



CITY OF FORT LAUDERDALE

**PLANNING AND ZONING BOARD  
CITY OF FORT LAUDERDALE  
CITY HALL – CITY COMMISSION CHAMBERS  
100 NORTH ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA  
MONDAY, SEPTEMBER 17, 2018 – 6:30 P.M.**

**Cumulative**

<b>Board Members</b>	<b>Attendance</b>	<b>June 2018-May 2019</b>	
		<b>Present</b>	<b>Absent</b>
Catherine Maus, Chair	P	3	1
Howard Elfman, Vice Chair	P	4	0
John Barranco	P	3	1
Brad Cohen (arr. 6:44)	P	3	1
Mary Fertig	P	3	1
Jacquelyn Scott	P	4	0
Jay Shechtman	P	4	0
Alan Tinter	A	3	1
Michael Weymouth	P	4	0

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

**Staff**

Ella Parker, Urban Design and Planning Manager  
Shari Wallen, Assistant City Attorney  
Chris Cooper, Deputy Director, Department of Sustainable Development  
Jim Hetzel, Urban Design and Planning  
Florentina Hutt, Urban Design and Planning  
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

**Communications to City Commission**

None.

**I. CALL TO ORDER / PLEDGE OF ALLEGIANCE**

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

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

**Motion** made by Ms. Scott, seconded by Vice Chair Elfman, to approve. In a voice vote, the **motion** passed unanimously.

### III. PUBLIC SIGN-IN / SWEARING-IN

Individuals wishing to speak on tonight's Agenda Items were sworn in at this time.

### IV. AGENDA ITEMS

#### Index

<u>Case Number</u>	<u>Applicant</u>
1. ZR16001A2**	BW Cypress Creek Powerline, LLC
2. PL18007**	Clarkson-Bergman Family Partnership, LTD
3. Z18007* **	Clarkson-Bergman Family Partnership, LTD
4. ZR17007* **	Pier 17 Investments 2014, LLC

#### 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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<b>1. CASE:</b>	<b>ZR16001A2</b>
<b>REQUEST: **</b>	Site Plan Level III Review: Site Plan Amendments including Removal of 3,999 Square-Foot Chick-fil-A Restaurant, Adjustment to Layout and Design to the Wawa Gas Canopy, and Adjustment to Turn Lane.
<b>APPLICANT:</b>	BW Cypress Creek Powerline, LLC
<b>PROJECT NAME:</b>	Wawa
<b>GENERAL LOCATION:</b>	6191 N Powerline Road
<b>ABBREVIATED LEGAL DESCRIPTION:</b>	A Part of The Southeast One-Quarter (Se 1/4) Of Section 9, Township 49 South, Range 42 East, Broward County, Florida
<b>ZONING DISTRICT:</b>	General Business District (B-2)
<b>LAND USE:</b>	Employment Center
<b>COMMISSION DISTRICT:</b>	1 – Heather Moraitis
<b>CASE PLANNER:</b>	Florentina Hutt

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Disclosures were made at this time.

Stephanie Toothaker, representing the Applicant, explained that this project was previously approved as a Wawa and Chick-fil-A. Rezoning and flex allocation were also previously approved by the City Commission. After these approvals were granted, the

County requested the dedication of a turn lane and addition of a bus bench on Powerline Road. When these changes could not be accommodated within the original Site Plan, the Applicant removed plans for the Chick-fil-A from the site.

The current plan is for a Wawa only, with no other changes proposed. While the Applicant has dedicated rights-of-way along both Powerline Road and Cypress Creek Road, there will not be a turn lane on Cypress Creek Road: instead, a large sidewalk will be constructed within that right-of-way. The Uptown Business Council has provided a letter of support for the amended plan.

Florentina Hutt, representing Urban Design and Planning, stated that the request is for Site Plan Level III review of an amendment to a previously approved Site Plan. The amendment includes removal of 3999 sq. ft. of restaurant space, adjustment to the layout and design of the Wawa, and a turn lane. Proposed amendments include the following:

- Removal of a Chick-fil-A restaurant building from the Site Plan while retaining the location and square footage of the Wawa convenience store and gas station
- Removal of a right turn lane on Cypress Creek Road, with a sidewalk replacing the turn lane
- Increasing the length of the turn lane on Powerline Road
- Canopy and dumpster design and layout
- Pavement marking and signage plan

The proposed amendment to the Site Plan is consistent with the applicable land use and zoning regulations. Previous approvals by the City Commission include rezoning from Industrial to Business (B-2) and the use of commercial flexibility for land use. Vehicular ingress and egress remain from Cypress Creek Road and Powerline Road. The Applicant proposes 68 parking spaces on the site where only 45 spaces are required.

A 7 ft. sidewalk is proposed along the length of the property in order to improve the pedestrian environment in accordance with the City's Uptown Urban Village Master Plan. Staff recommends approval of the Application.

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

**Motion** made by Vice Chair Elfman, seconded by Mr. Weymouth, to approve. In a roll call vote, the **motion** passed 7-0.

