

**CITY OF FORT LAUDERDALE, FLORIDA
REGULAR MEETING OF THE PLANNING AND ZONING BOARD
CITY COMMISSION CHAMBERS
100 NORTH ANDREWS AVENUE**

**WEDNESDAY, FEBRUARY 15, 2006
6:30 P.M.**

<u>Board Members</u>	<u>Attendance</u>	<u>Cumulative Attendance</u> <u>From 1/19/06</u>	
		(P)	(A)
Mary C. Fertig	P	2	0
Alan Gabriel	P	2	0
James McCulla	P	2	0
Judith Hunt	P	2	0
Maria Freeman	P	2	0
Edward Curtis	P	2	0
Rochelle Golub	P	2	0
Catherine Maus	P	2	0
Steve Glassman	P	2	0

Planning Staff: Ella Parker, Planner II
Jenni Morejon, Planner III
Anthony Fajardo, Planner II
Liz Holt, Acting Principal Planner
Don Morris, Acting Zoning Administrator
Jim Koeth, Principal Planner
Greg Brewton, Planning & Zoning Services Manager

Legal Counsel: Sharon Miller, Assistant City Attorney

Court Reporting Service: Jamie Opperlee/Margaret Muhl

**NOTE: ALL INDIVIDUALS WHO PRESENT INFORMATION TO THE BOARD
DURING THESE PROCEEDINGS AFFIRM TO SPEAK THE TRUTH**

Chair Alan Gabriel called the meeting to order at approximately 6:30 p.m., and all rose for the Pledge of Allegiance. He then proceeded to introduce the members of the Planning and Zoning Board

Jim Koeth, Liaison, proceeded to introduce staff that was present this evening.

5. Peter Sordjian/One Condos

74-R-05

**Request: ** Site Plan Level III/Waterway Use/
Yard Modifications/RMM-25
8 Multi-Family Units**

Legal Description: Lots 1 and 2, of "Island No. 4, Nurmi Isles,"
According to the plat thereof, as recorded in
P.B. 24, P. 43, of the Public Records of Broward
County, Florida

Address: 1 Isle of Venice

General Location: Southwest corner of Isle of Venice
North of Las Olas Boulevard

9. Azurite Corporation, Ltd./Yacht Haven

23-R-05

**Request: ** Site Plan Review/mixed Use 329
Multi-Family Units (B-2)**

Legal Description: Tract A, Yacht Haven Plat, according
to the plat thereof, as recorded in P.B.
157, P. 17 of the Public Records of
Broward County, Florida.

Address: 2323 West State Road 84

General Location: North of State Road 84, West of Interstate 95

Chair Alan Gabriel announced that staff was requesting that Items 5 and 9 were to be continued until March 15, 2006.

Mary Fertig stated that it appears when these items were deferred, it was due to lack of information being supplied by the applicants to staff. She asked if staff notified the applicants as to what information had been omitted.

Jim Koeth stated that normally staff sent e-mails to the applicants explaining what information still had to be submitted before their applications could be forwarded to the Planning and Zoning Board for hearing.

Motion made by James McCulla and seconded by Ed Curtis to defer Items 5 and 9 until March 15, 2006.

A vote was never taken regarding the deferral of the above items.

2. **City of Fort Lauderdale**

9-T-05

Request: * **Amend ULDR Section 47-18, *Specific Use Requirements*, to provide for the regulation Of certain facilities that provide shopping carts.**

3. **City of Fort Lauderdale**

10-T-05

Request: * **Amend ULDR Section 47-19, *Accessory Buildings, Uses, and Structures*, Section 47-19.9, *Outdoor Uses*, to provide Additional criteria for the regulation of Outdoor sales and storage at garden centers.**

4. **City of Fort Lauderdale**

11-T-05

Request: * **Amend ULDR Section 47-34, *Enforcement, Violations and Penalties*, Section 47-34.4, *Prohibited Parking or Storage of Commercial Vehicles or Commercial Watercraft*, to expand The definition of commercial vehicles by Including vehicles of any size that advertise Or identify the business entity of the vehicle's Owner or the owner's employer and by including Vehicles with more than four wheels that are Used for a commercial purpose.**

Chair Alan Gabriel announced that the applicant for Items 2, 3, and 4 was requesting that they be withdrawn. No action was required from the Board regarding these matters.

