



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

21-1011

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Chris Lagerbloom, ICMA-CM, City Manager

DATE: October 21, 2021

TITLE: Quasi-Judicial Resolution – Regarding a Modified Site Plan as a Proposed Settlement in a Florida Land Use and Environmental Dispute Resolution Act Process and a Site Plan Level IV Development Permit for 115 Multifamily Residential Units, 168 Hotel Rooms, 3,600 Square Feet Restaurant Use, and 3,156 Square Feet Retail Use – Bayshore Hotel LLC and 3030 Bayshore Properties – 3016 and 3030 Bayshore Drive – Case No. R18058 - **(Commission District 2)**

Recommendation

Staff recommends the City Commission consider adopting a resolution approving a Modified Site Plan as a Proposed Settlement in a Florida Land Use and Environmental Dispute Resolution Act Process and a Site Plan Level IV development permit for the construction of a mixed-use multifamily residential development with 115 multifamily residential units, 168 hotel rooms, 3,600 square feet of restaurant use, and 3,156 square feet of retail use in the A-1-A Beachfront Area (ABA) zoning district.

Background

On June 4, 2019 the City Commission adopted Resolution 19-113 denying the site plan level IV development permit. The Applicant sought relief through the Florida Land Use and Environmental Dispute Resolution Act (FLUEDRA). FLUEDRA mandates that state and local governments first mediate disputes with any landowner who “believes that a development order ... is unreasonable or unfairly burdens the use of the owner’s real property” § 70.51, Fla. Stat.

Mandated mediation was held on January 20, 2021, between the property owners and the City, at which the property owner proposed modifications to the proposed development plan. Pursuant to the procedure outlined in the statute, this proposal is being presented to the City Commission for consideration in an attempt to reach a mutually acceptable solution. Should a mutually acceptable solution not be reached, the special magistrate shall consider the facts and circumstances set forth in the request for relief; any responses; and any other information produced at the hearing. The special magistrate will review the facts described in order to determine whether the action of the City Commission is unreasonable or unfairly burdens the real property. The Special Magistrate Mediation Report is attached as Exhibit 1. The revised site plan showing the changes between the former design and the current

proposed design are attached as Exhibits 2a, 2b, 2c, and 2d. The June 4, 2019, City Commission Minutes and Commission Agenda Memo are attached as Exhibit 3 and Exhibit 4, respectively.

The applicant requested a deferral from the October 5, 2021, to the October 21, 2021, regular City Commission meeting to allow for additional time to meet with the neighboring property owners and the Central Beach Alliance.

Prior Reviews

The Planning and Zoning Board (PZB) reviewed the original proposal on February 20, 2019, and recommended approval of the development by a vote of 5-4, with conditions. The PZB meeting minutes are provided as Exhibit 5.

The proposed development consists of a seventeen-story building, with a height of 190 feet. The first floor will contain the lobby, restaurant, and retail uses. Parking will be located below grade, as well as on the second and third floors. The fourth floor amenity deck will contain a pool, pool deck, lobby, gym, and juice bar. An additional amenity deck is located on the rooftop which will contain a pool, pool deck and two large assembly spaces.

The Development Review Committee (DRC) reviewed the original proposal on August 28, 2018. The complete application and DRC record is available on file with the Department of Sustainable Development.

Review Criteria

The proposed development was reviewed pursuant to criteria outlined in the City's Unified Land Development Regulations (ULDR) Section 47-12, Central Beach Districts. The applicant has provided a scope of revisions, which is attached as Exhibit 6.

Pursuant to the City's Unified Land Development Regulations (ULDR) Section 47-12.5.B.1., ABA District Setbacks, a development approved through the Site Plan Level IV process may request side yard setbacks to be reduced up to the minimum of 10-feet and minimum of 20-feet along a public right-of-way. The setbacks were revised and are proposed as follows:

Previous Setbacks:		Proposed (Revised) Setbacks:	
Front (North)	Podium: 20 feet Tower: 28 feet – 10 inches	Front (North)	Podium: 12 feet Tower: 14 feet – 6 inches
Front (West)	Podium: 31 feet – 3 inches Tower: 39 feet – 4 inches	Front (West)	Podium: 31 feet – 3 inches Tower: 39 feet – 4 inches
Side (East)	Podium: 24 feet – 4 inches Tower: 186 feet – 2 inches	Side (East)	Podium: 24 feet – 4 inches Tower: 186 feet – 2 inches
Rear (South)	Podium: 39 feet – 2 inches Tower: 48 feet – 5 inches	Rear (South)	Podium: 47 feet – 2 inches Tower: 65 feet – 6 inches

Through the proposed redesign, the podium of the hotel has been relocated to the north, as it sits on the property to increase the distance between the hotel podium and the base of the neighboring building. As a result, the tower separation to the neighboring building tower

on the south increases from 101 feet to 115 feet, 4 inches and the podium separation increases from 88 feet to 95 feet, 6 inches.

