

**Planning and Zoning Board
City of Fort Lauderdale
April 18, 2007 – 6:30 P.M.
City Hall Commission Chambers – 1st Floor
100 North Andrews Avenue
Fort Lauderdale, Florida**

<u>Board Members</u>	<u>Attendance</u>	Cumulative	
		June 2006 – May 2007	
		<u>Present</u>	<u>Absent</u>
Pamela Adams	P	10	1
Edward Curtis, Vice Chair	P	8	3
Mary Fertig	P	11	0
Maria Freeman, Chair	P	10	1
Steve Glassman	P	11	0
Rochelle Golub	P	11	0
Mary Graham	P	11	0
Catherine Maus	P	10	1
Tom Welch	P	6	0

Staff

Bob Dunckel, Assistant City Attorney
Greg Brewton, Planning and Zoning Services Manager
Yvonne Redding, Planner II
Ella Parker, Planner III
Jenni Morejon, Planner III
Herb Stanley, Engineering Department
Don Morris, Acting Zoning Administrator
Adrienne Ehle, Planner II
Sandra Goldberg, Recording Secretary

Guests

Robert Lochrie	Michael Madfis
Sadler James	Tim Smith
Scott McLaughlin	Debbie Orshefsky
Jerri Manning Udell	Gus Carbonell
Pete Ebersol	Maggie Sherling
Richard Heidelbergberger	

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For the Good of the City

Call to Order

Chair Freeman called the meeting to order at 6:36 P.M., then introduced the members of the Board and explained the procedures that would be followed during the meeting. Assistant City Attorney Dunckel explained the procedures for quasi-judicial cases, the local planning board requirements, and the City's lobbying rules. Anyone wishing to testify on any matter was sworn in.

Chair Freeman announced that the Board would hear item 5 out of order to address the applicant's request for deferral.

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5. Premier Bayshore Developers, LLC Don Morris 136-R-06

Request: ** Site Plan Level IV / Waterway Use / 63 Multifamily Units / 1175 SF Office / IOA

Legal Description: Lots 3, 4, 5, and 6, Block 7, Birch Ocean Front Subdivision according to the plat thereof, recorded in P.B. 19, P. 26, of the Public Records of Broward County, Florida

Address: 529, 533, 537 and 545 Bayshore Drive

General Location: East side of Bayshore Drive, South of Terramar Street

[This item was taken out of order]

Mr. Brewton said the applicant had requested a continuance to address some issues of concern to the neighborhood.

Ms. Debbie Orshefsky, representative of the applicant, informed the Board that City staff received a request from her co-council to continue the case to the May meeting. She explained that they had expanded the legal team to increase their outreach efforts with neighbors to the west. Ms. Orshefsky said co-council Toothaker may have had a misunderstanding with community representatives. Ms. Orshefsky said she had thought they could engage in additional dialogue with the community, but it now seemed this would not be fruitful at this point.

Ms. Orshefsky explained that Ms. Toothaker was in Tallahassee, and their architect had not yet arrived. If the Board wished to go forward this evening, Ms. Orshefsky was willing, but said they had believed as of yesterday that this would be permitted. She

noted that none of the previous deferrals had been requested by council on behalf of her client. She confirmed that the deferral request was for one month only to the Board's May meeting.

Motion made by Ms. Maus, seconded by Ms. Adams, to defer the case to May 16, 2007, on the following conditions: that this be the last deferral requested, and that within five [5] days, a notice letter be sent to every condo, homeowner and civic association on the beach within 700 feet of the project area, and the Sunrise Intracoastal neighborhood.

Motion passed 6 – 3 with Mr. Curtis, Ms. Graham and Ms. Golub opposed.

Mr. Dunckel confirmed that it was within the Board's discretion to allow public comment, and that comment should be confined to the subject of the deferral.

Chair Freeman opened the public hearing.

Ms. Jerri Manning Udell, referred to an email sent by Ms. Orshefsky stating Ms. Udell approved of the deferral to allow the neighborhood to meet again with the developer, and said she had sent a response refuting this. She was concerned that the numerous deferrals were "wearing down our opposition." Ms. Udell said the Sunrise Intracoastal neighborhood, the Central Beach Alliance and other associations were opposed this project, and noted that every month since November they had organized people to attend the meeting.