6. **Lucky 13, LLC/Lofts on Las Olas**

77-R-05

Request: ** **Site Plan Level III/Conditional Use For Mixed-Use Development/B-1 28 Multi-Family Units with Flex Allocation**

Legal Description: Lots 12, 13, 14, 15 and 16, Block 33, Colee Hammock, according to the plat thereof as Recorded in P.B. 1, P. 17, of the Public Records of Broward County, Florida, less the South 10.00 feet of said Lots 12, 13, 14, 15 and 16.

Address: 1313 & 1415 East Las Olas Boulevard

General Location: Northwest corner of East Las Olas Boulevard and S.E. 15 Avenue

Motion made by Ed Curtis and seconded by Rochelle Golub to continue Case No. 77-R-05 to be continued until March 15, 2006. Board unanimously approved.

Chair Alan Gabriel announced that the next scheduled meeting for the Planning and Zoning Board would be March 15, 2006, at 6:30 p.m.

Chair Alan Gabriel then proceeded to explain the format that would be used at tonight's meeting.

Approval of Minutes

Steve Glassman stated that the attendance reflected in the minutes of the January 19, 2006 Planning and Zoning Board meeting did not show him being in attendance. He asked if a correction could be made.

Motion made by James McCulla and seconded by Rochelle Golub to amend the minutes of the January 19, 2006 Planning and Zoning Board Meeting to reflect that Steve Glassman had been in attendance. Board unanimously approved.

Motion made by James McCulla and seconded by Rochelle Golub to approve the minutes of the January 19, 2006 Planning and Zoning Board meeting as amended. Board unanimously approved.

Chair Alan Gabriel announced that various items being brought before the Board were considered quasi-judicial, and some were brought before the Board to review in their capacity as the Local Planning Agency.

Chair Alan Gabriel asked Sharon Miller, Assistant City Attorney, to explain what quasi-judicial meant, along with an explanation regarding the Board's duties as the Local Planning Agency.

Sharon Miller continued stating that the State of Florida Legislature stated that every City was to have a body that would review certain applications to make sure they complied with the City's Land Use Plan, the Comprehensive Plan that was the overall plan for the City. This Board was appointed to also act as the Local Planning Agency on behalf of the City. Certain matters, such as rezoning, were reviewed and then a decision made that the development request was consistent with the City's Comprehensive Plan.

Sharon Miller, Assistant City Attorney, explained that quasi-judicial matters were treated similar to a Court hearing. Individuals were sworn in and could be cross-examined. All evidence presented would be part of the record, along with the case file from the planners and City staff. She further stated that such information would be used as the basis for the Planning and Zoning Board to decide whether the application met the criteria according to the ULDR.

- 1. Amend ULDR Section 47-13, Downtown Regional Activity Center Districts and Section 47-24, Development Permits and Procedures to re-adopt an amendment to the Process for City Commission request for review of development plans in the Downtown RAC zoning** **Liz Holt** **2-T-06**

districts.

Liz Holt, Planning and Zoning, stated that the proposal of the amendment for this ordinance would not change the Code as it presently exists. This is only a procedural correction in the original adoption that occurred in 1999. The same language is in the ULDR presently.

Chair Alan Gabriel announced that Catherine Maus was now present at the meeting.

Ed Curtis asked what was the procedural problem.

Ms. Holt explained that the ordinance had been approved by the City Commission on first and second reading in 1999 before it had been presented for final signature and codification. Also, some of the wording had been changed resulting in some clarification of the language. The change was not substantial, but a lawsuit had attempted to state that since changes had been made to the ordinance after the Commission's review that it was not properly adopted. Therefore, this should be re-adopted.

