

RESOLUTION NO. 21-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING AND ACCEPTING A MODIFIED SITE PLAN AS A SETTLEMENT IN A FLORIDA LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION ACT PROCESS; APPROVING THE ISSUANCE OF A SITE PLAN LEVEL IV BEACH DEVELOPMENT PERMIT FOR THE DEVELOPMENT OF A 17-STORY MIXED-USE HOTEL, RESIDENTIAL, RESTAURANT AND RETAIL PROJECT AND PARKING FACILITIES LOCATED AT 3016 AND 3030 BAYSHORE DRIVE, FORT LAUDERDALE, FLORIDA, IN THE A-1-A BEACHFRONT AREA (ABA) ZONING DISTRICT; AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO TAKE NECESSARY ACTIONS TO EFFECTUATE THIS RESOLUTION, AND PROVIDING FOR RESCISSION OF CONFLICTING RESOLUTION PROVISIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Section 47-12.6 of the City of Fort Lauderdale, Florida Unified Land Development Regulations ("ULDR") provides that no development of property in the Central Beach area of the City shall be permitted without first obtaining a beach development permit from the City of Fort Lauderdale in accordance with the provisions and requirements of the ULDR; and

WHEREAS, Bayshore Hotel LLC and 3030 Bayshore Properties LLC, the property owners of 3016 and 3030 Bayshore Drive, Fort Lauderdale, Florida, (collectively "Property Owners") submitted an application in 2018 for a beach development permit for a mixed-use hotel, residential and retail project consisting of a 17-story, 168-room hotel, 115 residential units, 3,600 square feet of restaurant and 3,156 square feet of retail at 3016 and 3030 Bayshore Drive, Fort Lauderdale, Florida, and located in the A-1-A Beachfront Area (ABA) zoning district; and

WHEREAS, Section 47-12.5-B.1 of the ULDR sets forth the minimum yard setbacks within the ABA district and allows a setback other than the minimum to be approved as part of the approval of a development of significant impact, also known as a Site Plan Level IV development; and

WHEREAS, the Development Review Committee (PZ Case No. R18058) at its meeting of August 28, 2018, recommended approval of the proposed development permit to the Planning and Zoning Board; and

WHEREAS, the Planning and Zoning Board at its meeting of February 20, 2019, recommended approval of the proposed development permit to the City Commission; and

WHEREAS, the City Commission at its meeting of June 4, 2019, reviewed the beach development permit application submitted by the applicant, as required by the ULDR, and found that the proposed development was not consistent with the development standards for the proposed development under the provisions of the ABA zoning district and the neighborhood compatibility criteria provided in Section 47-25.3, and

WHEREAS, the City Commission adopted Resolution No. 19-113 denying the Site Plan Level IV development permit application to construct a hotel and residential project and parking facilities located at 3016 and 3030 Bayshore Drive, Fort Lauderdale, Florida, based on the failure to meet the requirement of Section 47-12.6 of the ULDR; and

WHEREAS, on July 8, 2019, Property Owners petitioned the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida to issue a writ of certiorari directed to the Commission of the City of Fort Lauderdale quashing Resolution No. 19-113, rendered on June 17, 2019; and

WHEREAS, the Property Owners filed for relief through the Florida Land Use and Environmental Dispute Resolution Act, commonly known as FLUEDRA, pursuant to § 70.51, Florida Statutes on July 3, 2019; and

WHEREAS, on January 20, 2021, a mediation was held before Special Magistrate Honorable Scott J. Silverman, Retired Judge, 11th Judicial Circuit Court of Florida, between Property Owners and the representatives of the City, at which the Property Owners presented a site plan that modified the proposed use of the property as a proposed settlement of the dispute; and

WHEREAS, Special Magistrate Silverman issued a report advising the City of its statutory obligation to direct all available resources and authorities to effect fully the obvious purposes and intent of the statute in resolving the dispute and of the special magistrate's responsibility to hold a hearing to determine whether the City's action is unreasonable or unfairly burdens the real property if the Property Owners and the City are unable to resolve the dispute based on the Property Owner's proposal; and

WHEREAS, the City Commission reviewed the modified site plan proposed for settlement of the FLUEDRA dispute as a revision to the beach development permit application submitted by the applicant and finds that the proposed development is consistent with the

development standards for the proposed development under the provisions of the ABA zoning district and the neighborhood compatibility criteria provided in Section 47-25.3;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That each WHEREAS clause set forth above is true and correct and incorporated herein by this reference.

SECTION 2. That the City Commission finds that the amended Site Plan Level IV application submitted by the Applicant meets the criteria of Sections 47-24 of the ULDR, as enunciated and memorialized in the minutes of its meeting of October 21, 2021, a portion of those findings expressly listed as follows:

[SPACE RESERVED FOR FINDINGS OF FACT]

SECTION 3. That the site plan level IV development permit application submitted to construct a hotel and residential project and parking facilities located at 3016 and 3030 Bayshore Drive, Fort Lauderdale, Florida, in an ABA zoning district, as amended in the modified site plan proposed for settlement of the FLUEDRA dispute by the property owners, is hereby approved for the issuance of a beach development permit, subject to the modifications and conditions imposed by the Development Review Committee, Planning and Zoning Board and City Commission; including and not limited to the conditions imposed at the October 21, 2021 City Commission meeting.

SECTION 4. That pursuant to the provisions of the City of Fort Lauderdale, Florida ULDR, the proper City officials are hereby authorized to issue the necessary building and use permits.

SECTION 5. Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

SECTION 6. This approval is conditioned upon the applicant obtaining all other applicable state or federal permits before commencement of the development.

SECTION 7. That the City Commission of the City of Fort Lauderdale, Florida hereby accepts the modifications of the proposed use as depicted in the modified site plan approved by this resolution as the settlement and resolution of the conflict between Bayshore Hotel LLC and 3030

Bayshore Properties LLC, and the City of Fort Lauderdale that is the subject of the pending FLUEDRA action, pursuant to § 70.51, Florida Statutes.

SECTION 8. That the City Manager and City Attorney are hereby authorized and directed to send a certified copy of this resolution to Special Magistrate Honorable Scott J. Silverman and to execute the necessary documents, and take all the necessary actions to effectuate the purpose and intent of this Resolution.

SECTION 9. That all resolutions or parts of resolutions in conflict herewith be, and the same are hereby rescinded to the extent of such conflict.

SECTION 10. That if any clause, section, or other part of this Resolution shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Resolution shall not be affected thereby, but shall remain in full force and effect.

SECTION 11. That this Resolution shall become effective immediately upon its adoption.

ADOPTED this ____ day of October 2021.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
JEFFREY A. MODARELLI