Ms. Udell said her neighborhood had met with the developer, and fully understood the current plan and did not require any additional information on it. She said Ms. Toothaker had discussed the possibility of redesigning the plan, which would require that the current plan be withdrawn. Ms. Udell wanted the current plan to be heard this evening.

Mr. Sadler James, Central Beach Alliance, said they supported the withdrawal, and they would continue to work with the developer. Ms. Golub clarified that withdrawal was not being considered, only deferral. Mr. James said they supported the deferral as well.

Mr. Curtis remembered that the Board had resolved to stop allowing repeated deferrals, and felt the developer should go forward this evening.

Ms. Maus thought the Board had never denied a deferral, and noted that the last time it had been deferred, the applicant was not warned that it would be the last.

Chair Freeman suggested they allow the deferral, noting that the applicant had indicated this would be the last one. She pointed out that this might make it possible for everyone to be happy when the item was presented to the Board. She recommended the motion be amended to indicate that this would be the last deferral.

Ms. Maus agreed to amend her motion.

Ms. Fertig said she would support this, provided the neighborhoods be properly notified. She did not feel that leaving the sign that had been present for months would be sufficient, and wanted the neighbors notified that the case would be heard next month.

Mr. Brewton explained that usually, notice was sent to the heads of the civic associations. Property owners were not individually noticed. Code only required a sign to be posted on the property, and the City sent the notice to the heads of the civic associations as a courtesy.

Mr. Dunckel suggested that a separate letter be sent to the civic association heads indicating that there would be no more deferrals.

Ms. Udell said there was a timing issue; the neighborhood had a lot of “snowbirds” and this would give the developer the advantage of having the case heard with no residents in attendance to oppose them; then the City Commission would hear this in the summer. She said she preferred a deferral to next November.

Ms. Golub was concerned that it was represented to Ms. Udell that the project would be withdrawn. She felt they were “playing a procedural game here as well.” Ms. Udell stated she had been told they were going to redesign the project completely, which would require a repeat of the entire process. Ms. Golub asked if the request to meet with the neighborhood was to show a new design or to discuss elements for a new design. Ms. Udell said they would only need a meeting if there were a new design, because they had already seen the present plan.

Ms. Graham asked if the staff planner had a comment regarding the deferral, and invited staff’s opinion prior to their vote.

Mr. Brewton said he would speak on behalf of the planner, Don Morris. He assured the Board that they wanted the neighborhood well represented when the Board heard the request. He was concerned that if the application were withdrawn, it could return at any time, but if it was deferred, the Board could defer it time certain. The neighborhood had a little more control over rallying the neighbors with a deferral.

Mr. Brewton said the City was prepared to present the case this evening. He wanted the Board to understand that as long as there were no significant changes, if the case was continued, it would stay on the same track. But if the applicant returned with something different from what had been presented to staff to this point, they would recommend that the case be withdrawn.

Ms. Orshefsky said the fundamental issue was that the developer had “made an effort to reach out and see if there was a way to come to some understanding with someone who has clearly opposed the project for some time.” She said they never intended to withdraw the application, but had “opened the door” to further discussion, and thought

the deferral would allow time for this. It now seemed that further discussion might not be productive. Ms. Orshefsky said they had advised the project supporters not to attend this evening, believing that the deferral would be granted. She agreed to go forward if necessary, but hoped that an additional 30 days would help the sides to come to some "closure."

Mr. Glassman noted how important the timing of these hearings specifically was to the beach neighborhoods, and asked if it was unheard of to defer for five months instead of one or two. Mr. Brewton said the Board had the discretion to determine the length of a time-certain deferral. In this case, the applicant was requesting 30 days, but the Board could decide on a more appropriate date. Ms. Orshefsky said if the Board went beyond the 30-day period, they would withdraw the request for the continuance.

Ms. Fertig asked if it was possible that changes would be made to the plan pursuant to discussions they might have with the neighborhood. If they would not, it seemed pointless to allow the additional time. Ms. Orshefsky said if she had been asked this three hours ago, she would have said they intended to address issues made clear to Ms. Toothaker after months of meetings. As of today, given the lack of communication between parties, she was not sure, but said they were willing to try.

Ms. Fertig asked if the applicant would send letters to surrounding buildings. Ms. Orshefsky said they would work with staff to create a courtesy letter and send this. Mr. Brewton asked for the Board's specific direction on who should receive the notice, and agreed to comply with the Board's wishes.

Mr. James said the Central Beach Alliance newsletter could notify their membership.