Chair Alan Gabriel announced that Greg Brewton was present as the Planning and Zoning Services Manager.

Chair Alan Gabriel proceeded to open the public hearing. There being no individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

Motion made by Ed Curtis and seconded by Maria Freeman to adopt the amendment as proposed. Roll call showed: YEAS: Mary Fertig, James McCulla, Steve Glassman, Catherine Maus, Maria Freeman, Ed Curtis, Rochelle Golub, and Alan Gabriel. NAYS: None. Motion carried 8-0.

7. Marina Mile Properties, LLC/Secure Storage at 84

7-ZPUD-05

Request: * ** Rezone from B-2 and RML-25 to PUD including Site Plan Approval

Legal Description: That part of Tracts 2, 3 and 4, of F.A. Barrett's subdivision, of the west ½ of Section 21, Township 50 South, Range 42 East, according to the plat thereof, recorded in P.B. 1, P. 46, of the Public Records of Miami-Dade County, Florida, lying North of State Road 84 and lying east of the east Right-of-way line of State Road 9, also known as Interstate Highway 95, lying west of the Osceola Canal. Subject to effects of final judgment in eminent domain Proceedings by S.R. D. of Florida re limited access Rights only, dated April 23, 1970 (filed April 24, 1970 In minutes of the Circuit Court 191, Page 983 (#67-7542) Said lands lying in the City of Fort Lauderdale, Broward County, Florida.

Address: 2075 State Road 84

General Location: East of Interstate Highway 95,
North of the Access Road for State
Road 84, and West of the Osceola Canal

Judith Hunt entered the meeting at approximately 6:45 p.m.

Chair Alan Gabriel announced that this matter was quasi-judicial.

The Board made the following disclosures: Mary Fertig stated that she had been to the site. Rochelle Golub stated that she had been to the site. Judith Hunt stated that she had been to the site. Alan Gabriel stated that he also had been to the site and had spoken with Jerry Knight.

Jerry Knight, representing the applicant, stated that this was a request for a rezoning of the site, along with seeking site plan approval. He proceeded to show a map of the subject site. He continued stating that previously this site was the subject of a land use plan amendment to have a re-designation of the RML-25 portion of the site, which was located at the north and consisted of 3.38 acres, to commercial. The purpose was to have the land use consistent on the entire site. Approval was granted by the City and the County.

Mr. Knight further stated that the site was adjacent to I-95, and he proceeded to explain what other properties were abutting the site. He explained that the applicant was proposing to construct a warehouse for the storage of vehicles. The project would consist of one building with an entrance from the front road along SR 84. The building would consist of 3 stories consisting of ramps leading to the various levels. The interior of the building would contain individual bays with roll-up doors and air conditioning will be provided. The sale of these bays would be considered condominium units. He proceeded to show the site plan for the project, along with the rendering.

Mr. Knight continued stating that they had met with the River Oaks Civic Association who was in favor of the project. He explained this was a low-intensity use for the property with no negative impacts on the surrounding neighborhood. He further stated that there would be a retaining wall and landscaping buffering the site from the residential property to the north. He stated that an important element of this application was the environmental benefit provided since the developer had agreed to enhance the Osceola Creek bed by removing exotics from the area and providing wetland species in their place. He added that the developer had also agreed to increase landscaping at the site. He advised that they were in agreement with staff's recommendations for the site.

Ella Parker, Planning and Zoning, stated that the applicant was requesting a rezoning from B-2 and RML-25 to PUD in order to construct a vehicle storage warehouse building. She stated that on July 20th the Planning and Zoning Board recommended approval of a small land use amendment in connection with the northern portion of the site from medium-high residential to commercial to the City Commission (Case 2-T-05), and the request was currently going through the County's process. If the County approved it, then the matter would require adoption by the City Commission.