It was determined that Items 2 and 3 would be heard together and voted upon separately.

**2. CASE:** **Z18007**  
**REQUEST: \* \*\*** Rezoning from Mobile Home Park (MHP) to Residential Multifamily Mid Rise/ Medium High Density (RMM-25)  
**APPLICANT:** Clarkson-Bergman Family Partnership, LTD  
**PROJECT NAME:** Pearl-Riverland  
**GENERAL LOCATION:** 400 SW 27th Avenue  
**ABBREVIATED LEGAL DESCRIPTION:** A Parcel of Land Lying within the West One-Half (W 1/2) of the West One-Half (W 1/2) of the Northeast One-Quarter (Ne 1/4) of Section 8, Township 50 South, Range 42 East, City of Fort Lauderdale, Broward County, Florida  
**ZONING DISTRICT:** Current: Mobile Home Park (MHP)  
Proposed: Residential Mid Rise Multifamily/Medium High Density District (RMM-25)  
**LAND USE:** Medium-High Density Residential  
**COMMISSION DISTRICT:** 3 – Robert L. McKinzie  
**CASE PLANNER:** Florentina Hutt

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**3. CASE:** **Z18007**  
**REQUEST: \* \*\*** Rezoning from Mobile Home Park (MHP) to Residential Multifamily Mid Rise/ Medium High Density (RMM-25)  
**APPLICANT:** Clarkson-Bergman Family Partnership, LTD  
**PROJECT NAME:** Pearl-Riverland  
**GENERAL LOCATION:** 400 SW 27th Avenue  
**ABBREVIATED LEGAL DESCRIPTION:** A Parcel of Land Lying within the West One-Half (W 1/2) of the West One-Half (W 1/2) of the Northeast One-Quarter (Ne 1/4) of Section 8, Township 50 South, Range 42 East, City of Fort Lauderdale, Broward County, Florida  
**ZONING DISTRICT:** Current: Mobile Home Park (MHP)  
Proposed: Residential Mid Rise Multifamily/Medium High Density District (RMM-25)  
**LAND USE:** Medium-High Density Residential  
**COMMISSION DISTRICT:** 3 – Robert L. McKinzie  
**CASE PLANNER:** Florentina Hutt

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Disclosures were made at this time.

Robert Lochrie, representing the Applicant, stated that the Items before the Board are a rezoning and boundary plat request. The rezoning is from Mobile Home Park (MHP) to Residential Multi-family Medium Density (RMM-25). The underlying land use for the property is Medium Residential.



The site is currently a mobile home park. Over the last 15 years, the owner of the property has purchased most of the individual units. Tenants have been notified that the property will convert to multi-family use. An analysis has determined that adequate housing is available within the area for these tenants.

Mr. Cohen arrived at 6:44 p.m.

Mr. Lochrie showed views of the proposed project, which will include multiple residential buildings, a landscaped central entrance, a clubhouse, and a lake feature. The Applicant agrees with all Staff recommendations. A public outreach meeting was held with the Riverland Civic Association in June 2018.

Ms. Hutt of Urban Design and Planning first presented the plat request, which is proposed for 11.19 acres currently occupied by a mobile home park. The replatting will allow for the construction of 276 units of multi-family residential development. It was reviewed by the Development Review Committee (DRC) as a Site Plan Level II request. The plat will include a plat note restriction limiting the property to 276 mid-rise multi-family units. All DRC comments have been addressed. Staff recommends approval of the request.

The rezoning request would rezone the property from MHP to RMM-25 to allow for the proposed 276-unit development. This application is currently under DRC review. The property is the current site of the Sunset Mobile Home Park, which includes 110 mobile homes.

Florida Statute 723.083 prohibits approval of any application for rezoning or other official action resulting in the removal or relocation of mobile home residents without first determining that other mobile home parks or suitable facilities exist for relocation. The Applicant has provided a housing study that shows there are sufficient opportunities to secure replacement housing.

Staff has reviewed the rezoning request for compliance with Code and has found it to be compliant with the following criteria:

- The request is consistent with the City's Comprehensive Plan
- Changes anticipated by the proposed rezoning will not adversely affect the character of development in or near the area under consideration
- The rezoning is compatible with the surrounding districts and uses

The Applicant has complied with public participation requirements by meeting with the Riverland Civic Association. Staff recommends approval of the request.

There being no questions from the Board at this time, Chair Maus opened the public hearing. She requested that all speakers identify the Item on which they wish to speak, and noted that individuals' comments are limited to three minutes.

Martin Etiya, private citizen, addressed Item 3, stating that he owns one of the mobile homes currently located on the property. He asked how long residents of the park would have to find a new location, as well as where other available housing might be located. He added that he is an owner receiving rent from tenants on the property, and asked if he and other owners would receive remuneration from lost rent.

Chair Maus recommended that Mr. Etiya speak with the Applicant or Mr. Lochrie, as the Board cannot answer his questions. Mr. Etiya replied that the Applicant has not previously responded to these concerns. Mr. Lochrie confirmed that he would speak with Mr. Etiya following the meeting.