The zoning designation permits buildings be up to 200-feet in height by right and up to 240-feet in height if the project meets additional criteria established by Section 47-12.5.B – A-1-A Beachfront Area (ABA) District. The applicant has retained a height of 190-feet to the rooftop amenity space and 178-feet to top of rooftop railing. However, the occupied space on the roof has been eliminated and the architectural feature has been removed to lower the perceived height of the tower.

The applicant is proposing landscaping and new sidewalks along Bayshore Drive to allow for a more pedestrian friendly walkway that will help to create a streetscape pattern for future projects along this corridor. The applicant has increased landscape area by 1,410 square feet, while reducing hardscape landscaped area. In addition, the landscape plan includes additional shade trees to enhance the public realm and provide additional screening from the tower to the south of the project.

The previously proposed storage spaces in the parking garage have been removed to reduce the project's Floor Area Ratio (FAR) to 4.0, eliminating the request for bonus FAR under the City's ULDR. Additionally, the previously proposed red color on the building has been revised to blue and pedestrian level features have been maintained and enhanced with the proposed revisions.

Adequacy and Neighborhood Compatibility:

The adequacy criteria of ULDR Section 47-25.2 are used to evaluate the demand created on public services and facilities by a proposed development. Water and wastewater to the proposed development will be serviced by the City of Fort Lauderdale. The City's Public Works Department provided an updated water/sewer capacity letter, dated September 30, 2021, included as Exhibit 7, stating that the additional demand from the proposed land use will generate a flow less than the combined permitted treatment plant capacities. However, conditions of approval include sanitary sewer improvements, such as a gravity sewer main replacement.

The properties to the north and south are zoned ABA, a district which promotes high-quality destination resort uses. The project is adjacent to a 14-story residential building to the south and a 24-story resort to the north. To the west, there are residential buildings of varied mass and scale within the Intracoastal Overlook Area (IOA) zoning designation. These residential uses are separated by Birch Road, a 60-foot right-of-way. The revised development is consistent with the development pattern in the surrounding area and serves as a transition from the higher and more intense resort at the north to the lower and less intense residential tower to the south.

Parking and Circulation:

The vehicular ingress and egress to the site is located on Bayshore Drive and on Birch Road. As per ULDR Section 47-20, Parking Requirements, a total of 321 parking spaces are required for the project and 323 parking spaces are proposed as follows:

Table 1 – Parking Table

ULDR Section 47-20: Parking Requirements			
Use Type	Ratio	Required	Proposed
Hotel	0.67 per room	113	113
Multifamily	1.75 per unit	201	201
Retail	1 per 500 square feet	7	9
TOTAL		321	323

Based on a traffic impact statement dated September 2021, and prepared by the applicant's traffic consultant, Keith and Associates Inc., the proposed development does not generate over 1,000 vehicles per day, which is the threshold that would require a more in-depth traffic impact study. The project is projected to generate 827 net new trips per day with 36 net new AM peak hour trips and 44 net new PM peak hour trips. The traffic impact statement is provided as Exhibit 8.

Comprehensive Plan Consistency

The proposed development plan is consistent with the City's Comprehensive Plan and proposed Central Beach Regional Activity Center land use category.

As it relates to urban design, the proposed mixed-use development supports Urban Design Element Policy 1.1.6 through the use of high-quality building materials and architectural treatments, incorporation of building façade features including sufficient windows for transparency purposes, and high-quality parking garage treatments. In regard to streetscape design, the project supports Urban Design Element Policy 3.1.3 by removing back-out parking and providing greater emphasis on sidewalk width, incorporation of street trees and shading devices, and bicycle facilities. Also, the project implements Urban Design Element Policies 3.1.4 and 3.1.5 by continuing to enhance and expand a connected network of pedestrian pathways particularly in high destination areas such as the Central Beach Regional Activity Center.