Ms. Parker further stated that if the Planning and Zoning Board recommended approval of this application the following conditions were being recommended by staff:

1. Approval of Case 2-T-05, Land Use Amendment, must be finalized prior to City Commission submittal.
2. Per DRC, wetland species to be protected from construction activity, and the applicant must obtain all pertinent department and environmental protection approvals prior to final DRC approval.
3. Prior to applying for a building permit, a Construction Debris Mitigation Plan must be submitted.
4. Site Plan approval will be valid as provided in ULDR Sec. 47-24.1.
5. Final DRC approval.

Steve Glassman asked if any discussions had taken place in regard to the appearance of the building from the neighborhood's perspective. He stated that he was not pleased with the appearance of the proposed building.

Mr. Knight explained that this was a specially designed building to be used for the purpose explained.

Chair Alan Gabriel proceeded to open the public hearing. There being no individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

Kevin Buckley, applicant, stated that they met with the River Oaks Homeowners Association at their general meeting, and plans for the project had been presented, and the Association had approved the project.

Rochelle Golub asked if there were any qualifications that could be conditioned to approval that the landscaping and preservation of Osceola Creek had to be maintained.

Ms. Parker stated that conditions could be connected to the approval of this project by the Board.

Mr. Buckley advised that they did not own Osceola Creek, and they were obtaining a permit from the State to remove the existing exotics, and would be responsible for the landscaping on their property. He reiterated that the Creek was a waterway, and they were mitigating the area. He did not believe that he could enter into an agreement regarding maintenance of the area without the State's approval.

Motion made by James McCulla to approve the application as submitted pursuant to staff's recommendations.

Rochelle Golub added an amendment that would require the preservation of the proposed landscaping. Chair Alan Gabriel stated that the applicant would be required to maintain the landscaping on his land. Rochelle Golub explained that she wanted the condition that the landscaping be maintained. James McCulla added that the maintenance of the area would be a code requirement. Chair Alan Gabriel reiterated that the landscaping to be provided at the site was included on the site plan that this Board would be approving.

Rochelle Golub stated that she would second the motion as made by Mr. McCulla.

Roll call showed: YEAS: Judith Hunt, Mary Fertig, Rochelle Golub, James McCulla, Steve Glassman, Catherine Maus, Maria Freeman, Ed Curtis, and Alan Gabriel. NAYS: None. Motion carried 9-0.

**8. Marina Mile Properties, LLC/Secure Storage
at 84 Plat**

31-P-05

Request: ** Plat Approval

Legal Description: That part of Tracts 2, 3, and 4, of F.A. Barrett's subdivision of the west ½ of Section 21, Township 50 South, Range 42 East, according to the plat thereof, recorded in P.B. 1, P. 46, of the Public Records of Miami-Dade County, Florida, lying north of State Road 84 and lying east of the east Right-of-way line of State Road 9, also known as Interstate Highway 95, lying west of the Osceola Canal. Subject to effects of final judgment in eminent Domain proceedings by S.R.D. of Florida re: Limited access rights only, dated April 23, 1970 (filed April 24, 1970 in minutes of the Circuit Court 191, Page 983 (#67-7542) said lands lying in the City of Fort Lauderdale, Broward County, Florida.

Address: 2075 State Road 84

General Location: East of Interstate Highway 95,
North of the Access Road for State Road 84, and
West of the Osceola Canal

Chair Alan Gabriel announced that this matter was quasi-judicial.

The Board made the following disclosures: Rochelle Golub stated that she had been to the site. Judith Hunt stated that she had been to the site. Mary Fertig stated that she had been to the site. Alan Gabriel stated that he also had been to the site and had spoken with Jerry Knight.

Jerry Knight stated that this was the plat approval for the proposed site, and the application agreed with staff's recommendations.

Chair Alan Gabriel asked if there was a plat restriction on the proposed site. Mr. Knight stated the restriction would pertain to the square footage of the warehouse.

