

Regular Meeting  
12/5/2017  
R-4  
As Amended  
BACKUP

PUBLIC ACCESS AREAS MANAGEMENT PLAN

Pursuant to staff Condition 7 of the December 5, 2017 Staff Memorandum for Case R17040 for the Bahia Mar project ("Site Plan") Rahn Bahia Mar, L.L.C. and/or assigns (the "Applicant") is providing this Management Plan for the publicly accessible areas of the Property (as hereinafter defined) which are specifically the Waterfront Promenade and Seabreeze Promenade ("Boardwalk") and the Marina Park, Retail Plaza and Gateway Park ("Plaza Areas") all as shown on Sheet L-105, Master Site Plan and Sheets L-201 through Sheets L-209, Site Plan (collectively referred to as "Public Access Areas"). The "Property" shall mean the entire Bahia Mar project.

1. The Public Access Areas shall be open to the general public from 6 a.m. to 9 p.m. daily subject to the following provisions and standards contained herein including limitations during Special Functions and for required maintenance and safety.
2. The non-exclusive use of the Public Access Areas by general members of the public shall not create, and shall never be construed or interpreted to create, a dedication to the public; notwithstanding the foregoing however, members of the public shall have non-exclusive use of the Public Access Areas and ingress and egress over the Public Access Areas for pedestrian traffic, subject to the provisions herein;
3. Applicant shall be exclusively able to restrict or prevent access to the Public Access Areas to any specific member(s) of the public as the Applicant (in its sole discretion) may determine has previously or is currently loitering, creating a nuisance, and/or is otherwise violating the rules and regulations adopted herein or elsewhere with respect to the Public Access Areas, such that the Applicant retains at all times the right and ability to seek to enforce the foregoing and laws related to trespass; *violating the laws,*
4. The Public Access Areas shall not be, nor shall they ever be by reason of this condition a public forum, limited public forum, or any other type of public forum as may exist now or in the future for purposes of the exercise of rights pursuant to the First Amendment to the United States Constitution and any companion provision under the Florida Constitution.
5. The Public Access Areas and its use shall at all times remain subject to reasonable rules and regulations as set out by Applicant.
6. The Applicant may restrict access to the Public Access Areas during Special Functions. With respect to the Boardwalk, Special Functions shall mean activities conducted by the Applicant or its designees during time periods such as, but not limited to, boat shows, weddings, conference events, promotional events, civic or charitable events, private or semi-private functions, or similar events or functions for which a special event permit or other authorization from the City is issued by the City ~~or with the reasonable approval of the City Manager~~ upon the request of the Applicant. With respect to the Plaza Areas, Special Functions shall mean such activities conducted by the Applicant or its designees on such areas in connection with (i) the business conducted by Applicant in connection *Promenade*

*JPS*

six (6) days      six (6) days

with any authorized or allowed operation upon the Property, including, but not limited to, weddings, parties, conference and other events, luncheon or dinners, private or semi-private functions, etc. ("Property Operations") ~~or (ii) for any other activities in addition to Property Operations~~ for up to six (6) times each calendar month (whereby no approval of the City will be required), and if there are to be more than ~~six (6) events~~ desired in any one calendar month ~~as referred to in (ii)~~, then for such greater number of times in a month, Applicant shall need to obtain the approval of the City Manager for such additional events, which shall be granted in the City Manager's discretion, acting reasonably, or if disapproved, by specifying in reasonable detail the basis of such disapproval, which decision will not be unreasonably delayed. In addition to the foregoing, all or portions the Public Access Areas may be closed by the Applicant during such period of time as reasonably necessary to repair damage to and/or to perform maintenance for the Public Access Areas or for safety such as during extreme weather and/or natural events.

7. The Applicant shall provide signage at the entries to the Public Access Areas setting forth regulations and hours related to the public's access to the Public Access Areas.
8. The Applicant or its designees shall have the right (but not the obligation) to conduct such surveillance and security functions and activities on the Public Access Areas as the Applicant or its designees deem appropriate and/or necessary.
9. Use of the Public Access Areas shall be subject to temporary disruption as Applicant may reasonably designate in connection with activities Applicant conducts, such as construction or repairs, the annual Boat Show and other activities conducted on portions of the Bahia Mar Complex.
10. Use of the Public Access Areas shall be in its then "AS IS" condition and any party using the Public Access Area does so at their own risk;
11. The City shall not have the right, without the written consent of Applicant (in its sole discretion) to make improvements upon the Bahia Mar Complex or to allow access to any party in contravention of the provisions contained herein, *except as provided by law or in the lease.*
12. *The City Manager shall have the authority to close or prohibit public access to the Property in order to the interest of public health, safety and welfare.*

*QPS*