



CITY OF FORT LAUDERDALE

**PLANNING AND ZONING BOARD MEETING MINUTES
CITY HALL COMMISSION CHAMBERS
100 N. ANDREWS AVE., FORT LAUDERDALE, FLORIDA 33301
WEDNESDAY, APRIL 19, 2023 – 6:00 P.M.**

Board Members	Attendance	Present	Absent
Michael Weymouth, Chair	P	11	0
Brad Cohen, Vice Chair	P	9	2
John Barranco	P	10	1
Mary Fertig	P	10	1
Steve Ganon	P	11	0
Shari McCartney	P	8	3
Patrick McTigue	P	9	0
William Rotella	P	10	1
Jay Shechtman	P	10	1

Staff

Ella Parker, Urban Design and Planning Manager
D'Wayne Spence, Interim City Attorney
Shari Wallen, Assistant City Attorney
Jim Hetzel, Urban Design and Planning
Tyler Laforme, Urban Design and Planning
Yvonne Redding, Urban Design and Planning
Adam Schnell, Urban Design and Planning
Greg Chavarria, City Manager
Chris Cooper, Director, Department of Development Services
Leslie Harmon, Recording Secretary, Prototype, Inc.

Communication to City Commission

None.

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Weymouth called the meeting to order at 6:00 p.m. and introduced the Board members present. It was noted a quorum was present.

~~II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM~~

~~Motion made by Mr. McTigue, seconded by Mr. Canon, to approve. In a voice vote, the motion passed unanimously.~~

~~Ms. Fertig read the following motion into the record:~~

~~There being no further questions from the Board at this time, Chair Weymouth opened the public hearing.~~

~~Abby Laughlin, president of the Coral Ridge Association, stated that the Applicant has met with the Association's board of directors and development committee. The Association is supportive of the project, which they feel is respectful to the surrounding neighborhood. They are in favor of the reduced ingress/egress from Sunrise Boulevard and are pleased to see the project replace a problem property.~~

~~Ms. Laughlin added that because she had not known whether or not tonight's meeting would be held as scheduled, she had called the City's information number, which forwarded her call to the Development Services Department for clarification.~~

~~As there were no other individuals wishing to speak on the Item, the Chair closed the public hearing and brought the discussion back to the Board.~~

~~**Motion** made by Ms. Fertig to defer for the seven reasons that you have on your paper. [The **motion** died for lack of second.]~~

~~**Motion** made by Mr. Ganon, seconded by Ms. McCartney, of the Planning and Zoning Board of the City of Fort Lauderdale, Florida, approving a conditional use permit for a mixed-use development which includes the allocation of 180 residential flex units, 14,571 sq. ft. of commercial use, for the property located at 1040 Bayview Drive, Fort Lauderdale, Florida, in the Boulevard Business (B-1) district, Case Number UDP-S22045.~~

~~Attorney Wallen requested clarification of the project's commercial square footage. Mr. Ganon **amended** his **motion** to clarify that the correct square footage is 14,671 sq. ft., and that the **motion** includes all Staff conditions and will incorporate the findings of fact included in the Staff Report.~~

~~In a roll call vote, the **motion** passed unanimously (9-0).~~

~~The Board took a brief recess from 7:35 to 7:41 p.m.~~

5. CASE: UDP-PDD22004

REQUEST: Site Plan Level IV Review: Rezoning Request from South Beach Marina and Hotel Area District (SBMHA) to Planned Development District (PDD) with an Associated Site Plan for 410 Multifamily Residential Units, 88,000 Square-Feet of Commercial Use, 256-Room Hotel, and 13,000 Square-Feet of Existing Dockmaster Building in Central Beach Regional Activity Center

APPLICANT: City of Fort Lauderdale

AGENT: Rahn Bahia Mar LLC.

PROJECT NAME: Bahia Mar

PROPERTY ADDRESS: 801 Seabreeze Boulevard

ABBREVIATED LEGAL DESCRIPTION: Bahia Mar 35-39B Lying West of Seabreeze Blvd

ZONING DISTRICT: South Beach Marina and Hotel Area District (SBMHA)

PROPOSED ZONING DISTRICT: Planned Development District (PDD)

LAND USE: Central Beach Regional Activity Center

COMMISSION DISTRICT: 2 – Steven Glassman

NEIGHBORHOOD ASSOCIATION: Central Beach Alliance

CASE PLANNER: Jim Hetzel

Disclosures were made at this time.