Ella Parker, Planning and Zoning, stated that this was a request to plat 4.31 acres for the purpose of constructing a vehicle storage warehouse building consisting of 252,912 sq. ft, and had been reviewed by DRC on November 8, 2005. All comments had been addressed and sign-offs from the City Surveyor, Engineering Design Manager, and the Planning Department have been obtained.

Ms. Parker stated that the following conditions were being recommended by staff if the application was approved:

1. Approval of the PZ Case 2-T-05 to be finalized prior to submittal to the City Commission.

James McCulla asked for further clarification of staff's condition. Ms. Parker explained that this was part of the normal procedure followed for such requests.

Mr. Knight stated that they understood the land use amendment must be adopted prior to submittal to the City Commission for approval.

Chair Alan Gabriel proceeded to open the public hearing. There being no individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

Motion made by Maria Freeman and seconded by James McCulla to approve the application as submitted per staff's recommendation. Roll call showed: YEAS: Rochelle Golub, James McCulla, Steve Glassman, Catherine Maus, Maria Freeman, Ed Curtis, Judith Hunt, Mary Fertig, and Alan Gabriel. NAYS: None. Motion carried 9-0.

10. The Palms of Las Olas

1-R-02

**Request: ** Site Plan Review/Level III/Waterway
Use/Yard Modification/RMM-25**

Legal Description: North 35' of Lot 26, together with all of Lots 27
of Block 5, "Resubdivision of Blocks 5 & 6 of
Venice," according to the plat thereof, as
Recorded in P.B. 47, P. 26, of the Public Records
Of Broward County, Florida

Address: 309 Bontona Avenue

General Location: West side of Bontona Avenue
South of Las Olas Boulevard

Chair Alan Gabriel announced that this matter was quasi-judicial.

The Board made the following disclosures: Steve Glassman stated that he had been to the site. Maria Freeman stated that she had been to the site. Judith Hunt stated that she had been to the site. Mary Fertig stated that she had been to the site.

Dick Coker, attorney representing the applicant, stated that this was technically an amendment to a Level III site plan approval, and the project consisted of the construction of a single-family home. He stated that Mr. Shiff owned two lots and had been developing a corner lot for a condominium project that also required a variance for a yard modification. The project was reduced to four units with parking. He is now going to develop the single-family home at the southern portion of the property. During the call-up by the Commission, it was discovered that the setback for the single-family home would

be increased by 15'. He proceeded to show a drawing of the site. In designing the house according to the approved declaration, Mr. Shiff discovered there would be an encroachment of his cabana house and only a 14' setback would exist. Therefore, the declaration needed to be amended. Staff also pointed out that the balconies would encroach 2' into the 20' setback. Also, there was a design feature at the entrance that also encroached into the 20' setback. Therefore, the applicant was requesting an amendment to the declaration to permit a 14' setback for the cabana area, an 18' setback for the balconies, and a 5' setback for the architectural entrance feature.

Mr. Coker advised that the applicant had also made an agreement with the neighborhood regarding the entrance feature.

Greg Brewton, Planning and Zoning, stated that if the Board approves the applicant's request, staff requested that the following conditions be applied:

1. City Commission approval of the modifications to the Restrictive Covenant.
2. Approval by the City Attorney.
3. Covenant recorded in the Public Records.

Mr. Brewton reiterated that the applicant was requesting that the previously approved conditions be modified.

Ed Curtis asked about the agreement regarding the payment of monies. Mr. Coker explained that the applicant had entered into an agreement with the neighborhood to design and contribute \$7,500 for an entrance feature for the neighborhood that would be located at the Las Olas entrance.

James McCulla stated that staff's report mentioned that the required FAR was .75, and the proposed was 56' average. Mr. Brewton stated that a typographical error was made, and he believed there was a 56' average on the side of the building. He apologized for the errors made. James McCulla stated that a 14' sideyard setback had been mentioned in staff's report also, along with a 20' rear setback compared to a 25' required rear setback. Mr. Brewton explained that the 20' setback was a requirement imposed by the Board. He stated that the 25' setback was in relation to the waterway that was required.