Betzaida Giraldo, private citizen, stated that she is representing several tenants of the mobile home park who do not speak English. She advised that the park's office has indicated that tenants will need to move within eight months, but has not provided more information.

Chair Maus reiterated that the Board cannot address details of the plans affecting tenants and recommended that Ms. Giraldo also speak to Mr. Lochrie.

Patrick Blackwell, private citizen, stated that he also lives in the mobile home park. He asked why trailers are being remodeled if the intent is to remove them.

Ms. Wallen advised that informal interpretation by Ms. Giraldo would be allowed as long as all speakers are sworn in.

Chair Maus requested clarification of what outreach has been provided to residents of the mobile home park. Mr. Lochrie replied that both the Applicant and the operators of the park have reached out to residents and will continue these efforts with interpreters. He added that there are no plans to relocate tenants from their homes in the near future. State Statutes require that all tenants have six months to relocate once full approvals have been given for the project.

Mr. Lochrie continued that the owner of the mobile home park has purchased units as they became available. Many of the tenants rent their units by the month. He characterized the park as having outlasted its useful life, estimating that all tenants are eight to twelve months from being required to leave their homes.

Mr. Shechtman asked if the Applicant will make the information acquired through the housing study available to residents of the park so they can seek new homes. Mr. Lochrie replied that this information would be provided to tenants.

Ms. Giraldo confirmed that the residents for whom she would be translating are aware that they are months from having to relocate. She pointed out, however, that residents may not have sufficient money to move from the park, as they must continue to pay rent during this time.

Sugey Hernandez, private citizen, stated through Ms. Giraldo that there are many residents of the mobile home park who have children attending nearby schools. They are concerned because many have low incomes and do not know what will happen to them.

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

Ms. Fertig expressed concern that there were no formal interpreters present to assist in translation at tonight's hearing. She noted that while the Applicant may have reached out to the Riverland Civic Association, it did not appear that there was outreach to residents of the mobile home park.

Mr. Lochrie replied that the Applicant's team attended a general membership meeting of the Riverland Civic Association. Regarding tenants living in the mobile home park, there has been communication with the owners. The operator and manager of the park are ultimately responsible for outreach to tenants. He noted that the operator had not wished to overly concern tenants at this time, as the residents would not be forced to leave right away.

Ms. Scott asked if the Applicant had any plans to assist tenants of the park. Mr. Lochrie advised that the Applicant's intent is to purchase units within the park from the remaining owners. As an alternative, these units could be moved, as the study showed sufficient capacity for the units in other parks; however, he reiterated that many of the units are past their useful life and are likely to be destroyed rather than relocated once sold to the Applicant. The property itself does not meet current standards for a mobile home park due to circulation, infrastructure, setback, and other requirements. Mr. Lochrie assured the Board that the owners and managers would work with tenants who would need to relocate.

Mr. Cohen asked how many units are currently on the property, as well as how many would still need to be purchased by the property owner. Mr. Lochrie replied that there are roughly 106 mobile homes on the site, three to four of which have not yet been purchased by the owner.

Mr. Cohen asked what other uses would apply to the property if the rezoning request is not approved. Mr. Lochrie explained that these uses are limited by the property's MHP zoning, which was adopted in 1997.

**Motion** made by Vice Chair Elfman, seconded by Mr. Weymouth, to approve case number PL18007. In a roll call vote, the **motion** passed 8-0.

**Motion** made by Ms. Fertig, seconded by Ms. Scott, to defer [Item 3] a month to give [the Applicant] time to meet with the residents and explain to them what is going on.

Ms. Fertig pointed out that while an applicant is required to meet with nearby neighborhood associations, there is no requirement that an applicant meet directly with tenants who will be affected. She felt this meeting could alleviate many of the tenants' concerns.

Mr. Shechtman asked if it may be premature to meet with residents of the park before all necessary approvals have been granted to allow the project to advance. Assistant City Attorney Shari Wallen advised that case law states it is not necessary to wait for the results of a rezoning application in order to evict tenants.

Mr. Cohen asked if the tenants rent their units on a monthly or annual basis. Mr. Lochrie confirmed that the units are rented month-to-month. He added that the property owner does not want tenants to be frightened into relocating before it is necessary. Mr. Cohen explained that his concern was that a 30-day deferral might accomplish little.

Mr. Barranco asked if, should the **motion** currently on the table fail, the Board might make a motion to approve the rezoning, with the condition that further study and/or outreach is necessary before the Application goes before the City Commission. Attorney Wallen advised that it would be better to defer the Item pending further outreach.

Mr. Weymouth asked if it would be helpful to provide residents of the mobile home park with assurance that they would not be evicted on short notice. Attorney Wallen explained that eviction is addressed under a separate Statute. The Statute governing the current Application requires a finding of adequate housing to which tenants could relocate.