Ms. Maus amended her motion to include the specific notice provisions.

Approval of February 28 meeting minutes.

Motion made by Ms. Adams, seconded by Ms. Maus, to approve the minutes of the February 28, 2007 meeting. Board unanimously approved.

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**1. Parkside Villas, LLC & Donna Batiste /
12 Terrace Residential Development**

Ella Parker

28-R-04

Request: ** Request to Extend Site Plan Approval for previously approved Site Plan Level III - Conditional Use for Mixed Use Development with Flex Allocation / CB

Legal Description: A portion of the North 180.00 feet of the Northwest one-quarter (NW ¼) of the Southwest one-quarter (SW ¼) of Section 35, Township 49 South, Range 42 East, Broward County, Florida

Address: 666 N.E. 14 Court

General Location: Southwest Corner of N.E. 14 Court, and N.E. 7 Avenue (Dixie Highway)

Mr. Gus Carbonell, project architect, explained that the project had already been unanimously approved by the Board and the neighborhood. They were requesting a one-year extension for the site plan approval because the property had experienced delays during DRC approval and the platting process.

Ms. Parker confirmed that Planning and Zoning had approved a conditional use permit for a single use, mixed-use development, with allocation of 12 residential flexibility units on the proposed site on July 20, 2005. The applicant requests an extension of an additional 18 months to apply for a building permit, and 24 months for issuance of the building permit. If granted the extension, the site plan will expire on August 20, 2008. If the Planning and Zoning Board approves the extension, all previous conditions of approval apply.

Chair Freeman opened the public hearing.

Mr. Tim Smith, neighbor, said this project was a godsend to the neighborhood, and they unanimously supported it. He said they were disappointed at the deferral, and they had asked the owner to allow the City to use the parcel as an adjunct to the Middle River Terrace Park in the interim. This idea had been approved by the owner and by Phil Thornburg, Director of Parks and Recreation. Mr. Smith asked the Board to make the approval contingent upon the parcel's temporary addition to Middle River Terrace Park for the length of the deferral.

Mr. Smith said there would be some initial cost for grass and tree trimming and other minor improvements, but noted that his community would volunteer to help make the improvements. Chair Freeman wondered who would pay for the improvements. Mr. Smith thought the developer should pay for this.

Ms. Golub said the rules dictated that the applicant must have a good reason to request deferral, and asked Mr. Carbonell if they wanted the deferral because it would take two years to get a building permit, or because the real estate market was soft and they wanted to wait for it to rebound. Mr. Carbonell said they must apply to several agencies for sign offs, which would take quite some time. In addition, they were in the process of refinancing the property. Mr. Carbonell said he might agree to 12 months to submit plans for permits and 18 months to get the permits; less than that would probably not work.

Mr. Carbonell said he had spoken with his client regarding the park idea, and his client agreed to cooperate and to contribute \$5,000. Ms. Golub was concerned about insurance and maintenance on the site, and who would be responsible. She said she would be inclined toward the longer deferral if the City could make use of the land, but

did not believe this would happen, and she therefore favored allowing the minimum amount of time to get the project going.

Ms. Golub asked Mr. Carbonell if they would contribute \$5,000 if the Board only granted 12 and 18 months, instead of 18 and 24 months. Mr. Carbonell said they would agree to let the City use the land if the developer's contribution were limited to \$5,000, with the City contributing any additional expenses, and the neighborhood contributing "sweat equity."

Mr. Glassman asked Ms. Parker if she felt there was "good cause," as the ULDR required, for the extension; Ms. Parker said this determination was at the Board's discretion as an extension of time for site plan expiration shall be granted by the reviewing body that approved the original site plan and based on the information presented by the applicant. Mr. Glassman was worried about setting a precedent allowing one of these areas to be used as a park, while so many other areas stayed "looking awful" awaiting redevelopment.

Ms. Adams was concerned about the insurance and liability issues, but had no objection to the request that the owner improve the property with sod while awaiting redevelopment. She worried about using the site for organized sports because "if perchance there is some aggressive move to get all of the papers and get all the permits in place, and you have organized sports taking place in the park, then you have to disrupt something that the neighborhood has put in place in order to get the infrastructure built into the site."