Mr. Lochrie, representing the Applicant, stated that the project is a requested planned development district rezoning of the Bahia Mar property from its current designation, SBMHA, to a new zoning district. The new district will place certain specific restrictions on the subject property. There is existing Site Plan approval of the property, which remains valid through approximately 2028-2029. This Site Plan approval will no longer be in effect if new zoning is approved by the City Commission.

Mr. Lochrie briefly reviewed the existing Site Plan, noting that the City of Fort Lauderdale has leased the Bahia Mar property to his client. The majority of the property is a marina, although there are upland properties as well, including a hotel, crew quarters, and amenities. He reviewed conditions on the site when it was purchased by the City in 1947.

In the present day, the property has become much wider, and some of its submerged areas were filled in and built upon. After the City purchased the property, there was a Resolution and referendum declaring that everything east of A1A would remain public space. The beachfront was not part of the actual lease.

Mr. Lochrie advised that while the public comes to the site for the annual Fort Lauderdale International Boat Show, there is limited public access to the leasehold. The project approved in 2017 added more public amenities for the general public, including a boardwalk around the perimeter of the site, which would extend along the face of the dock and into the marina village. The Site Plan also includes public green space.

Mr. Lochrie noted that the first phase of the Site Plan is underway with the construction of the marina village on the southern end of the property. The project originally planned eight towers and 12 buildings, all of which were three to six stories in height. It also featured a large central garage in the center of the site. The original project included 651 residential units, 256 hotel rooms, and approximately 180,000 sq. ft. of commercial use. Just over four acres of public green space remained.

When the new Mayor and Commissioners were seated, they requested an overall reduction in the number of residential units on the site, as well as a reduction in the amount of commercial space. They wanted more usable open space on the site and a

better site for the Boat Show, as well as the removal of the towers from the north and west sides of the site. They were not in favor of reducing the number of hotel rooms.

The new proposal opens the overall site by focusing the hotel and residential uses in the center. It constitutes a reduction of all previous approvals, and would include 350 residential units, 256 hotel rooms, and roughly 80,000 sq. ft. of commercial use. There would also be 60 furnished/branded hotel units, which would be sold as condominiums.

The proposal includes 6.3 acres of open space, including a central green space of over one acre. This will be connected with the boardwalk, which would now begin at a waterfront restaurant at the northern end of the property and circulate back to the marina village.

The existing pedestrian crossing to the beach will be open to the public, with an elevator on the west side. The marina village will remain as is. The Application requests a waiver for the new *Jungle Queen* building. The overall project includes a central podium for parking, which reduces the height of the garage. The sides of the garage are lined with landscaping, retail, and other active uses. There is also a public plaza for restaurant and hotel guests.

The hotel building, which will be located on the west end of the property, will be 23 stories in height and 300 ft. tall. The residential buildings are each 21 stories and 270 ft. tall.

Mr. Lochrie showed renderings of the current Site Plan as well as the proposed plan which would supersede it if approved by the Commission. The newly proposed buildings are taller but more slender. The new plan leaves both the center of the site and its western edge open.

The landscaping and open space will also become part of the zoning. The garage structure would be capped at 20 ft. for two of the podiums. Setbacks will significantly exceed what is currently required.

When the Boat Show is underway, it will have control of everything around the site, from the upland area to the marina. The residents and hotel guests will not have to move through the Boat Show's tents, as the residential/hotel area is isolated.

The green space will be required to be open to the public, with posted hours of operation. The hotel can use this space for special events when the Boat Show is not going on.

The current Site Plan includes elevated buildings that extend to the water's edge. Mr. Lochrie showed multiple views of how the proposed Site Plan frees up the area by pulling these buildings back. The site will include a 25 ft. wide pedestrian pathway with landscaping.

The hotel building includes a direct entry onto the park. Above the entry is a central lobby, restaurant space, bar space, and ballroom/meeting room space. The building has been split in half, with some connecting floors.

The original design proposed flat rooftops. Staff requested that the Applicant improve upon these plans by providing architectural features. Mr. Lochrie reviewed the open space around the buildings as well. The site will also include Water Taxi stops.

Ms. Fertig requested additional information regarding the buildings' height. Mr. Lochrie explained that the City Commission voted to increase height within the SBMHA district, as well as other heights in the Central Beach area. The height of the hotel building is intended to make it more architecturally interesting.

Ms. Fertig commented that the height of the buildings may be 144 ft. if the floor plates are smaller than 16,000 sq. ft. Mr. Lochrie confirmed that this is the case, pointing out that PDD development allows the maximum height of 144 ft. within the zoning district.