In a roll call vote, the **motion** failed 3-5 (Vice Chair Elfman, Mr. Barranco, Mr. Cohen, Mr. Shechtman, and Mr. Weymouth dissenting).

**Motion** made by Mr. Weymouth, seconded by Vice Chair Elfman, to approve [Item 3]. In a roll call vote, the **motion** passed 7-1 (Ms. Fertig dissenting).

Mr. Lochrie stated that the Applicant would reach out to the residents of the park.

**4. CASE:**

**ZR17007**

**REQUEST: \* \*\***

Site Plan Level IV Review: Rezoning from Residential Single Family/Low Medium Density (RS-8) to Community Business (CB) with 0.25 acre of Commercial Flex Allocation / Waterway Use /Conditional Use for 34-slip Marina with 2,400 Square-Foot Storage Building and 1,553 Square-Foot Crew Club Building

**APPLICANT:**

Pier 17 Investments 2014, LLC

**PROJECT NAME:**

South Fork Marina

**GENERAL LOCATION:**

1500 SW 17th Street



<b>ABBREVIATED LEGAL DESCRIPTION:</b>	A Portion of Block "A", "Yellowstone Park Amended" According to the Plat thereof as Recorded in Plat Book 15, Page 3, of the Public Records of Broward County, Florida
<b>ZONING DISTRICT:</b>	Industrial (I) and Residential Single Family/LowMedium Density (RS-8)
<b>LAND USE:</b>	Industrial and Low-Medium Residential Density
<b>COMMISSION DISTRICT:</b>	4 – Ben Sorensen
<b>CASE PLANNER:</b>	Florentina Hutt

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Disclosures were made at this time.

Stephanie Toothaker, representing the Applicant, showed multiple views of the subject property, which was previously an active marina where repairs were made. While most of the site is zoned Industrial, the request before the Board would rezone a small residential parcel to Community Business (CB).

The proposed project, previously called Pier 17, had received previous Site Plan approval. It included 22 slips, each of which was covered by a shed 65 ft. in height. The new proposal includes 34 slips with no sheds as an open mega-yacht marina. It includes 140 linear ft. of rentable floating dock space. The Applicant has assured the property's neighbors that no more than 55 boats, including tenders, will be kept on the property.

The proposed clubhouse for the project has been reduced to a single story and will be roughly 1500 sq. ft. in size. There will also be a storage building for the owners of boats. The Site Plan shows a docking schematic for the 55 boats on the property. Ingress/egress, a loading area, and a parking area were also shown on the Site Plan. The total parking provided is 47 spaces against a requirement of 33 spaces.

The marina will operate between the hours of 8 a.m. and 5 p.m. and will implement perimeter fencing, as well as lighting that is appropriate for the neighborhood. Secure dock access, security personnel, and a camera system will be included in the marina's operational plan.

Ms. Toothaker addressed community outreach for the project, stating that the Applicant has met with the appropriate neighborhood associations and invited all property owners residing along 17<sup>th</sup> Street to join these meetings. She characterized the project as a passive marina, with no heavy work performed on the boats docked there. The Applicant plans to improve SW 17<sup>th</sup> Street by widening a private road from 16 ft. to 20 ft., constructing a cul-de-sac to improve access to the residential properties, and providing utility improvements along 17<sup>th</sup> Street.

The Applicant has agreed to voluntary conditions of approval at the neighborhood's request, and is asking that Site Plan approval include all of these conditions. The Shady

Banks neighborhood has offered a letter of support that is specifically related to these voluntary conditions. The Applicant has drafted a Declaration of Restrictive Covenants and Marine Development Agreement that incorporate these conditions and will be recorded against the property. The conditions include the following:

- Dockage for in-water vessels shall not exceed 55 total boats and 34 mega-yacht slips, with required parking to accommodate demand and prevent spillover
- All boats up to a maximum of 55 ft. must be within 34 slips, providing that no individual slips shall ever have more than three boats
- The term "boats" shall include but not be limited to boats, vessels, watercraft, tenders, sailboats, and yachts
- Applicant agrees to limit the number of boats in each slip to a minimum of two per slip; one exception to this condition will be permitted for a tender that is directly related to a boat in the slip, provided the slip never exceeds three vessels
- No boat may extend beyond the slip limits as delineated in the modified submerged land lease
- Prior to final DRC approval, Applicant agrees to obtain an authorization from Broward County Environmental Protection stating that any soil or groundwater contamination on the property has been mitigated prior to land excavation, or obtain Broward County approval of a soil management plan that addresses how contamination will be handled during construction activities
- A management contract shall be required prior to a Certificate of Occupancy (CO)
- The marina operation shall be equipped with oil spill containment and fire safety attenuation equipment as required by City Code
- No outside loudspeakers or amplification systems are permitted
- No work activities shall be permitted at the marina that would violate noise or other nuisance-related Ordinances
- No rafting of boats shall be permitted in a slip along any dock or along a seawall adjacent to the property, except in an emergency
- Substantial changes to the marina's Site Plan requiring an amendment to be reviewed by the Planning and Zoning Board shall first be reviewed by the Marine Advisory Board
- Applicant shall comply with all permits required by governmental agencies with jurisdiction over the waterways, and with all Codes and regulations affecting operation of the marina, including ULDR adequacy requirements
- Applicant shall provide marine sanitation pump-out service accommodations at each of the 34 slips, and shall comply with established requirements imposed by the City and other environmental permitting agencies
- Applicant shall furnish the Supervisor of Marine Facilities with copies of the final plans required
- The following work is prohibited at the South Fork Marina: heavy grinding, heavy sanding, extensive exterior painting, haul-out, dry dock storage, or any service or work on the upland; minor and water repairs are permitted