The City's Future Land Use Map indicates that the proposed project is located within the boundaries of the Beach RAC. Per an Interlocal Agreement between the City and Broward County, the City is required to monitor and track development entitlements in the City's Regional Activity Centers. The Beach RAC development limitations are based on residential units and vehicular trips. As stated in the traffic impact statement provided by the applicant, the project will generate a total of 44 PM peak hour trips.

Vehicular trips are allocated on a "first come first serve" basis as approved by the approving body. If proposed project is approved by the City Commission, 194 peak hour trips will remain for allocation in the Central Beach Regional Activity Center.

Conditions of Approval:

The Planning and Zoning Board (PZB) recommended approval of the previous development proposal to the City Commission with staff conditions. PZB added conditions stating that the project shall not operate as a condo hotel, that the applicant would upsize the existing 8-inch and 10-inch gravity sewer mains along North Birch Road, and convey the proposed flows to PS D-31. The applicant voluntarily assumes responsibility for the design, permitting, and construction of said improvements in order to meet adequacy requirements per ULDR section 47-25.2, subject to the review and approval by the Public Works Department, which has been revised herein. Should the City Commission approve the alternative design as part of the FLEDRA process, staff recommends the same conditions apply as listed below.

1. Applicant will be required to pay a Park Impact Fee for the proposed residential units prior to issuance of building permit in accordance with ULDR Sec. 47-38A, Park Impact Fees.
2. This project is subject to the requirements of Broward County Public School Concurrency. The applicant will notify the School Board Superintendent or designee of this proposal. Prior to submitting an application for placement on a Planning and Zoning Board or City Commission agenda, a written response from the School Board shall be provided by the applicant. Prior to application for final DRC approval, provide confirmation from the School District that the residential development is exempt or vested from the requirements of public school concurrency, or a School Capacity Availability Determination (SCAD) letter that confirms that capacity is available, or if capacity is not available, that mitigation requirements have been satisfied.
3. Pursuant to the Unified Land Development Regulations ("ULDR"), Section 47-25.2.P, this site is located in an area that the City has identified as an archaeologically significant zone. The applicant is required to contract with an archaeologist to provide a shovel test survey that includes samples from throughout the project site and states whether the development site holds archaeological significance. The archaeologist must state within the report if further testing on the site is required and/or if monitoring by the archaeologist is required during ground disturbing activity once construction commences. All preliminary reports from the archaeologist must be submitted, prior to final DRC approval, to both the Case Planner and Historic Preservation Planner. If monitoring is required, the applicant must also provide a letter of agreement with the archaeologist stating that they will be present during phases of the project that include ground disturbing activity. For any questions contact Trisha Logan, Historic Preservation Planner, at 954-828-7101 or at tlogan@fortlauderdale.gov.
4. The Water and Wastewater Capacity Availability letter issued by the City's Public Works Department dated September 30, 2021, indicates that the existing 8-inch and 10-inch gravity sewer mains along North Birch Road currently do not have capacity to serve the project and convey flow downstream to the existing 15-inch sewer on North Birch Road and Pump Station (PS) D-31. Applicant shall be required to meet the conditions of approval included in the September 24, 2021 Water and Wastewater Capacity Availability letter, which states:

- (1) Upsizing the 8-inch gravity sewer on Bayshore Drive to a 10-inch pipe approximately 250-feet in length; and,
- (2) Upsizing the existing 10-inch gravity sewer main along North Birch Road to a 15-inch sewer pipe approximately 1,700-feet in length.
- (3) Applicant shall enter into a memorandum of agreement with the City to coordinate the design requirements and construction of the improvements.

At the time of building permitting the Water and Wastewater Capacity analysis will be updated to ensure the proposed infrastructure is adequate at the time of construction.

