another Fortune House project on Brickell Avenue in Miami and was also developing the Four Seasons project nearby. Given the City's recent focus on construction management, she stated that the developer would own and manage the project. In addition, a list of construction practices had been provided that had been discussed with the Central Beach Alliance. They dealt with all the issues that typically arose on a construction site, with particular sensitivity to what had occurred at other sites in the beach area. Ms. Callahan noted that a list of references had also been provided.

Ms. Callahan stated that during the demolition work, the site would be sprayed to control dust. In addition, screening would be placed on the perimeter fences similar to that used at tennis courts, plus some additional mesh. Commissioner Smith inquired as to the actual type of mesh that would be used. *Mr. Ed Jacobson*, representing the applicant, advised that silk screening would be used at the base. Ms. Callahan advised that the orange mesh with larger holes would be used above that height on each floor, which was adequate for containing debris. Ms. Callahan stated that hay bales and other measures would be used during dewatering operations to stop mudflow into the street.

Ms. Callahan said that in order to facilitate communications with area residents, a contact person would be designated who would be available by telephone and e-mail to address any concerns. In addition, a hurricane preparedness plan would be developed for the construction phase. She noted that the developer owned about 25% of the block to the west and intended to stage the rest of the construction in that area. Ms. Callahan added that the developer would comply with all construction standards and OSHA regulations.

Ms. Callahan referred to condition 7. She thought it might have been mistranscribed from the Planning & Zoning Board meeting because it referred to a limitation on stays of 60 days or 120 days per year. It referred to guests, and Ms. Callahan thought that was a limitation imposed only on owners of the units. The concern of the Board had been that an owner could potentially just use the unit on a seasonal basis. She explained that when someone was paying a daily rate, she did not believe they could be limited in that fashion.

Mayor Naugle understood a unit owner could rent on an annual basis, but the owner could not stay in it on an annual basis. Ms. Callahan explained that the unit owners would not be doing the renting. She explained the average daily rate was projected at \$250, and she did not think that could be restricted. Ms. Callahan believed the Board's concern had been related to the unit owners and not daily-paying guests.

At 9:03 P.M., Commissioner Katz left the meeting. She returned at 9:03 P.M.

Mr. Goodkind stated that the condominium documents prohibited owners from staying more than 60 days two times per year. Mayor Naugle understood that if they wanted to stay longer, they could stay in another unit. Mr. Goodkind agreed that was correct, but they would have to pay the daily hotel rates. He explained that the management had to insist on this because they wanted the hotel available for paying guests during the season.

Commissioner Smith asked if additional insurance could be required as was required with Jackson Towers in case there were damages to adjacent property. He wanted assurances that the project would not wreak havoc on the surrounding neighborhood. Mr. Goodkind did not know if the insurance company would include surrounding buildings as additional insureds, but he would research it. If that was not possible, he advised that a \$100,000 bond would be provided. Commissioner Moore was sure the insurance was available, but he had no objection to either method of addressing this issue.

Mr. Fred Taylor, Chairman of the Beach Council of the Chamber of Commerce, recalled that the citizens of Fort Lauderdale had voted to spend millions of dollars for redevelopment of the beach. At that time, the hope had been that it would encourage the type of development residents were starting to see now. Mr. Taylor hoped this beautiful development would continue and that developers of this caliber would continue to be attracted to the beach. He hoped the Commission would support this project.

Ms. Shirley Smith, of the Central Beach Alliance, believed this was a good project and one developed during difficult zoning times. She hoped, however, that if this project were approved, it would not set any precedents on future development in terms of the requested concessions.

Ms. Diane Smart, representing the Central Beach Alliance, agreed the Architect had done a terrific job with this design, and she knew of no one who objected to the design. However, the Central Beach Alliance members felt strongly about the 200' limit. She also desired strict application of the Code in terms of setbacks. She felt this building was 132' longer than it should be, and she hoped no other concessions would be granted if that concession were granted.

Mr. Bill Smart, a Beach Redevelopment Advisory Board member for two years, agreed the design was beautiful, but he felt the 200' limit was very important. He was concerned that if a concession were granted in that respect for this project, others would follow throughout the beach area. Mr. Smart was also concerned about setback reductions being requested, and he hoped the developer would reconsider these issues to conform with the building limitation and the setbacks. He also thought it would be helpful if three-dimensional images were presented when projects were considered, and he was disappointed that the tennis courts had been removed.

Commissioner Smith referred to street landscaping. It was his understanding that date palms would be used around the building, spaced approximately 25' apart, with smaller trees on the south side due to the space necessary for the arcade. He believed the larger palms could be used on that side too since there was landscape space of 8' to 10'. Mayor Naugle noted that the building cantilevered over the sidewalks on the side streets, so the larger trees would crowd the building. He believed larger palms could be accommodated on all sides if the setback requirements were met.