- Storage or disposal of any form of petroleum-based fuel is not allowed on the property unless permitted by the appropriate environmental agencies; disposal of any form of petroleum-based fuel will be handled in accordance with Code
- Signs are not permitted on dock structures or property for the purpose of selling vessels, boats, or other marine-related amenities unless approved in accordance with the City's Code of Ordinances and the ULDR in conjunction with DRC Site Plan approval
- Vessels moored on the New River adjacent to the South Fork Marina or in any slip may not extend beyond the submerged land lease
- Applicant shall take all steps necessary to modify the existing 2017 submerged land lease so it accurately reflects the construction of proposed structures in accordance with the current Site Plan
- Applicant agrees that in any subsequent extended or modified submerged land lease to the benefit of the marina, the number of slips will not change
- Special condition to establish a self-imposed restriction by the Applicant will prohibit permanent live-aboard vessels on site; necessary overnight use by owners is permitted
- Fixed fueling facilities are not permitted; fueling service provided by third-party vendors are limited to using mid-sized fuel tanker trucks or delivery via water; should more restrictive standards be imposed by County, state, or federal permitting agencies, the Applicant will abide by those standards
- Applicant has removed two residential lots from the Site Plan; however, the seawall required on those lots will be provided by the Applicant
- The Applicant has committed to addressing increased parking and traffic concerns for the neighborhood by making a financial commitment of \$50,000 to be used toward neighborhood improvements
- 18-wheel vehicles shall not be permitted to access the site once a CO is issued
- Applicant agrees to remedy any shoreline erosion to Bill Keith Preserve
- Applicant shall enter into an appropriate maintenance agreement with 17<sup>th</sup> Street property owners for its share of the upkeep of SW 17<sup>th</sup> Street
- Applicant will work with the SW 17<sup>th</sup> Street property owners to address the necessary easement and lateral design requirements for the installation of a sewer main on SW 17<sup>th</sup> Street

Ms. Toothaker reiterated that these conditions are requested as part of Site Plan approval.

Vice Chair Elfman requested additional information regarding the lighting plan for the street. Ms. Toothaker replied that the Applicant submitted a photometric plan showing there is no spillover to residential lots. Lighting is directed toward the marina and away from nearby residential lots.

Ms. Hutt of Urban Design and Planning stated that the request is for Site Plan Level IV review and rezoning from RS-8 to CB, with 0.25 acre of commercial flex allocation,

waterway use, and conditional use for a 34-slip marina. The marina will include a 2400 sq. ft. storage building and 1553 sq. ft. crew club building. The club building is an accessory use intended to be used by marina tenants.

The residential portion of the property has an underlying land use of low/medium residential density. Commercial use is permitted if the allocation of commercial flex does not exceed 5% of the total land use area within the flex zone designated for residential use. There are currently 519.6 acres available for commercial flex. If approved, 519.3 acres of commercial flex will remain available. The proposal was reviewed by the DRC and all comments were addressed.

The project is compliant with rezoning criteria, and the proposed rezoning will allow the entire site to be used as a marina. The proposed development is in character with neighboring properties to the south, which also incorporates marina and boat-related uses along the waterway.

Staff has reviewed the project for compliance with conditional use criteria, adequacy, and neighborhood compatibility. The project is found to be compliant with all these sections of Code. The project is consistent with the surrounding character of the neighborhood, and the proposed design of the marina is compatible with the residential neighborhood to the north. The development will improve a private road southwest of 17<sup>th</sup> Street, and the Applicant will construct a cul-de-sac to improve access to the residential properties to the north.

Vehicular ingress/egress is provided from SW 18<sup>th</sup> Avenue to SW 17<sup>th</sup> Street. A traffic impact statement from April 2018 was prepared by the Applicant's consultant and reviewed and approved by Staff. The Applicant held numerous meetings with the Shady Banks Neighborhood Association and River Oaks Civic Association.