5. All proposed private features encroaching within the right of way along North Birch Road and Bayshore Drive (i.e. water features, raised planters, landscape walls), are subject to a separate DRC submittal and revocable license agreement approval. These features shall not conflict with ULDR requirements and the public use of the right of way. Prior to issuance of building permit a copy of the recorded revocable license shall be provided.
6. Prior to final DRC sign off, provide additional information on plans to verify that the proposed garage ramps do not exceed 12% slope in accordance with ULDR section 47-20.9 (i.e. ramp length, floor elevation).
7. Prior to final DRC sign off, applicant shall provide a cross section along east side of development illustrating that runoff is retained onsite per ULDR requirements. Applicant shall also clarify that the design of the southern boundary of the site are coordinated with the existing power poles to remain in this area, and verify the utility easement owner(s) have no objection to the proposed retaining wall/ foundation encroachment within the utility easement. Applicant shall provide all necessary correspondence accordingly.
8. Prior to final DRC sign off, applicant must include dimension on landscape plans to confirm the required horizontal clearance from existing 6-inch water main (Bayshore Drive) and 12-inch water main (North Birch Road) is provided (10-feet from larger trees, and 5-feet from smaller trees). Applicant documentation verifying the barrier is a minimum of 36-inches below the pavement/ground level is installed to mitigate future conflicts with utilities. If proper horizontal clearance cannot be provided (5-feet min. for smaller trees and 10-feet for larger trees), provide correspondence from Public Works accepting the proposed clearance/ alternative requirements.
9. Prior to final DRC sign off, survey shall be updated to be based on a title commitment or opinion of title with an effective date no more than thirty days prior to the date of submittal of the survey and must be certified to the City of Fort Lauderdale (provided survey is based on title commitment from 08/30/2015). Also, provide background information on title notes items #7 through #11 since the only items depicted on survey appears to be items #7 and #8.

10. Prior to final DRC sign off, applicant must depict location of relocated street light poles along Bayshore Drive in coordination with proposed improvements.
11. Prior to final DRC sign off, revise Section 1A, on page LC-101, applicant to depict that proposed water feature wall (within sight triangle) does not exceed 2.5-feet in height from adjacent edge of pavement (rather than sidewalk) in accordance with ULDR section 47-35.
12. Prior to final DRC sign off, applicant to depict striping for no parking on proposed turnaround areas where dead-end parking is proposed.
13. Prior to issuance of building permit, applicant shall coordinate with FPL on any additional requirements related to access and maintenance of existing power poles to remain along southern boundary of property line.
14. Prior to issuance of building permit, applicant shall provide details per City standards for the proposed bio-swales along North Birch Road and Bayshore Drive in coordination with Public Works.
15. Prior to issuance of final certificate of occupancy, applicant shall record a 20-foot corner chord permanent right-of-way easement on southeast corner of North Birch Road and Bayshore Drive intersection per ULDR Section 47-24.5.D.1.p.
16. Prior to issuance of final certificate of occupancy, applicant shall record a permanent Sidewalk Easement as appropriate along east side of North Birch Road to accommodate portion of pedestrian clear path that may be located beyond public right-of-way and/or right-of-way easement dedication.
17. Prior to issuance of final certificate of occupancy, applicant shall record a 10-foot x 15-foot (minimum) permanent Utility Easement for the proposed 4-inch water meter off North Birch Road.
18. Prior to issuance of final certificate of occupancy, applicant shall coordinate a maintenance agreement with the City for property frontage along Bayshore Drive and North Birch Road. Proposed special improvements for this project within adjacent City right-of-way to be maintained in perpetuity by property owner include: asphalt pavement, curb and gutter, valley gutter, landscape, structural soil, landscape walls/raised planters, irrigation, root barriers, pedestrian lighting, concrete driveways, specialty paving sidewalks and water features as depicted on maintenance agreement exhibit sheet LC-201.
19. Light poles shall be placed beyond 15-feet of trees, in accordance with ULDR Section 47-21.12.B.3.

20. Prior to Final DRC approval, applicant shall verify all aspects of the ULDR have been met.

Resource Impact

There is no fiscal impact associated with this item.

Strategic Connections

This item supports the *Press Play Fort Lauderdale 2024 Strategic Plan*, specifically advancing:

- The Neighborhood Enhancement Focus Area
- Goal 4: Build a thriving and inclusive community of neighborhoods.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Ready*.

This item supports the *Advance Fort Lauderdale 2040 Comprehensive Plan*, specifically advancing:

- The Neighborhood Enhancement Focus Area
- Urban Design Element
- Goal 1: Promote high-quality and sustainable building design elements which complement the public realm.

Attachments

Exhibit 1 – Special Magistrate Mediation Report
Exhibit 2a – Revised Site Plan
Exhibit 2b – Revised Site Plan
Exhibit 2c – Revised Site Plan
Exhibit 2d – Revised Site Plan
Exhibit 3 – June 4, 2019 City Commission Minutes
Exhibit 4 – June 4, 2019 City Commission Staff Report
Exhibit 5 – February 20, 2019 PZB Meeting Minutes
Exhibit 6 – Scope of Revisions
Exhibit 7 – September 30, 2021 Water and Sewer Capacity Letter
Exhibit 8 – Bayshore Hotel Traffic Impact Statement
Exhibit 9 – Resolution approving
Exhibit 10 – Resolution denying

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