

**PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL – CITY COMMISSION CHAMBERS
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, NOVEMBER 16, 2016 – 6:30 P.M.**

Cumulative

| Board Members | Attendance | June 2016-May 2017 | |
|----------------------------|-------------------|---------------------------|---------------|
| | | Present | Absent |
| Leo Hansen, Chair | P | 5 | 0 |
| Catherine Maus, Vice Chair | P | 4 | 1 |
| Theron Clark (arr. 6:42) | P | 3 | 2 |
| Stephanie Desir-Jean | P | 4 | 1 |
| Howard Elfman | P | 5 | 0 |
| Steven Glassman | P | 5 | 0 |
| Rochelle Golub | P | 4 | 1 |
| Richard Heidelberger | P | 4 | 1 |
| James McCulla | A | 4 | 1 |

It was noted that a quorum was present at the meeting.

Staff

Ella Parker, Urban Design and Planning Manager
D'Wayne Spence, Assistant City Attorney
Jim Hetzel, Principal Planner, Urban Design and Planning
Nicholas Kalargyros, Urban Design and Planning
Mohammed Malik, Chief Zoning Plans Examiner
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Hansen called the meeting to order at 6:30 p.m. and all recited the Pledge of Allegiance. The Board members were introduced, and Urban Design and Planning Manager Ella Parker introduced the Staff members present.

Chair Hansen noted that Staff has requested Item 3 be deferred to December 21, 2016.

Motion made by Mr. Elfman, seconded by Ms. Maus, to defer. In a voice vote, the **motion** passed unanimously.

II. APPROVAL OF MINUTES FOR AUGUST 17TH AND OCTOBER 19TH / DETERMINATION OF QUORUM

Mr. Glassman noted the following corrections to the October 19, 2016 minutes:

- P. 2: the date proposed in the second motion made by Mr. McCulla should be October 26, 2016; also, correct spelling of Mr. Elfman's name under dissenting votes;
- P. 6, paragraph 3: change "building" to "buildings";
- P. 7, paragraph 4: Mr. Glassman requested that his question to Ms. Hutt, which asked if Staff was comfortable with the proposed front setback despite the building's proximity to A1A, be included; also move the boxes indicating Items 3 and 5 to the discussions of these items;
- P. 22, paragraphs 5, 6, and 7: the individual's name cited should be Theo Foltz;
- P. 26, paragraph 8: individual's name is Jim Ellis.

Assistant City Attorney D'Wayne Spence recommended that the motion on p. 2 to which Mr. Glassman had referred be reviewed by Staff before changes are made.

Motion made by Mr. Elfman, seconded by Ms. Maus, to approve the [October 19, 2016] minutes [as amended]. In a voice vote, the **motion** passed unanimously.

Motion made by Mr. Glassman, seconded by Ms. Maus, to approve [the August 17, 2016 minutes]. In a voice vote, the **motion** passed unanimously.

III. PUBLIC SIGN-IN / SWEARING-IN

Chair Hansen requested that any members of the public wishing to speak on any Items before the Board be sworn in at this time. He also asked that they sign into the meeting as wishing to give testimony. Attorney Spence administered the oath or affirmation to members of the public.

IV. AGENDA ITEMS

Index

| <u>Case Number</u> | <u>Applicant</u> |
|--------------------|--|
| 1. PL14012** | Keystone – Florida Property Holdings Corporation |
| 2. R16051* ** | Chatham Lugano, LLC |
| 3. T16004* | City of Fort Lauderdale / Amend Unified Land Development Regulations |

Special Notes:

Local Planning Agency (LPA) items (*) – In these cases, the Planning and Zoning Board will act as the Local Planning Agency (LPA). Recommendation of approval will include a finding of consistency with the City's Comprehensive Plan and the criteria for rezoning (in the case of rezoning requests).

Quasi-Judicial items ()** – Board members disclose any communication or site visit they have had pursuant to Section 47-1.13 of the ULDR. All persons speaking on quasi-judicial matters will be sworn in and will be subject to cross-examination.

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|----|-----------------------------|--|
| 1. | CASE: | PL14012 |
| | REQUEST:** | Plat Review |
| | APPLICANT: | Keystone – Florida Property Holdings Corporation |
| | PROJECT NAME: | Galleria |
| | GENERAL LOCATION: | 2414 E. Sunrise Boulevard. (Galleria Mall) |
| | LEGAL DESCRIPTION: | A REPLAT OF A PORTION SUNRISE CENTER TRACTS "A" "B" AND "C" AND ALL OF SUNRISE CENTER TRACT "E" SUNRISE AS RECORDED IN PLAT BOOK 28, PAGE 42, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA LYING IN SECTION 1, TOWNSHIP 50 SOUTH, RANGE 42 EAST CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA |
| | COMMISSION DISTRICT: | 1 |
| | CASE PLANNER: | Jim Hetzel |

Disclosures were made by the Board members at this time.