Commissioner Smith felt that if setback reductions were going to be allowed, the developer should "bend over backwards" to make the landscaping as lush as possible. Mr. Falkanger agreed and stated that no expense would be spared in the development of this project. Commissioner Moore asked if the developer would enhance landscape in the public right-of-way. Mr. Falkanger agreed improved landscaping could be provided in the open public areas.

Commissioner Moore asked why the setback reductions were being requested. Mr. Falkanger explained that the block was fairly narrow and, in order to have an efficient parking system, the reductions were necessary. He stated that if the building was set back further, the parking would be reduced from three rows to two rows, which would require a more massive parking structure to meet the needs of the project. However, great efforts had been made to provide a good appearance without parking on the ground level.

Commissioner Moore was pleased that service activities would take place inside the building and that adequate space would be provided for stacking vehicles to avoid traffic congestion in the area. However, he was concerned about removal of the tennis courts. Commissioner Smith agreed it was a shame, and he felt there should be some public tennis courts on the beach. Commissioner Moore pointed out that there was publicly-owned green space at D.C. Alexander Park, and he thought consideration should be given to requiring developers to pay an impact fee for recreational development.

Mayor Naugle believed that if staff had made the determination that the building was one-third residential, an impact fee could be required. He noted that individual unit owners had the right to stay for one-third of the year. The City Attorney felt that would be a rational approach to assessing the impact of the temporary, part-time residents. Mr. Miller advised that the impact fee was associated only with platting. He noted that staff was looking at expanding that into residential projects in areas where it had not been deemed appropriate when the properties were platted. Mr. Miller stated that when the impact fees were required, they were based on the density of a project. He estimated that if this project was residential, the fee would be between \$700 and \$900 per unit.

Mayor Naugle calculated that if a third of the building were deemed residential, an appropriate park impact fee would be about \$300 per unit. Commissioner Moore calculated a total fee of \$84,000 that could be used for public amenities in the area.

Commissioner Katz asked if there were other projects "in the pipeline" on the properties behind and next to this site. Mr. Miller was aware of one project two blocks to the north involving about 500 units on an entire block. He advised that would be considered on June 27, 2000 by the Development Review Committee (DRC). Mr. Miller understood it would meet setback requirements, but an increase in the FAR would be requested. Commissioner Katz hoped everyone would keep a close eye on future projects in terms of setting any precedents relating to concessions.

Commissioner Hutchinson believed everyone had their own interpretations, and she liked the idea of impact fees to replace amenities that could be lost in the beach area. She also did not want to set any precedents in terms of the building length limitation and was concerned about the extra 132' being requested in this case.

Mr. Miller said he had calculated the park impact fee at \$70,056. Commissioner Moore supported a park impact fee of \$70,000. Mr. Don Hall, Attorney representing the applicant, stated that the applicant was willing to voluntarily pay approximately \$70,000 for recreational amenities in the beach area in accordance with impact fee payment rules at the time of permit issuance.

Mayor Naugle said he could not support this project with an 8.3 FAR including the parking garage, as well as the other requested concessions. He believed that when the 2 to 4 FAR had been conceived, it had been conceived with inclusion of parking garages, so this would really be more than twice what had been intended when the Beach Development Code had been adopted. Commissioner Smith agreed this building might be larger than future buildings once the beach moratorium had reached a conclusion and new rules adopted to include garages in the FAR calculations.

Motion made by Commissioner Smith and seconded by Commissioner Moore to approve this project with payment of a \$70,000 park impact fee, lush landscaping on site and public right-of-way, construction mesh, a \$100,000 bond and/or insurance to address construction impacts, and with the inclusion of the arcade and shops. Roll call showed: YEAS: Commissioners Smith, Moore Hutchinson, and Katz. NAYS: Mayor Naugle.

Commissioner Smith introduced a written resolution, as amended, entitled:

RESOLUTION NO. 00-79

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, GRANTING A BEACH DEVELOPMENT PERMIT FOR THE CONSTRUCTION OF A HOTEL, APPROVAL OF SETBACKS AND EXCEPTION TO THE 200 FOOT EAST TO WEST LENGTH REQUIREMENT FOR A STRUCTURE ON PROPERTY LOCATED AT 505 NORTH FORT LAUDERDALE BEACH BOULEVARD IN FORT LAUDERDALE, FLORIDA IN AN ABA ZONING DISTRICT AS A DEVELOPMENT OF SIGNIFICANT IMPACT.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Smith, Moore, Hutchinson, and Katz. NAYS: Mayor Naugle.

Reschedule July 4, 2000 Conference and Regular Meetings to July 6, 2000 (R-4)

A resolution was presented rescheduling the Tuesday, July 4, 2000 Conference and Regular Meetings to Thursday, July 6, 2000, due to the Independence Day Holiday.

Commissioner Smith introduced a written resolution entitled:

RESOLUTION NO. 00-80

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, RESCHEDULING THE JULY 4, 2000, REGULAR AND CONFERENCE MEETINGS OF THE CITY COMMISSION TO JULY 6, 2000.