Mr. Coker further stated that they were requesting for detail in the declaration. He reiterated that they were asking for 3 encroachments into the setback and none of the requests varied from the code. He reiterated that there was a 25' rear setback.

Mr. Shiff reiterated that the setback along the waterway had been approved before the building permits were issued.

Steve Glassman asked why this discussion was taking place after construction had commenced at the site.

Mr. Coker explained that the issue had been raised in May or June of last year after the permits had been issued.

Mr. Shiff explained that if these requests are denied, some of the construction would have to be demolished and removed.

Chair Alan Gabriel stated that it appeared the pool structure was within the side yard setback, and he asked why it had not been included in tonight's discussion. Mr. Brewton stated that pools were permitted in the setbacks to a certain point. He stated that he believed their intent was not to have any vertical structures within the area.

Sharon Miller, Assistant City Attorney, stated that in a memorandum dated March 13, 2002, modifications had been requested, and this Board had approved the pool.

Rochelle Golub asked how the applicant forgot about the variance during his design of the single-family home. Mr. Shiff replied that it was an oversight and now he was attempting to rectify the situation. He reiterated that the only person that would be affected by this would be the purchaser of the single-family home.

Steve Glassman stated that it was commendable that the applicant came forward after discovering the problem.

Mary Fertig asked how far the pool was from the property line. Mr. Shiff stated that it was 5'-6' from the property line.

Mary Fertig asked how the agreement affected the north side of the property. Sharon Miller quoted from the memorandum previously mentioned to the Board. Mr. Shiff stated that the pool had not been part of the declaration.

Maria Freeman asked when a restrictive covenant was granted on a particular property and the applicant applied for a building permit, what safeguards were in place to prevent permits from being issued if such a covenant existed.

Mr. Brewton explained that normally such restrictions existed on larger projects. He further stated that staff could have placed a hold on the file noting that further review would be required for future permits, or the applicant could have included the covenant with the request for his permit. He admitted there was a flaw in the system, but stated that normally single-family homes did not go through Planning and Zoning and went directly through the Building Department and a permit was issued.

Maria Freeman asked what could be put in place to prevent this from occurring in the future. Mr. Brewton stated that staff was now more aware of such situations, and a system would be developed to prevent this from happening again.

James McCulla suggested that staff recommend to the Building Department that if permits are requested for a single-family home that a copy of the title report be requested. Mr. Brewton stated that was an excellent suggestion, and meantime there needed to be a short-term solution.

Chair Alan Gabriel proceeded to open the public hearing. There being no individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

Chair Alan Gabriel stated that when the original project had been presented, the Board wanted to make sure that there was a sufficient amount of distance between the condominium building and the single-family home. He further stated that he was not

bothered by the request per se, but the amount of the structure involved. He reiterated that he was concerned about the condition being placed on the property. He explained that the law stated that building permits could be issued in error, but it was still the responsibility of the property owner to rectify the situation. He felt if this request was granted, they could be sending forth the wrong message.

Motion made by James McCulla and seconded by Ed Curtis to approve the application as submitted per staff's recommendations. Roll call showed: YEAS: Steve Glassman, Maria Freeman, and Judith Hunt. NAYS: James McCulla, Catherine Maus, Ed Curtis, Mary Fertig, Rochelle Golub, and Alan Gabriel. Motion failed 3-6.

"For the Good of the City"

No comments were made.

Motion made by Ed Curtis and seconded by Steve Glassman to adjourn the meeting. Board unanimously approved.

There being no further business to come before the Board, the meeting was adjourned at approximately 7:50 p.m.

CHAIRMAN

Alan Gabriel

ATTEST:

Jamie Opperlee For Margaret A. Muhl