

**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
WEDNESDAY, APRIL 13, 2011 – 6:30 P.M.
CITY HALL CITY COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA**

Board Members	Attendance	Cumulative Attendance 6/2010 through 5/2011	
		Present	Absent
Diana Waterous Centorino, Chair	P	8	3
Michael Madfis, Vice Chair	P	10	1
Caldwell Cooper	P	11	0
Gerald Jordan	P	10	1
Karl Shallenberger	P	8	3
Henry Sniezek	P	10	1
Birch Willey	P	11	0
Alternates			
Mary Graham	P	9	2
Fred Stresau	P	10	1
Sharon A. Zamojski	A	6	2

Staff

Bob Dunckel, Assistant City Attorney
Terry Burgess, Zoning Administrator
Yvonne Blackman, secretary
Mohammed Malik, Chief Zoning Plans Examiner
B. Chiappetta, Recording Secretary, Prototype Inc.

Communication to the City Commission

Motion made by Mr. Shallenberger, seconded by Mr. Madfis to advise the Commission that the Board of Adjustment had been asked to hear four cases on alternative energies/wind turbines and the Board believed the decision was a policy decision that should be made in coordination with the City Commission and any experts that the City Commission may need to make that decision. In a roll call vote, motion passed 7-0.

Purpose: Section 47-33.1.

The Board of Adjustment shall receive and hear appeals in cases involving the ULDR, to hear applications for temporary nonconforming use permits, special exceptions and variances to the terms of the ULDR, and grant relief where authorized under the ULDR. The Board of Adjustment shall also hear, determine and decide appeals from

reviewable interpretations, applications or determinations made by an administrative official in the enforcement of the ULDR, as provided herein.

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	<u>Appeal</u>			
	<u>Number</u>	<u>Applicant</u>	<u>District</u>	<u>Page</u>
1.	10-40	City of Fort Lauderdale	4	<u>2</u>
2.	11-07	Costa Dorada Associates Ltd.	2	<u>3</u>
3.	11-08	Urbana Pelican Grand 1, LLC	2	<u>5</u>
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Call to Order

Chair Centorino called the meeting to order at 6:31 p.m. She introduced Board members and described the functions of the Board and procedures that would be followed for the meeting.

Approval of Minutes – March 2011

The Board noted corrections to the minutes.

Motion made by Mr. Cooper, seconded by Mr. Jordan, to approve the minutes of the Board's March 2011 meeting. In a voice vote, motion passed 7 - 0.

Board members disclosed communications they had regarding items on the agenda.

All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.

Rehearing:

1. Appeal No. 10-40

APPLICANT: City of Fort Lauderdale
LEGAL: STRANAHANS SUB LOTS 13 TO 18, BLK 14 FT LAUDERDALE
3-10 D, LOTS 6 THRU 17, LESS RD R/W'S AS DESC IN OR
8156/401 BLK B
ZONING: RAC-CC (Regional Activity Center- City Center District)
ADDRESS: 100 SE 1 Street
DISTRICT: 4

APPEALING: Section 5-27(b) (Distances of establishments from Church or School)

Requesting a special exception to allow alcohol sales that is incidental to the sale of food in a restaurant that is within 249 feet from a Church (First United Methodist), where Code requires a separation of 500 feet.

Ms. Rhonda Koussevitsky, owner of Slice Pizzeria, said they had met with church representatives and they no longer had any objection. She stated the hours of operation were 11:00 AM until 6:00 PM Monday through Friday. Ms. Koussevitsky stated the Board of Adjustment Board had already approved Empire Pizza, a nearby competitor, to sell beer and wine. Other restaurants in the area were also selling beer and wine and had not needed a special exception.

Chair Centorino opened the public hearing.

Mark Caldwell, Church Pastor, explained the church had received clarification regarding some of their concerns and they did not oppose the request.

There being no other members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

Mr. Dunckel said a church representative had phoned him regarding the hours of operation and asked that the special exception be contingent upon keeping the same hours of operation. Pastor Caldwell agreed they wished this condition.