Stephen Tilbrook, representing the Applicant, recalled that the Board discussed this Item at the October 19, 2016 meeting for Site Plan Level IV review. Plat review of this Item was scheduled to be heard on October 19, but was deferred until tonight's meeting.

Mr. Clark arrived at 6:42 p.m.

Mr. Tilbrook stated that the plat review Application was first filed with the City in 2014. It was intended to proceed concurrently with Site Plan Review. Both the plat and Site Plan Applications are expected to go before the City Commission in January 2017. He submitted an evidence binder to the Board, noting that it includes the following:

- Staff Report
- Plat Application
- Platting, subdivision, and adequacy narratives
- Original plat (1952)
- Galleria plat (pending)
- Fort Lauderdale Subdivision Regulations, Chapter 177, Florida Statute
- Broward County Development Review Report
- Broward School Board capacity/availability determination
- Fort Lauderdale water/sewer capacity availability letter
- Development Review Committee (DRC) sign-offs
- Memorandum addressed to Assistant City Attorney Spence regarding the plat approval process and standards of review

- Letters of support from the Victoria Park Civic Association, Lake Ridge Civic Association, and Coral Ridge Civic Association

Mr. Tilbrook also submitted a separate binder including 500 letters of support for the project. He requested that the Board take judicial notice of the full administrative file from the City, including a traffic and transportation report prepared by the Applicant's traffic consultant and accepted by City Staff.

Mr. Tilbrook continued that the Galleria properties are part of the Sunrise Center Plat, which was recorded in 1952. Its underlying zoning is B-1 and RMH-60. Broward County has determined that this property does not comply with the platting requirements or exemptions under existing Broward County Code. Impact fees in Broward County have traditionally been assessed at the time of platting.

Broward County rules state that plats which predate the year 1953, when the County began approving plats, are not exempt from new platting requirements. When reviewing the date of the original plat for the subject property, the County indicated that the Applicant must re-plate the site.

The City and County have a concurrent platting process, and the Applicant is required to process Applications through both entities. The City must review the Application at the DRC, Planning and Zoning Board, and City Commission levels. The Broward County Development Review Board and its Staff are concurrently reviewing the Application.

The two criteria under which Fort Lauderdale reviews plat applications are as follows:

- ULDR Section 47-24.5: Subdivision Regulations
- ULDR Section 47-25.2: Adequacy Requirements

Mr. Tilbrook advised that the binder submitted to the Board members includes narratives demonstrating compliance with both criteria. The DRC and City Staff have signed off on the materials provided and allowed the Application to come before the Planning and Zoning Board, which he cited as evidence of compliance.

Mr. Tilbrook reviewed specific aspects of the adequacy criterion, including a letter from the City's Public Works Department that finds the project's proposed improvements sufficient to deal with water and wastewater capacity; a letter from Broward County Schools, stating that there is sufficient capacity for schools; demonstration that the site has sufficient capacity for parks by way of payment of a regional park impact fee and a City impact fee of \$2.4 million; and the County's Development Review Report, which indicates there is concurrency and adequacy for the project within the Eastern Core Transportation Management Area, as demonstrated by the payment of transit impact fees. A transportation study prepared by the Applicant's team also shows that the project meets the adopted level of service standards set forth by the City's and County's Comprehensive Plan.

Mr. Tilbrook continued that adequacy is demonstrated by the conditions imposed upon the plat, including the following conditions found in the Broward County Development Review Report:

- Right-of-way dedications
- Bus shelter requirements for both easements and construction
- Sidewalk and bus landing pad improvements
- Turn lane requirement
- New sidewalks and pavement markings

All of these improvements are considered conditions for the approval of the plat, and will be documented in an interlocal agreement. The implementation of these improvements is secured by a letter of credit covering 100% of their cost.

Mr. Tilbrook advised that Broward County's plat note requirement, which restricts permitted use for the property, was originally implemented in order to assess impact fees. A plat note may restrict the uses otherwise permitted by right under the County's land use and zoning regulations. The Galleria plat note provides for existing and proposed commercial, residential, bank, town home, and retirement community uses, all of which are consistent with the Site Plan.

These uses are also consistent with the Land Use Plan on the condition that the City Commission allocate flex units for the project. The Staff Report recommends approval of the plat with the condition that, should the City Commission fail to allocate flex units, the plat note must be modified to match the permitted uses in the applicable zoning category.

Because of the concurrency of the plat Application and Site Plan Review before the City Commission, the plat note will remain in its current form when it is presented to the Commission for approval. If no flex units are allocated, the residential component of the plat note would be removed from the plat.

Mr. Tilbrook concluded that the Applicant's community outreach and public participation process has lasted for more than two years and included multiple meetings with civic associations, as well as other interested parties. He asserted that there is broad support for the processing of the plat for the Galleria property, as demonstrated by the letters entered into the record by the Applicant.