Ms. Fertig also requested additional information on tower setbacks. Mr. Lochrie advised that the site's existing zoning calls for a 12 ft. setback around the building. The structures' closest points, however, are at 8 ft. 11 in. to 6 ft. In order to create a more architecturally interesting building, the towers have been made slimmer and twisted on their podiums. This resulted in an average setback of greater than the 12 ft. required: in some portions it is 89 ft., 45 ft., 37 ft., and 18 ft. Mr. Lochrie advised that part of the purpose of PDD zoning is to create an innovative design.

Ms. Fertig also requested clarification of podium height. Mr. Lochrie replied that the podiums vary as the site itself varies. A portion of this height is 25 ft. 6 in. on the east side, changing to 34 ft. 6 in. moving back toward the hotel.

Ms. Fertig requested more information regarding the parking reduction. Mr. Lochrie advised that with over 1500 parking spaces on the site, the Institute of Transportation Engineers (ITE) manual suggests that the project would be overparked by roughly 300 spaces. If every use on the property occurred at the same time at full capacity, the site would come up approximately 100 spaces short.

Ms. Fertig observed that units on the site with three to four bedrooms and a den may be more likely to require full parking. Mr. Lochrie pointed out that all residential units are parked at 1.19 spaces, which follows ITE guidance. He felt it was unlikely that all residents in all units would be on the site at one time.

Ms. Fertig also asked how many levels of basement space are included in the project. Mr. Lochrie stated that while the second level of the garage is labeled as basement space, only one-half of one floor is actually below grade.

Ms. Fertig requested clarification of the acreage of the green space located on the Intracoastal Waterway. Mr. Lochrie replied that it is 1.8 acre in size.

There being no further questions from the Board at this time, Chair Weymouth opened the public hearing.

Christopher Beck, private citizen, stated that he has standing regarding the Application, as he owns an apartment directly opposite the subject site. He advised that he shared the concerns raised by Ms. Fertig regarding the scheduling of tonight's meeting, stating that there should be many more individuals present to speak.

Mr. Beck continued that a resident of his building has raised concerns regarding the potential effects of groundwater on the site. He pointed out that there are already many delivery and service vehicles accessing the site's existing uses via a two-lane roadway. He felt the proposed restaurant and sales center would result in significant traffic congestion, and recommended moving these buildings to other locations within the site.

Stephanie Toothaker, representing the Fort Lauderdale International Boat Show, complimented the developer for the Site Plan, stating that it will be positive for both the Boat Show and the community. Her client was in favor of the project.

Matt Sacco, representing the Marine Industries Association of South Florida (MIASF), asserted that the marine industry in Broward County has an economic impact of \$9.8 billion annually and employs 142,000 individuals. He recommended approval of the Application.

Andrew Doole, representing Informa, stated that this organization worked with the Applicant's team to develop the plan for the Boat Show. He felt the proposed plan would ensure the future of that event.

Marilyn Mammano, private citizen, stated that the Application would change the subject property's zoning to a custom set of regulations. She recommended that the Board consider conditions including the density and land uses established by the existing lease, the inclusion and time frame for completion of a promenade and open space, and public access to the promenade and space, which are not listed as benefits of the PDD application. She felt the public should receive additional and enhanced benefits if the PDD is granted.

Ms. Mammano continued that the Board should also consider the times and conditions of public access to the subject property under its existing lease. She felt this access should be increased. A public access management plan was included in the previous approval of plans for the site. She recommended that the promenade and open space be completed and accessible prior to the issuance of a Certificate of Occupancy (CO) for the site's hotel, with a date certain of five years.

Ms. Fertig requested that Ms. Mammano state her professional qualifications. Ms. Mammano replied that she was an architect, planner, and former director of zoning and urban design in New York City before teaching urban design and site planning at the University of Florida.

Anne Hilmer, representing the Idlewyld neighborhood, stated that this neighborhood opposes the development based on its proposed density, height, number of units, mass, and minimal amount of public space. She continued that changes have been made to the original site plan for the property and were not available before 4:30 p.m. today.

Ms. Hilmer pointed out that the neighborhood compatibility component of the City's rezoning criteria requires that the project be compatible with and preserve the character and integrity of adjacent neighborhoods, and cited adverse effects of the project, including shadows, noise, traffic, and visual nuisances, which are not addressed in the Application.