Staff recommends that the Board approve the request with the following conditions:

- Prior to issuance of a final CO, the Applicant shall record an ingress/egress easement along the south side of SW 17<sup>th</sup> Street private road, varying from 8 ft. to 11 ft., and complete a 20 ft. roadway section that expands to include a proposed cul-de-sac 70 ft. in diameter, located at the east end of the private road, as approved by the City Engineer
- Prior to issuance of a final CO, the Applicant shall record a utility easement as appropriate along SW 17<sup>th</sup> Street private road for placement of proposed sewer infrastructure outside the existing right-of-way, to facilitate City maintenance and access as approved by the City Engineer

Four additional conditions resulted from meetings between the Applicant and the neighborhood association(s):

- Prior to final DRC approval, the Applicant agrees to obtain authorization from Broward County Environmental Protection which states that any soil or



groundwater contamination on the property has been mitigated before land excavation

- The marina manager shall not permit rafting of boats
- The two northeast residential parcels previously included in the DRC application have been removed from the Site Plan and will not be incorporated into the South Fork Marina project
- The Applicant shall repair the seawall around these parcels and align it with the property line no later than the completion date of the South Fork Marina
- The owner of the marina shall ensure that 18-wheel vehicles will not be permitted to access or service the South Fork Marina site once marina operations commence; during construction or any permitted site work, 18-wheel vehicles will be limited and only used to transport construction equipment or materials; no 18-wheel dump trucks will be permitted at any time

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

Barbara Haggerty, representing the Marine Advisory Committee of the Shady Banks Civic Association, addressed three areas of concern regarding the Application. In May 2018, the Association voted to support the project with the inclusion of 25 voluntary conditions; however, City Staff suggested that language requiring the City to enforce these conditions was not acceptable. There were also duplicate conditions in existing Code.

The voluntary conditions document a collaborative effort reflecting the concerns of many residents. While City Staff has suggested rewording the document, the revised conditions have not yet been signed by the developer. There is also an issue related to the absence of an easement agreement requested by 17<sup>th</sup> Street property owners in light of traffic safety concerns during and after construction. Ms. Haggerty concluded that the \$50,000 commitment states that upon receiving cost estimates from the City, the Applicant will commit to a reasonable and fair financial contribution to the City for the construction of two "three-legged" intersections.

Ms. Haggerty characterized the neighborhood as in favor of the project with exceptions. She requested that the Board either table the issue and allow additional time for execution of conditions, or allow the rewritten 25 conditions read by the Applicant's representative to be part of the Site Plan approval.

Clayton Ratliff, private citizen, advised that he supports the development of the marina, subject to the voluntary conditions agreed upon by the Applicant and residents. He pointed out that only four of these conditions are recommended for the Board's approval by Staff, and asked that the development be approved with all 25 conditions. The neighborhood has begun working on private restrictive covenants that would incorporate all 25 voluntary conditions. If the Board is not willing to approve these conditions, Mr. Ratliff asked that the Application be tabled at this time.

Chair Maus asked if there are any restrictions that preclude the Board from including the 25 conditions in their approval of the Application. Ms. Parker explained that some conditions are voluntary rather than Code requirements. The City does not want the obligation of enforcing voluntary conditions between private parties. The four conditions included in the Staff report are subject to Code Enforcement; for the remaining conditions, Staff recommends a private restrictive covenant coordinated through the Applicant's attorney.

Mr. Shechtman noted that the 25 conditions have been agreed upon separately from the Site Plan between the community and the developer. Mr. Ratliff stated that these conditions should be recorded as a restrictive covenant on the property in order to allow for their enforcement. Current language makes these conditions enforceable only by the Shady Banks Civic Association; however, the Association has no management aspect that could oversee enforcement.

Attorney Wallen explained that the City informed the Applicant's attorney as early as June 2018 that a restrictive covenant was recommended. She reiterated that the City is not comfortable enforcing conditions through City resources when most are not Code requirements. A restrictive covenant would allow for enforcement of the 25 conditions for the residents who have requested it. The City had been under the impression that this issue was resolved before tonight's meeting.

Mr. Shechtman asked if the Board may approve the Application with the condition that restrictive covenants be completed. Attorney Wallen recommended against this action, as Code states private covenants or deed restrictions for a subdivision that are not approved by the City do not fall within the jurisdiction of City enforcement. Because City resources are limited, they are not intended to be used to enforce private agreements.

Vice Chair Elfman requested clarification of what constitutes a private restrictive covenant. Attorney Wallen replied that this is an agreement with the requested regulations which are not Code requirements. The City does not wish to move outside the scope of governing City Code requirements.

Mr. Ratliff asserted that the Association is not happy with the revised covenants provided to them by the Applicant earlier in the day.

Mr. Shechtman asked for clarification of what has been executed thus far. Ms. Toothaker replied that the 25 conditions were drafted in a Declaration of Restrictive Covenants at Staff's suggestion. The Association returned a different draft that divided the document into two separate documents: one was the Declaration, while the other was a Marine Development Agreement. All conditions are included in the two signed documents.

Ms. Toothaker continued that the Applicant does not agree with the Association regarding what entity or persons have the right to enforce the documentation. The Applicant does not feel it is appropriate for individual homeowners throughout the neighborhood to have enforcement rights; they feel enforcement should be done either by the City, by the Association, or both. This is the only remaining issue of contention between the Applicant and the Association.