Jim Hetzel, representing Urban Design and Planning, stated that the proposed plat includes approximately 33.4 acres and does not include the Dillard's parcel within the same property. Staff has reviewed the information provided by the Applicant and recommends approval of the plat, subject to the adequacy requirements and subdivision regulations found in Code as well as the following conditions:

- Plat approval as proposed shall be subject to the approval of the flex unit allocation associated with the Site Plan Level IV development Application associated with the Galleria Innovative Development (ID) project;
- In the event the Site Plan Level IV development Application for the Galleria ID project does not receive final approval by the City Commission, the Applicant shall revise the

plat note restrictions consistent with the permitted uses in the applicable zoning district(s)

Mr. Glassman asked why the plat note restriction listed the number of units as 1055 rather than the 1250 noted during discussion at the October 19 meeting. Mr. Hetzel replied that the southwest portion of the Galleria property has a land use of Residential. The units from this portion of the site were deducted from the original number of 1250.

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

Michael Albetta, President of the Lake Ridge Civic Association, stated that both the Board and the general membership of this Association voted to support the proposed Galleria redevelopment.

Doug Coolman, private citizen, requested that the plat be advanced to the City Commission for consideration.

John Aurelius, private citizen, stated that he also supported the Application, and added that he felt the Applicant has demonstrated the adequacy of the plat.

Chris Williams, President of the Coral Ridge Civic Association, advised that this Association had assigned a committee of members to work with the Applicant in order to clearly understand the impact of the project on their neighborhood. The Association is supportive of the project and asked that approval of the plat be recommended.

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

Mr. Tilbrook observed that in a quasi-judicial procedure, the burden is on the Applicant to submit evidence in support of their Application. He asserted that once this evidence is submitted, the Board must rely upon it, and pointed out that no evidence to the contrary has been provided. He felt this meant the Board did not have sufficient discretion to deny the Application.

Ms. Golub pointed out that the County has denied the Application, which is required before the Applicant may build upon the property. She did not agree with Mr. Tilbrook's suggestion that the Board has no choice but to approve the request, and asked how the Applicant interpreted the County's denial. Mr. Tilbrook replied that the findings of the Broward County Development Review Report determine that the plat meets both concurrency and adequacy, and that the Broward County Development Management Report is a determination that the plat should move forward for consideration.

Mr. Tilbrook continued that the only issue is the Application's compatibility with the Land Use Plan, and reiterated that Fort Lauderdale achieves compatibility for mixed-use projects through

the allocation of flex units. He concluded that this compatibility will be addressed once the flex units associated with the site have been allocated.

Ms. Golub also referred to Staff's notes, advising that concurrency did not seem the same as approval for the plat as presented. Mr. Tilbrook acknowledged that there has been no approval by the County thus far, but pointed out that Broward County Staff has evaluated the Application and made recommendations based on findings of adequacy and concurrency. Until flex units have been allocated, the plat note will not be consistent with the land use.

Mr. Glassman asked why the Dillard's portion of the site is not part of the plat request, recalling that the Site Plan Review Application for the site presented the owners of this parcel as "co-Applicants." Mr. Tilbrook replied that re-platting is required if a new principal building is being constructed, which does not apply to the Dillard's parcel. He clarified that Dillard's has opted to be part of the Innovative Design (ID) Application but has not chosen to be part of the plat Application.

Motion made by Mr. Heidelberger, seconded by Mr. Elfman, to approve this plat Application, subject to the note that is required by the County [and] both Staff conditions. In a roll call vote, the **motion** passed 6-1 (Ms. Golub dissenting).

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| 2. | CASE: | R16051 |
| | REQUEST: * ** | Site Plan Level III Review; Waterway Use within Waterway Setback for 768 Square Foot Exterior Terrace |
| | APPLICANT: | Chatham Lugano, LLC. |
| | PROJECT NAME: | Residence Inn - Il Lugano Terrace |
| | GENERAL LOCATION: | 3333 NE 32nd Avenue |
| | LEGAL DESCRIPTION: | GALT OCEAN MILE 34-16B LOTS 13,15&15 BLK 1 AND LOT 1, BLK 12 LESS PT PLATTED AS CORAL RIDGE TOWERS 53-24B, LESS PART IN IL LUGANO CONDO DESC AS FLOORS 11 THUR 15 (NO FL 13) |
| | CURRENT ZONING: | Community Business (CB) |
| | COMMISSION DISTRICT: | 1 |
| | CASE PLANNER: | Nicholas Kalargyros |

Disclosures were made, and any members of the public wishing to speak on this Item were sworn in.

Bruce Celenski, representing the Applicant, stated that the request is for an 800 sq. ft. open terrace connected to an existing Marriott Residence Inn Hotel. The terrace is intended to serve as an amenity for hotel guests.