Ms. Hilmer continued that the project's adjacent land uses are two-story homes rather than tall buildings, and expressed concern with the City's previous commitment to limit further development and protect the barrier island. She was also concerned that many individuals may have been unable to attend tonight's meeting due to the effects of recent flooding and notice that City Hall was closed. She requested that the Site Plan be rejected or deferred.

Ms. Fertig requested that Ms. Hilmer clarify the number of discussions of this issue by the Idlewyld community in which Ms. Fertig participated. Ms. Hilmer replied that Ms. Fertig has recused herself from discussing planning and zoning issues with the other members of Idlewyld's board of directors or the neighborhood association.

It was asked whether or not Ms. Fertig had ever indicated whether she was or was not in favor of this project, including its previous Site Plan. Ms. Hilmer replied that both she and Ms. Fertig had been opposed to the 2017 Site Plan. She added that there had been no discussion between them regarding the more recent previous Site Plan.

Joanna Fields, private citizen, expressed concern with the project and the impact of its residential units on the City's beaches, safety concerns, traffic, availability of water, and availability of emergency services. She was opposed to the Site Plan.

Abby Laughlin, private citizen, stated that she supported the proposed rezoning. She has been involved in discussions of the project since its inception and has seen multiple iterations of the Site Plan, and was in favor of its proposed modifications, including the reduction of the number of buildings.

John Burns, president of the Venetian Condominium, stated that residents of this building share the concerns expressed earlier regarding traffic to and from the site. He also addressed the PDD, pointing out that the plans should enhance public spaces and

green space. The graphics available to the public prior to today's meeting do not include a great deal of detail.

Mr. Burns continued that the 1.8 acre of space constitutes roughly 10% of the 16 upland acres. He felt this could be improved, and asked that the Board to consider reducing the footprint of some of the site's buildings so residents and visitors will have more green space.

Al Fernandez, private citizen, was in favor of the proposed Site Plan, stating that it represents a compromise between the developer and other parties in the community. He cited improvements to the project, including the promenade and open space, and added that he had been pleased to see the Boat Show's organizers approved the project.

Michael Fine, private citizen, felt the subject property warrants redevelopment, as there are few existing amenities on the beach. He was in favor of the proposed promenade, pedestrian bridge, marina village, park, and hotel, which he felt would provide public access for the first time in 50 years and grow the City's economy.

Jacquelyn Scott, private citizen, stated that the proposed project has been thoroughly vetted in recent years, including significant public outreach and public meetings. She recommended that the Board approve the Application, which she felt was an improvement over the previous plan.

Bill Brown, president of the Central Beach Alliance (CBA), recalled that since 2016, the CBA has closely followed the proposed development of the site and had opposed an earlier Site Plan. He asserted that the CBA is supportive of the Application. At their February 2023 meeting, the CBA membership voted 200-33 in favor of the project.

As there were no other individuals wishing to speak on the Item, the Chair closed the public hearing and brought the discussion back to the Board.

Mr. Shechtman requested additional information related to the concerns raised by Ms. Mammano during public comment, including public access to green space and the limits of this access as included in the lease. Mr. Lochrie replied that the lease restricts the hotel's use of the area to two events per month. They may request exceptions from the City for additional special events. The developer will pay for, maintain, and police the park.

Mr. Shechtman recalled that Ms. Mammano had stated the site could be enhanced if the Applicant requests permission from the City Manager to restrict public access to the park only six additional times per year in connection with civic or charitable events. He asked if there are any existing limitations on this access. Mr. Lochrie stated that the Applicant would have to go through the City's required process for special events as stated in the lease. The City may also use the space for City events.

Mr. Shechtman also addressed signage on the park space, asking how the Applicant intended to notify the public of whether or not the park or promenade might be closed. Mr. Lochrie advised that signage would be placed on the sites stating private events are underway. There would also be signage throughout the site telling the public where restaurants and other services are located. Mr. Shechtman recommended that notice be posted online as well.

Mr. Shechtman also asked for a timeline for the completion of improvements on the site. Mr. Lochrie replied that the PDD is more restrictive than what is required by the lease, noting that the lease indicates the park and promenade could be completed at the last stage of the process. The PDD requires that the promenade and park be complete with Phase 2 of the project, which includes the hotel and the first two residential buildings. All of these must be constructed at the same time, although he noted that the park and promenade would not be built before those buildings. The entire site is being raised in order to address sea level rise.

Ms. Fertig commented that PDD zoning should carry more public benefits, and asked if the Applicant would be willing to limit special events to six times per year. Mr. Lochrie replied that they would not.