Ms. Maus asked Mr. Carbonell if the owner would agree to contribute \$5,000 and acknowledge that they were not sure if Mr. Smith's group would be successful in their efforts. Mr. Carbonell said the owner would contribute the \$5,000, provided the money was spent on this site, and drought-resistant sod was used. Mr. Carbonell reiterated that they would prefer the 18-24 month request. Mr. Carbonell pointed out that they had promised additional funds to improve the park after the project was built.

Ms. Fertig noted that they had granted extensions before, and acknowledged the need for this extension. She wanted to ensure that the tree trimming was done as soon as possible, and that this was not included in the \$5,000 donation for improvements, since this should have been done sooner. Ms. Fertig also acknowledged that the City should be responsible for the insurance. She agreed that 18 months was a reasonable time period.

Ms. Graham asked if it would be possible for the applicant to request additional extensions; Mr. Dunckel said this was allowed under the ULDR.

Mr. Dunckel said in order to utilize the land for a park, several City departments could be involved, and this could take at least six months, which favored allowing the applicant the 18-24 month extension. He wondered what would happen if the developer and the City could not agree on terms after six months.

Mr. Glassman wanted to know what Mr. Dunckel's comfort level was in allowing the property to be used as park while it was awaiting redevelopment, and if this was a good precedent to set.

Ms. Maus said they could craft the motion to accept the \$5,000 for the parcel's improvement separate from the parcel's use for official City sports.

Ms. Adams suggested they refer to the parcel as a vacant lot only, and require the owner to make \$5,000 worth of improvements, with no reference to the lot's use for recreational uses or organized sports.

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

Motion made by Ms. Fertig, seconded by Mr. Glassman, to approve, subject to the following: all staff conditions, that the trees be trimmed and remediated of storm damage, and that whatever amount necessary be spent to sod and maintain the lot for the duration of the deferral.

Motion passed 9 – 0.

Ms. Maus asked if the amount should be capped at \$5,000, and Ms. Fertig did not feel this was necessary.

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2. Bubba Gump Shrimp Company Restaurant, Inc. Yvonne Redding 34-R-07

Request: Site Plan Level II / Signage Review / ABA

Legal Description: A portion of Lots 4, 5, and 6, Block 2, Las Olas by the Sea, P.B. 1, P. 16 of the Public Records of Broward County, Florida

Address: 440 Seabreeze Boulevard

General Location: East side of South Atlantic Boulevard, South of Las Olas Boulevard

Board members disclosed communications they had regarding this case.

Mr. Michael Madfis, project architect, explained that the project had been permitted over one year ago, and after administrative review, they had discovered this was insufficient for approval of all of their signage because the Doubletree Hotel on the same site had signage as well. Mr. Madfis reported they had secured the support of the Central Beach alliance and had no objections to their proposal.

Ms. Redding stated the applicant was requesting six signs, two of which were allowed in this district, but the hotel located on the adjoining property already used the signage

allowance for the development site. The applicant therefore must request the two flat wall signs, one of which was given temporarily so they could open, and one which was attached to the shade structure over the outdoor dining area. The applicant was requesting two projecting signs which were not allowed in the zoning district, but which the Board could approve. They were also requesting one menu board sign that was not allowed in this zoned district and should be associated with a drive-through facility, which the Board could approve. They also requested a window sign to be affixed to the window behind a bench in front of the property.

Ms. Redding clarified for Mr. Curtis that four of the signs were not permitted by code in the beach zoning.

Chair Freeman opened the public hearing.

Mr. Sadler James, Central Beach Alliance, reported that the Alliance had seen a presentation by the company, and there was a motion made to support the signage as presented with concern expressed about the menu board sign. The alliance was also concerned that this end of the beach did not have a lot of activity, and suffered high turnover. Since this restaurant had opened, it had greatly improved the traffic there. Because of this, the plan was supported 75 – 34.

Ms. Redding informed Mr. Curtis that the window sign was allowed temporarily because it was removable. They also currently had a flat wall sign on the building and two banner signs for the opening.

Ms. Golub was concerned that the projection signs would interfere with the sidewalk. Mr. Madfis said the signs were 36” in diameter and were above the canopy height. He noted that the sign was high overhead and would not restrict any movement on the sidewalk. He showed a rendering of a projecting sign sitting above the canopy edge.

Ms. Redding informed Mr. Glassman that they could approve any individual, or all of the signs. Approval was not for a package.

Ms. Graham wondered if other beach businesses would want more signs after they established this precedent. Mr. Brewton reminded the Board that each application would be voted on its own merits. He acknowledged that other business owners could be encouraged by this to apply for the same types of signs, and the Board would need to judge each of these cases on its own merit.