Motion made by Mr. Jordan, seconded by Mr. Willey, to approve special exception, contingent upon hours of operation remaining as those currently in effect (11:00 a.m. – 6:00 p.m., Monday through Friday). In a roll call vote, motion passed 6-1 with Mr. Cooper opposed.

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2. Appeal No. 11-07

APPLICANT: Costa Dorada Associates Ltd.
LEGAL: "Birch Oceanfront Subdivision" P.B. 19, P. 26 and all of Block D
ZONING: ABA (A-1-A Beachfront Area)
ADDRESS: 505 N. Fort Lauderdale Beach Boulevard
DISTRICT: 2

APPEALING: Section 47-12.5.B.5 (List of Permitted Uses, A1A Beachfront Area (ABA) District)

Requesting a variance to permit the installation of fourteen (14) Wind Turbines, 8 at grade level and 6 on the roof, where Code does not list Wind Turbines as a permitted use.

APPEALING: Section 47-19.2.Z (Accessory buildings and structures, general Roof mounted structures)

Requesting a variance to permit the installation of six (6) Wind Turbines on a roof without screening, where Code requires that roof mounted structures such as air conditioners and satellite dish antennas be screened at least 6 inches above the top most surface of the roof-mounted structure.

APPEALING: Section 47-19.2.S (Mechanical and Plumbing Equipment)

Requesting a variance to permit the installation of four (4) wind turbines at grade 6 inches from the side yard and 35 feet in height, where the Code requires a 5-foot side yard setback and a limitation of 5 feet in height for mechanical equipment.

APPEALING: Section 47-19.2.S (Mechanical and Plumbing Equipment)

Requesting a variance to permit the installation of four (4) additional 35-foot high wind turbines at grade 6 inches from the front yard property line, where the Code does not allow mechanical equipment in a front yard.

Mr. Dunckel said Board Alternate Fred Stresau had reminded him that the Board had previously sent a communication to the City Commission suggesting that they discuss the issue of wind turbines. The City Commission had not discussed this yet, and Mr. Stresau had suggested the Board might want to defer this case until the City Commission provided additional guidance.

Heidi Davis, representative of the applicant, said they wanted to proceed. She said this was one of the sustainable strategies the Hilton wanted to implement.

Mr. Madfis wanted to continue with the hearing. Mr. Cooper said he had researched wind turbines, and had concerns about this item because it would be on a major thoroughfare. He would like direction from the City on this subject. Mr. Sniezek agreed with Mr. Cooper, but was unsure what kind of direction the Commission could provide.

Mr. Dunckel said the Board should consider that this was a "real live, concrete case" the Commission could look at and there was therefore a higher probability that the Commission would discuss it.

Mr. Shallenberger said this case would be a precedent and the Board should protect themselves by refusing to hear any more appeals concerning turbines until the Commission and perhaps the State of Florida told the Board what they wished to do. Mr. Shallenberger said he would prefer not to hear the request, but said he would if Ms. Davis felt it would be valuable to her.

Mr. Dunckel said the Board could defer the case to a certain time in anticipation of the City Commission's discussion and direction. If the Commission did not discuss it by that time, the Board could hear the case then.

Mr. Willey was willing to hear the appeal since the applicant wanted to continue.

Mr. Burgess noted that even if this were approved, the applicant still needed to apply for a yard and height modification, which must be presented to the Commission.

Ms. Davis said if the Board wished to make a request that the Commission provide direction, the applicant would be willing to defer the item. In the meantime, the applicant would try to meet with Commissioners. She suggested 60 days.

Mr. Sniezek suggested deferring to the Board's July meeting or earlier, depending on when the City Commission provided direction to the Board on their previous communication regarding wind turbines. Mr. Shallenberger suggested it would be best if this were put on the Commission's conference agenda. That would give the applicant the opportunity to bring in expert witnesses. Mr. Dunckel said he would work with Ms. Davis to get this put on the Commission's conference agenda.

Motion made by Mr. Madfis, seconded by Mr. Jordan to defer this Item to the July meeting of the Board of Adjustment so the City Commission would have a chance to enter into a conference to give direction and information to this Board. In a voice vote, motion passed 7-0.