Ms. Toothaker asserted that the Applicant would still like to make the 25 voluntary restrictions as conditions of the Site Plan. Attorney Wallen advised that the conditions refer to private agreements, which the City cannot enforce.

Stephen Sperling, private citizen, stated that the voluntary conditions are intended to prevent any future owners of the marina property from taking action that would adversely affect the neighborhood. He characterized the Civic Association as a volunteer entity that cannot enforce any of the conditions. He could not support the Site Plan in the absence of the proposed conditions.

Heather Keith, private citizen, explained that she has been an advocate for the proposed project and lobbied for its approval by the Marine Advisory Board, subject to the 25 conditions. At that meeting, although Staff had recommended not including the conditions for the same reasons discussed tonight, the Marine Advisory Board recommended approval of the project including the conditions. She asked that the Planning and Zoning Board do the same. She felt further discussion of which conditions the City may enforce should be held before the City Commission.

Ms. Fertig asked if Ms. Keith wanted the project approved with the conditions. Ms. Keith confirmed this, adding that there are significant issues with the documentation provided to the neighborhood by the developer prior to today's meeting.

Barbara Schwebel, private citizen, stated that the magnitude of the project would affect the character of the neighborhood. She did not feel there is sufficient infrastructure to accommodate the project and its construction, including large trucks, increased traffic, and light and noise pollution. She concluded that she did not support the proposed rezoning.

Reiner Schwebel, private citizen, said he was not in favor of the project due to the traffic it would bring into the neighborhood, and expressed concern for property values. He submitted a letter from another resident of the neighborhood, Jeff Ore, who also disapproved of the project.

Thurman Mintz, private citizen, advised that he was supportive of the proposed project as long as the developer abides by the 25 conditions. He pointed out that work is already being performed on large boats docked at the marina.



Jennifer Jones, private citizen, expressed concern with the increased traffic the project would bring, as the neighborhood already experiences traffic issues due to speeding. She also noted that the marina's hours of operation would not apply to the captains and crew who may be staying overnight on vessels.

Colleen Colton, private citizen, noted that the condition requiring the marina to remedy shoreline erosion at the Bill Keith Preserve is not one of the four conditions recommended by Staff. She recommended that the Item be tabled for at least 30 days so further discussion could be held between residents and the Applicant.

Shelby Smith, private citizen, stated that when the property served as a working marina, it amounted to an industrial use. He suggested that the Board recommend approval of the Item with the requirement that the agreement between the Applicant and the Association be completed before final approval.

Lynn Phoenix Mark, private citizen, asked that the Board defer the Item if they could not approve the Application with the 25 conditions attached.

Peter Wan, private citizen, felt the proposed development would change the character of the Shady Banks neighborhood. He asked that the 25 conditions be included in approval of the project.

Chris Miller, private citizen, advised that he was only recently made aware of the proposed easement and maintenance agreement related to 17<sup>th</sup> Street, and would like more clarity on this issue before approval is granted.

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

**Motion** made by Ms. Fertig, seconded by Ms. Scott, to adopt the Site Plan with the 25 conditions and Staff conditions.

Vice Chair Elfman requested additional information on the easement. Colby Cooper, Chief Operating Officer of Hicks-Snedaker and developer of the project, explained that the easement agreement is between the City and the residents of SW 17<sup>th</sup> Street. Additional information is required before the developer may work with the City to ensure that the City may maintain the sewer once it has been installed.

Mr. Cooper continued that the only easement before the neighborhood affects residents of SW 17<sup>th</sup> Street and is between them and the City. Once the Applicant has City-approved language and forms, they will reach out to the SW 17<sup>th</sup> Street owners and address any further concerns.

Mr. Weymouth asked if the 25 conditions are intended to be enforceable by individual residents of the surrounding neighborhood. Ms. Toothaker reiterated that the Applicant



offered the 25 voluntary conditions with the intent that they would be conditions of Site Plan approval. In addition, the 25 conditions have been included in a Declaration of Restrictive Covenants or a marina developer's agreement. The only remaining issue is one of enforcement.

Ms. Toothaker continued that the 25 conditions are attached to the letter from the Shady Banks Civic Association, which specifically conditioned its members' approval upon inclusion of these conditions. Ms. Fertig **amended** her **motion** as follows: the 25 conditions as delineated in the letter from Shady Banks.

In a roll call vote, the **motion** passed 8-0.

#### **V. COMMUNICATION TO THE CITY COMMISSION**

None.

#### **VI. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE**

Mr. Barranco observed that the discussion of Items 2 and 3 showed that the developer took all action required of them under Code; however, it did not appear that Code requirements were sufficient in this case. He felt if developers can be asked to meet with neighborhood associations, this courtesy could be extended to tenants as well, with housing options provided to these residents.

Ms. Fertig advised that Staff should look into the possibility of having an interpreter present in case one is needed in the future. She pointed out that other governmental entities make provisions for this need, and expressed concern that residents came forward with the intent of participating in the meeting but were not heard because professional interpretation was not available. Mr. Shechtman agreed, also asserting that this need should be accommodated.