Ms. Leslie Miller, Bubba Gump Shrimp Company Restaurant representative, said the sign over the door was a sandblasted wood sign. She noted that the menu board was meant to be funny, not a literal menu. Ms. Miller added that the sign behind the bench was meant to tie the “Forest Gump bench” to the restaurant. Ms. Miller said there were also two blade signs, and admitted that after seeing the area, this might be

“oversignage,” but asked to keep at least one of the blade signs to enable patrons to locate the restaurant.

Ms. Golub said Bubba Gump restaurants “oversigned” all of their establishments, and she opposed this request for six signs that were not in keeping with the rest of the beach. She asked Ms. Miller how many signs they would voluntarily give up, and whether they had discussed the signage opportunities with the landlord, and the possibility of the hotel’s removing some of their signs to allow the restaurant more signs.

Ms. Miller reiterated that two blade signs might be excessive, but felt the other signs were compatible. Mr. Madfis explained that the menu board sign would be mounted on the façade above one of the doors. Mr. Madfis said the signs designated the different parts of the restaurant. He said the blade signs were located perpendicular to avoid shining any additional light on the beach. Considering the size of the property, Mr. Madfis felt the signage met the scale of the project. He added that per the 1986 beach study, the signs encouraged activity in the area.

Mr. Glassman felt the number of signs was overkill, and asked Mr. Madfis which blade sign was more important. Mr. Madfis felt the north sign was more important and Ms. Miller felt the south sign, near the corner, was more important.

Mr. Madfis explained to Ms. Graham that the blade signs were five feet in diameter, double-faced, and were approximately 90 feet apart. The landlord had agreed to this sign package before they knew there would be a conflict with the existing signs. Mr. Madfis acknowledged that during administrative review, their presentations had not included all of the signage on the hotel.

Ms. Redding informed Mr. Curtis that only one of the two flat wall signs met the code. All other signs required a variance.

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

Motion made by Ms. Golub, seconded by Ms. Graham, to approve signs “B” over the door, “D” in the window over the bench, and “C”, the list of shrimp preparations only.

The Board discussed possible combinations of signs to allow.

Motion made by Mr. Welch to amend the motion to allow the option of another “B” sign over the free-standing area or one projection “A” sign for a total of four signs. Mr. Glassman seconded the proposed amendment.

Ms. Fertig agreed with Mr. James that lack of visibility had negatively affected that stretch of beach. She felt the amendment was a reasonable compromise. Ms. Golub

pointed out that there were no other signs of this height projecting in this manner along the beach. Ms. Golub said she would not entertain the amendment to her motion.

Mr. Brewton informed the Board that the code gave them the ability to be flexible with beach area properties in determining whether signage was consistent with the site, and with the overall development of the beach area.

Ms. Graham questioned how the signs were affixed to the building and Mr. Madfis explained the engineering, noting that signage attached to buildings was not required to meet the 140 mph wind load requirement, but these signs did.

Mr. Dunckel advised the Board to vote on the amendment; if this passed, the main motion would be voted upon as amended.

Board voted 6 – 3 to approve the amendment, with Ms. Maus, Mr. Curtis and Ms. Golub opposed.

Ms. Graham asked the applicant to select the fourth sign they would be allowed. Ms. Miller suggested reducing the size of the five-foot sign, and asked if they could then also have the sign over the patio. Ms. Fertig suggested they leave it to staff to work this out.

Board voted 6 – 3 to approve the amended motion with Ms. Golub, Ms. Maus and Mr. Curtis opposed.

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3. Poinsettia Ridge Estates, LLC.

Yvonne Redding

18-P-05

Request: Plat Approval

Legal Description: Those portions of the south 10 chains of the NE ¼ of the southeast ¼ of Section 35, Township 49 South, Range 42 East, as described as Parcel 1 and Parcel 2 of Block 2, LAKE RIDGE, according to P.B. 24, P. 47 of the Public Records of Broward County, Florida

Address: 1801 NE 13 Street

General Location: North side of NE 18 Avenue; East of Victoria Park Road

Board members disclosed communications they had regarding this case.

Mr. Scott McLaughlin, project engineer, said they agreed to all staff comments and wanted to move forward.

Ms. Redding explained that lengthy processing time had been caused by a land use scrivener's error which had been cleared up. She stated the City engineer and surveyor had both signed off on the plat, as it met all platting requirements.