Members of the public wished to speak on this item, but Mr. Dunckel advised that he was very concerned about creating reversible error by opening up a quasi-judicial hearing when they did not intend to complete it.

Ms. Davis agreed to coordinate a conference call with herself, members of the public and staff.

Motion made by Mr. Sniezek, seconded by Mr. Madfis, to reconsider the deferral with the understanding that the discussion would only be on the deferral.

Mr. Cooper stated allowing the public to discuss the deferral would not change the fact that he needed direction. Chair Centorino agreed.

In a roll call vote, motion **failed** 2-5.

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3. **Appeal No. 11-08**

APPLICANT: Urbana Pelican Grand 1, LLC

LEGAL: All of Pelican Grand Beach Resort, a Hotel Condominium,

according to the Declaration of Condominium recorded in official records Book 43208, Page 647 of the public records of Broward County, Florida, and more particularly described in the application for a variance with the Clerk of the City of Fort Lauderdale Board of Adjustment

ZONING: RMH-60 (Residential High Rise/High Density District)
ADDRESS: 2000 N. Atlantic Boulevard
DISTRICT: 2

Appeal pursuant to ULDR Section 47-24.12 of City Staff's subsequent withdrawal of Staff's prior approval in 2009 of Pelican Grand Beach Resort's ("Pelican"). Administrative Review Application for a shade structure at the southeast corner of the property as an approved "shade structure" with "outdoor food service area" to be "utilized for special events" including "weddings, parties, brunches, fund-raisers, and private events". Pelican requests an interpretation of the ULDR and Temporary Use Permit pursuant to ULDR Section 47-24.12 for the continued use of the existing shade structure which is permitted use under ULDR Section 47-19.2.P "freestanding shade structures" and pursuant to ULDR Section 47-19.8 which permits hotels with more than 50 guest rooms to have "outdoor food service areas." Pelican maintains that Section 47-19.2.X requiring Site Plan Level III review of the outdoor food service area is inapplicable because 57-19.2.X applies to "Multifamily dwellings."

Appeal pursuant to ULDR Section 47-24.12 of City Staff's determination that Pelican's existing 11th Floor Decks can not continue to be used for "outdoor food service areas" pursuant to ULDR Section 47-19.8 Hotel Accessory Uses and request for the continued use of the existing 11th Floor Decks for outdoor food service areas.

This item was heard out of order.

Chair Centorino stated the applicant had requested this item be deferred.

Motion made by Mr. Cooper, seconded by Mr. Madfis, to defer this Item to the May meeting of the Board of Adjustment. In a voice vote, motion passed 7-0.

Communication to the City Commission

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Regarding the wind turbine issue, Mr. Madfis noted the Board needed procedural direction. Mr. Willey said the Board should recommend the Commission direct staff to investigate this question and perhaps hold a workshop, to which the Board of Adjustment could be invited. Chair Centorino also wanted guidelines for how tall the apparatus could be when it was so close to the street or a nearby building. She also wanted to know who would maintain it and she was concerned about noise.

Motion made by Mr. Cooper, seconded by Mr. Madfis, to request the City Commission provide guidance regarding wind turbines or alternative energy sources in the City of Fort Lauderdale within 60 days.

Mr. Shallenberger said the Board was seeking a policy decision regarding alternative energy, then guidelines could be set. He noted there were engineers on staff that could provide advice for formulating policy.

Motion made by Mr. Shallenberger, seconded by Mr. Madfis to advise the Commission that the Board of Adjustment had been asked to hear four cases on alternative energies/wind turbines and the Board believed the decision was a policy decision that should be made in coordination with the City Commission and any experts that the City Commission may need to make that decision.

Mr. Madfis withdrew his second on Mr. Cooper's motion and reiterated his second on Mr. Shallenberger's motion.

In a roll call vote, motion passed 7-0.

Report and for the Good of the City

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None.

There being no further business to come before the Board, the meeting was adjourned at 7:33 p.m.

Chair:

Diana Centorino

Attest:

ProtoType Inc.

A digital recording was made of these proceedings, of which these minutes are a part, and is on file in the Planning and Zoning offices for period of two years.

Minutes prepared by: J. Opperlee, Prototype Inc.