Chair Maus advised that there are members of the public wishing to speak under For the Good of the City who may address projects that have previously come before the Board for approval. She pointed out that because not all parties associated with these projects are present at tonight's meeting, and Staff is not fully prepared for discussion of past cases, it may not be appropriate to discuss specific projects. She recommended that the discussion be limited to concepts rather than specifics.

Stan Eichelbaum, president of the Downtown Fort Lauderdale Civic Association, stated that the Board is not asked to make a formal recommendation at tonight's meeting. He noted that once a decision has been made, this is considered history and is subject to discussion.

Attorney Wallen explained that the issue is that there should not be re-litigation of cases that have already been decided. It is appropriate to discuss specific closed cases, but if

those cases are undergoing appeal or other approval is pending, further discussion is inappropriate. She asked that discussion of specific cases be limited to items currently being litigated. It was determined that Staff would clarify whether or not a given case is still in process.

Mr. Eichelbaum distributed a handout to the Board members, stating that there is a new organization, Fort Lauderdale on Public Safety (FLOPS), which arose from concerns regarding a wind vortex in the Downtown area. A resident had cautioned that this condition could arise from the approval of projects that are not designed to mitigate the wind vortex.

Members of the organization met with the City Attorney, who clarified that the City is only legally vulnerable to issues listed in the ULDR. The organization's legal advisors do not agree, and feel the City is liable for the approval of projects that may do harm to the community in relation to safety and financial security.

Mr. Eichelbaum characterized FLOPS as pro-development but concerned with the use of correct development practices. He stated that the organization is concerned with the entire approval process, including enforcement and compliance monitoring. Their intent is to address shortfalls within these processes.

Mr. Eichelbaum continued that FLOPS is concerned with infrastructure insufficiency as well as inadequate enforcement of compliance staffing, wind eddying and vortices, ULDR shortfalls, and water supply and infrastructure, among others. He asserted that the community has sent multiple letters expressing concern with these and other issues.

Gary Grayson, private citizen, stated that he felt false statements were made in the past regarding the effects of wind on buildings, and addressed safety issues related to these effects, including the possibility that wind velocity may cause buildings to fail hurricane zone requirements. Mr. Grayson concluded that there is no way to mitigate the effects of wind issues if spacing guidelines are not met.

Lenny Steinbaum, private citizen, advised that he no longer feels safe in the City due to overbuilding, failing infrastructure, and traffic congestion. The City has not increased its emergency medical services locations and staff sufficiently to protect its inhabitants. He also expressed concern for the ability of emergency services to reach residents during flood situations. He felt the City's Master Plan should place a temporary moratorium on construction until safety issues are resolved.

John Bordeaux, private citizen, read from an email he had sent to several residents of the Downtown area. The email addressed traffic congestion, water and sewer usage, increased response time for emergency vehicles, staging of construction, and egress of residents in the event of an emergency. The City does not include an emergency response station in the Downtown area.

Mr. Bordeaux expressed concern with the number of high-rise buildings, most of which are over 40 stories tall, located in one quarter-mile area. He advised that there have been no comprehensive traffic or emergency egress studies conducted for these buildings. Significant wind tunnels also exist between these buildings. He asked if the City would be liable for fatalities related to evacuation from these structures.

Steve Rifkin, private citizen, stated his concern with increasing growth, traffic congestion, dangerous winds, and access for emergency services. He pointed out that multiple new buildings are under construction close to the Downtown area, which will contribute to traffic congestion and possibly to liability to the City in the event of an emergency. He asked that developers be held accountable, that a moratorium be imposed on new construction, and that the safety of citizens be protected.

Marvin Srulowitz, private citizen, advised that problems unique to buildings such as Las Olas by the River, where he resides, have not been addressed in the past. These include flooding from sewers and consistent power outages. He noted that the City does not consider buildings as part of a larger area but on their own merits only. He recommended that the City take a more global look at the projects it approves.

Mr. Eichelbaum concluded that issues in the Downtown are escalating with regard to public safety and the City's fiscal security. He provided a list of the issues with which FLOPS is concerned.

Ms. Fertig asked if these concerns could be addressed or considered in light of the Downtown Master Plan. Attorney Wallen replied that the Planning and Zoning Board only has jurisdiction to address certain issues: they may make recommendations to the City Commission, but ultimately any changes to Ordinances would come at the direction of the City Commission and City Manager.

Ms. Scott commented that she shares many of the residents' concerns regarding access for emergency vehicles and services, including response times.

Dylan Lagi, private citizen, advised that the Flagler Village area is also part of Downtown Fort Lauderdale and represents a portion of the Northwest Progresso-Flagler Heights Community Redevelopment Agency (NPF CRA). He felt a collective discussion should be held between civic groups both north and south of Broward Boulevard, representing both portions of Downtown, to address concerns and make improvements for residents.

There being no further business to come before the Board at this time, the meeting was adjourned at 9:10 p.m.

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

*Catherine Manz*

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Chair

*Brigitte Chiappetta*

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Prototype

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