Chair Freeman opened the public hearing. There being no members of the public wishing to speak on this item, Chair Freeman closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Glassman, seconded by Ms. Maus, to approve.
Motion passed 9 – 0.

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4. Rio Vista Properties, LLC / Fifteenth Street Flats **Jenni Morejon** **65-R-06**

Request: ** Site Plan Level III / Waterway Use / 8 Multifamily Residential Units / RMM-25

Legal Description: Lots 16 and 17 of Block 2, HERZFELD'S ADDITION TO LAUDERDALE HARBOURS, P.B. 35, P. 22, of the Public Records of Broward County, Florida

Address: 1507 S.E. 15 Street

General Location: North side of S.E. 15 Street, East of Cordova Road

Board members disclosed communications they had regarding this case.

Mr. Robert Lochrie, representative of the owner, presented photos of the existing 10-unit building and explained that their project was for eight units with internal parking. He noted that they would provide 20 parking spaces, but code only required 17.

Mr. Lochrie said the site was 78 feet wide, the first level was for parking and there would be four floors of two units per floor. He said they had eliminated their original plan for a rooftop patio because of neighborhood concerns.

Mr. Lochrie said the building at its tallest was 48 feet, and the RMM-25 zoning district, where the project was located, allowed 50 feet. The elevator tower on the south side of the property reached approximately 55 feet, and the peaked roof reached 62 feet.

Mr. Lochrie stated they were requesting no yard modifications for the structure; the building met the full half the height structural setbacks all the way up the building. He noted that the existing structure setbacks were ten feet on the sides. Mr. Lochrie said they were requesting a rear yard modification to accommodate a pool.

Ms. Morejon stated the project was located in the RMM-25, within the Harbordale Civic Association, adjacent to the Lauderdale Harbors neighborhood. Both of these associations had been notified of the project.

Regarding the yard modification the applicant was requesting for the pool, Ms. Morejon noted this was subject to the criteria in Section 47-23.22, and a shadow study was provided in the package. Ms. Morejon confirmed that the project was consistent with the City's comprehensive plan, and this type of use was permitted in the medium-high residential zoning district. The applicant had also provided adequacy and neighborhood compatibility narratives. Ms. Morejon said staff had no further conditions. Chair Freeman opened the public hearing.

Ms. Maggie Sherling, resident of the existing building, said she would need to find a new place to live, and wanted to know when her building would be demolished for the new project. Chair Freeman advised Ms. Sherling to speak with Mr. Lochrie.

Mr. Glassman asked if anyone was present from the civic associations. He said the package indicated the developer had met with Lauderdale Harbors, but there was no indication of feedback from them. The Harbordale vote to support the project was 3 yes and 19 abstentions, and Mr. Glassman wondered how the residents felt about the project.

Mr. Richard Heidelberger, vice president of the Lauderdale Harbors Association, said that the original plan was taller and squarer, and he had objected to it. He thought this was why the Lauderdale Harbors board had not written a letter regarding the project. Mr. Heidelberger acknowledged that the project was probably allowed by zoning, but felt it would be sad if projects such as this "marched" down the canal and took over all the other properties. He hoped that if the project was approved, that the zoning for this property and area would be reviewed. Mr. Heidelberger said most area residents had been concentrating their efforts on the proposed "dockominium" proposed in the area, and believed that this project would be allowed in this zoning.

Ms. Fertig asked Mr. Lochrie about the lighting's effect on the property across the street. Mr. Lochrie said they were not proposing to light the building itself. There would be lighting in the pool area, and they would ensure that this was directed toward the building, not the water. He acknowledged that there were light issues with other projects on the waterways recently.

Ms. Graham asked why they needed such [62 foot] height at the hip roof ridge. Mr. Peter Ebersol, architect, explained that only one stairwell went up to the roof, and the height from the floor of the roof to the ceiling of the tower element was enough to finish the stairwell and allow one to walk onto the roof. Ms. Graham said they only needed an 8-foot ceiling in the stair, but they had added the height for effect, and she wondered if this was absolutely necessary because it made the building taller than it needed to be.

Mr. Ebersol reiterated that the height to the roof structure was only tall enough to get the door out of the stairwell, and he had added the peaked roof on top of it. He said this was part of the style of the building.

Mr. Curtis stated that he would not support this project based upon the applicant's request for a yard modification.

