



TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee Feldman, ICMA-CM, City Manager

DATE: September 3, 2013

TITLE: QUASI-JUDICIAL – RESOLUTION TO CONSIDER A SITE PLAN
EXTENSION – Grand Birch Condominiums – Case 53R12

Recommendation

It is recommended that the City Commission consider an extension of time to apply for a building permit for the recently-approved Grand Birch Condominiums site plan, consistent with ULDR Sec. 47-24.1.M, Expiration of Site Plan and Conditional Use Approvals.

Background

The City Commission adopted a resolution approving a Site Plan Level IV application with conditions on April 16, 2013, by a vote of (4-1). The approved site plan consists of twenty-two (22) multifamily residential units, an eleven-story (115-foot) structure, which includes two levels of parking on the second and third floors, and is located on the Intracoastal Waterway, between Seville Street and Bayshore Drive. The approved site plan is provided as Exhibit 1. Commission Agenda Memo is attached as Exhibit 2. Meeting Minutes are attached as Exhibit 3. Resolution No. 13-65 is attached as Exhibit 4.

The applicant, Grand Birch, LLC, is requesting that the City Commission grant an extension of time within which the applicant may apply for and obtain a building permit for the project, which is currently in litigation procedures. Due to these procedures, the applicant is currently unable to obtain financing or apply for a building permit and requests the Commission grant an extension with the following proposed parameters:

”From October 16, 2014 to that day which is 18 months from the date upon which all third party challenges to the validity of the Development Order have been fully and finally adjudicated by a court of final jurisdiction, including without limitation all appeals finalized and exhausted, and the validity of the Development Order has been upheld; and from April 16, 2015 to that day which is 24 months from the date upon which all third party challenges to the Development Order are fully and finally

adjudicated by a court of final jurisdiction, including without limitation all appeals finalized and exhausted, and the validity of the Development Order has been upheld”

Applicant’s request narrative is provided as Exhibit 5.

Pursuant to ULDR Sec. 47-24.1.M, all site plans and conditional use approvals shall expire unless:

- a. A complete application for a building permit for an above-ground principal structure as shown on the approved site plan has been submitted within eighteen (18) months following the date of approval of the site plan; and
- b. A building permit for such above-ground principal structure is issued within twenty-four (24) months following the date of approval of the site plan; and
- c. Such building permit remains valid and in effect until a certificate of occupancy, or other equivalent approval is granted for such principal structure.

As per ULDR Sec. 47-24.1.M.5.a, an extension of time for site plan expiration shall be granted by the reviewing body approving the site plan when all applicable building, zoning and engineering regulations remain the same and good cause for the delay has been shown by the applicant. Good cause may include, but shall not be limited to, delay caused by governmental action or inaction or other factors totally beyond the control of the applicant. An extension shall only be granted where an applicant has requested an extension during the effective period of the development permit. If any applicable building, zoning or engineering regulations have been changed during the twenty-four (24) month period, then the proposed development shall be reviewed only to the extent that the changes affect the proposed development.

All applicable building, zoning and engineering regulations remain the same. The City Commission is to determine whether good cause to grant the requested extension has been shown by the applicant.

It is the opinion of the City Attorney’s Office that “good cause” has not been demonstrated by the applicant, and that the extension request is premature, as the site plan was recently approved leaving approximately 14 months before the first potential expiration, and therefore there is a possibility that the litigation could be resolved prior to the expiration of the site plan.

Resource Impact

There is no fiscal impact associated with this action

Attachments

Exhibit 1 – Approved Site Plan

Exhibit 2 – April 16, 2013 Commission Agenda Memo
Exhibit 3 – April 16, 2013 Commission Minutes
Exhibit 4 – Resolution No. 13-65
Exhibit 5 – Applicant’s Request Narrative
Exhibit 6 – Resolution to Consider Site Plan Extension

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