The Applicant has made several revisions to the project and has worked closely with Staff. The terrace has been reduced from its original size and landscaping has been added. Mr. Celenski noted that Staff has made a recommendation regarding use of music on the site, although he did not anticipate that the site would host a live band, or would schedule music more than once or twice each month.

Mr. Glassman asked if the Applicant has given additional consideration to a railing and gate system discussed at a community meeting regarding the project. Mr. Celenski replied that at present, the Applicant does not propose the addition of a railing other than as a feature on the raised terrace. He also clarified that only one resident from nearby properties attended the meeting, and none of the adjacent civic associations provided letters of support.

Mr. Glassman also addressed the issue of music, pointing out that proximity to the water causes sound to travel. It was clarified that Staff's recommendation is that amplified music not be permitted within the exterior terrace.

Nicholas Kalargyros, representing Urban Design and Planning, advised that the request is for a 768 ft. exterior terrace with direct hotel access and elevated outdoor seating. The Applicant will provide additional landscaping along the front streetscape of the site to mitigate the landscaping lost by the addition of the terrace. The Application is subject to waterway use, adequacy, and neighborhood compatibility requirements.

The Applicant has provided a meeting summary report and a signed affidavit in compliance with public participation requirements. Staff recommends approval of the request with the condition that amplified music not be permitted within the exterior terrace.

Mr. Elfman asked if the Staff condition regarding music would also be applied to the property's existing terrace and pool deck. Mr. Kalargyros replied that it would not, and clarified that the condition was added due to concerns from the surrounding neighborhood.

Ms. Parker explained that the condition was added because the terrace use was an added use along the waterway, and because of the sensitivity to sound impacts in the area and neighborhood compatibility requirements related to shadows, noise, and other effects, staff suggested the condition to help mitigate potential impacts. She noted that the condition is specific to amplified sound in recognition of the ability of sound to carry over water.

Tim Casher, Director of Project Management for the Applicant, further clarified that a deck with a railing has been added to accommodate sunbathers who wish to be close to the water. It was noted that the existing finger piers along the water's edge did not include a rail, as this would prevent boats from being tied up at the dock.

There being no other questions from the Board at this time, Chair Hansen opened the public hearing. As there were no individuals wishing to speak on this Item, Chair Hansen closed the public hearing and brought the discussion back to the Board.

Motion made by Ms. Maus, seconded by Ms. Golub, to approve with Staff conditions.

Attorney Spence recommended that the Staff condition regarding amplified music be modified to refer instead to amplified sound.

Ms. Maus **amended** her **motion** as follows: to approve with the Staff condition relating to amplified sound.

Mr. Celenski requested that the **motion** be further amended to refer to amplified music after a certain time. Ms. Maus declined to further modify the **motion**.

Ms. Golub **withdrew** her **second** to the **motion**, explaining that she felt the amended Staff condition would be an unfair restriction to the Applicant in light of other noise issues along the waterway.

Attorney Spence advised that the portion of Code Staff was attempting to address with its condition is directly related to noise, as well as preservation of the character and integrity of adjacent neighborhoods. He observed that the term "sound" was less subjective than "music," which led to his recommendation that the condition be modified, as sound or noise is measurable.

Ms. Parker stated that some businesses along the waterway have been able to show evidence that the sound created by multiple small speakers is less intrusive than amplified sound. Other potential mitigation measures are also available to the Applicant if they wish. She pointed out, however, that inclusion of the Staff condition is ultimately left to the Board's discretion.

Mr. Glassman noted that other businesses in the area are not restricted by similar conditions although they are larger in size than the proposed terrace. Ms. Parker pointed out that many of these uses existed prior to the conditional use or waterway use processes.

Mr. Casher advised that the hotel recognizes of the need to keep volume low to avoid disturbing sleeping guests, and pointed out that they could abide by conditions such as the requirement for unamplified sound.

Mr. Heidelberger **seconded** Ms. Maus's **amended motion**.

In a roll call vote, the **motion** failed 2-5 (Chair Hansen, Mr. Clark, Mr. Elfman, Mr. Glassman, and Ms. Golub dissenting).

Motion made by Mr. Glassman, seconded by Mr. Elfman, to approve without Staff conditions. In a roll call vote, the **motion** passed 7-0.

V. COMMUNICATION TO THE CITY COMMISSION

None.

VI. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE

Ms. Parker advised that in the month of January 2017, meeting dates for the Planning and Zoning Board and the City Commission have been changed to Tuesday, January 17 and Wednesday, January 18, respectively; in April 2017, the Board would meet on Tuesday, April 18 and the Commission on Wednesday, April 19. The Board approved the proposed dates by consensus.

There being no further business to come before the Board at this time, the meeting was adjourned at 7:48 a.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.]