Ms. Fertig also asked if part of the public space and promenade would be made available to the public before 10 years have passed. Mr. Lochrie replied that these spaces would be made available when the first buildings are built, but there is no outside date for this completion.

Ms. Fertig also asked what improvements have been made to the open spaces under PDD zoning, emphasizing the intended public benefit of this zoning category. Mr. Lochrie pointed out that the amount of open space has increased from previous plans. He also clarified that the use of open space for special events would be limited to 12-hour segments, and that it would be unlikely the entire park would be used for events. These restrictions are exclusive of the time the site will be closed for the Boat Show.

Ms. Fertig requested clarification of the maximum number of days the site's open space will be closed to the public. Mr. Lochrie advised that under the lease, the Applicant has the right to close this space twice per month; if there is additional need, they would have to go through the City's regular approval process for use of any public park.

Ms. Fertig asked if this meant the Applicant did not agree with the public access management plan referred to during public comment. Mr. Lochrie stated that he has not seen this document and could not speak to it.

Motion made by Mr. Shechtman, seconded by Vice Chair Cohen, to approve with all Staff conditions.

Ms. Fertig stated once more that the intent of a PDD is to bring additional benefits to the public, and she has not heard what these additional benefits might be.

In a roll call vote, the motion passed 8-1 (Ms. Fertig dissenting).

V. COMMUNICATION TO THE CITY COMMISSION

~~None.~~

~~VI. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE~~

~~Ms. Fertig addressed a memorandum sent by the City Attorney's Office to the Board approximately 18 months ago, which she described as advising the Board on "what [they] can and cannot say." Following receipt this memorandum, she sought advice from the Florida Commission on Ethics with regard to when Board members are and are not required to recuse themselves. She stated that she had initiated this contact because she did not believe the Board members should be "muzzled."~~

~~Ms. Fertig continued that she did not feel it was correct to say a Board member cannot speak out on a topic because it could, in the future, come before the Board. She did not believe this reflects State Statutes. She continued that she felt the memorandum constituted a direct attempt to influence the outcome of a vote and was a deviation from the letter of the law regarding the circumstances for recusal.~~

~~Attorney Spence referred to a recent case in the city of Boca Raton in which a federal judge addressed that city's mayor and two councilmembers who spoke with bias in regard to a beachside development. The judge indicated that the mayor and councilmembers acted in error and damaged their credibility due to bias.~~

~~Attorney Spence continued that he had advised the Planning and Zoning Board of the parameters for quasi-judicial proceedings, and had not referred to the Florida Code of Ethics or the Board members' ethical obligations under Chapter 112 of that document. The advice provided to Ms. Fertig was accurate under that chapter of the Florida Code of Ethics; however, the Florida Commission on Ethics has not weighed in on the due process required by the quasi-judicial process. Parties applying under this process must be afforded due process, including a fair and impartial hearing.~~

~~Attorney Spence continued that any Board member speaking on an item may participate on the item; however, they could be summoned to court and chastised by judges for expressing bias, and the decisions of the Board would come into question. Even though this participation may not affect private personal gain, it would affect the validity of actions taken by the Board.~~

~~Attorney Spence recalled that in the past, the City Attorney's Office has admonished the Planning and Zoning Board on this issue. He pointed out that it is that office's~~

~~responsibility to look out for the best interests of their client. In discretion, he had sent an email to caution the Board regarding the implications of some members' decisions to make statements on items in a way that may demonstrate bias, followed by those members' participation in meetings in which they are required to impartially weigh facts. This participation included statements on the record which could be grounds for cross-examination by developers, should those issues go to court.~~

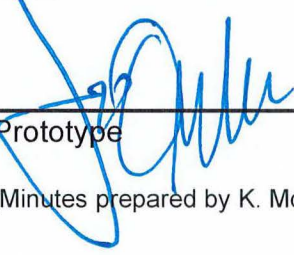
~~Ms. Fertig stated that when the City Attorney's Office sent the memorandum to the Board, a question was asked regarding whether or not the same rules pertained to quasi-judicial hearings before the City Commission. She asserted that it is left up to an individual to determine whether or not they can make a fair decision or not. Attorney Spence reiterated that as a representative of the City Attorney's Office, it is his job to advise his client of the potential repercussions of their actions, whether or not individuals choose to follow this advice.~~

~~There being no further business to come before the Board at this time, the meeting was adjourned at 9:07 p.m.~~

~~Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.~~



Chair



Prototype

[Minutes prepared by K. McGuire, Prototype, Inc.]