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

Motion made by Ms. Maus, seconded by Ms. Adams, to approve, subject to staff conditions.

Motion passed 5 – 4 with Mr. Curtis, Ms. Maus, Ms. Graham and Mr. Glassman opposed.

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Ms. Fertig felt Mr. Heidelberger had brought up a good point, and she thought if neighborhoods were not comfortable with existing height limits, they should review the code. Mr. Brewton confirmed that if 75% of a neighborhood wanted a change in zoning, they could approach the City to request the change.

Mr. Brewton said City staff had discussed how the “monster homes” were affecting certain neighborhoods; if a new classification were created to address this, that classification could be adopted in other neighborhoods. Ms. Fertig wanted to move ahead on this. Mr. Brewton said when the code was re-written in 1997, they had met with neighborhoods, and eventually decided to not make changes to neighborhoods because the neighbors did not always agree. But they allowed neighborhoods to create a consensus to present to the City, and process through Planning and Zoning and the City Commission.

Ms. Maus recalled that the Board had already expressed a desire to have all multi-family residential development criteria reviewed, and wondered where this had led. Mr. Brewton said this had not been lost. Ms. Maus felt it should not be the responsibility of neighborhoods to “barricade” themselves; the City should show leadership in this regard.

Mr. Brewton stated that allowing the neighborhoods to come to their own consensus on these issues avoided “bloodbath” public hearings in front of the Planning and Zoning Board and the City Commission. Mr. Brewton said there were issues related to the Bert Harris Act, and allowing neighborhoods to work this out themselves enabled the City to avoid legal conflicts.

Ms. Graham noted that when they adopted the state building codes, this allowed builders to add height to structures if zoning allowed it. This forced “highest and best use” to max out the property. She noted how this could irrevocably change the texture and context of a neighborhood, and also encourage more growth.

Mr. Brewton stated the code was written to allow the Board to make adjustments for setbacks if they felt the development warranted it. He agreed this could be a difficult decision, but noted that exceptions to rules were allowed, based on superior design, or what type of development the City wanted for the area.

Mr. Brewton said he often reminded developers that the code said “up to” and there was no right to build to a certain height. Other factors, such as how the development was sited, and neighborhood compatibility were also considered.

Mr. Welch noted how conflict arose between neighbors when considering rezoning that affected property rights. He agreed neighborhoods should create their own visions, perhaps through overlays. Mr. Welch felt there was a lot of grey area, but that was why the Board existed: to make those determinations. Mr. Welch said the Council of Civic Associations was working on changes to bring to the Commission to help preserve the City’s character.

Ms. Fertig noted that the Board was the local planning agency, and had a role to affect change. She reminded the Board that Harbordale and Lauderdale Harbors associations had appeared to oppose tall projects several times, and neighborhoods should be allowed to appear at the City Commission to request limits on heights.

Mr. Curtis said they all knew that height and setbacks were the problems, but they had never addressed these properly. He felt they must start the process with public input. Mr. Curtis said, “Policy is the responsibility of the Commission, the elected public officials.” Mr. Curtis thought the entire City should be considered “the neighborhood,” and the planning process should be considered for the City as a whole. Mr. Brewton said they had promised the neighborhoods years ago that they could develop their own master plans.

Mr. Welch asked about the process the City went through when the zoning was changed. Mr. Brewton said they had met with every neighborhood association to determine what changes the neighborhoods wanted, and to explain changes the City proposed. The City had sent 40,000 notices. Mr. Brewton said the project had grown “too big to conquer.” The City simply did not have the manpower to accomplish it.

Chair Freeman agreed that there was no easy answer, and that neighborhoods could disagree when changes affected them. She felt changes must be community-driven, and there must be consensus.

Ms. Fertig noted how in some states, if nothing was done, sometimes an unwise referendum had been passed. She said they had a process that had worked in parts of the City, and agreed with Mr. Curtis’s Town meeting idea. She noted the number of neighborhoods the Board had seen recently that were very upset, and felt there must be way for them to address these issues.

Mr. Brewton announced a meeting for Board chairs and liaisons on May 29th at 5:45.

Mr. Brewton announced that from now on, applicants must use the City's equipment for presentations.

There being no further business to come before the Board, the meeting was adjourned at 9:30 p.m.

Chair:

Attest:

Sandra Goldberg [for Jamie Opperlee, Recording Secretary]