

**Planning and Zoning Board
City of Fort Lauderdale
May 16, 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	
		<u>Present</u>	<u>Absent</u>
Pamela Adams	P	11	1
Edward Curtis, Vice Chair	P	9	3
Mary Fertig	P	12	0
Maria Freeman, Chair	P	11	1
Steve Glassman	P	12	0
Rochelle Golub	P	12	0
Mary Graham	P	12	0
Catherine Maus	P	11	1
Tom Welch	P	7	0

Staff

Sharon Miller, Assistant City Attorney
Greg Brewton, Planning and Zoning Services Manager
Jim Koeth, Principal Planner
Michael Ci0esielski, Planner II
Mina Samadi, CRA Engineering Design Manager
Albert Carbon, Public Works Director
Frank Snedaker, Chief Architect
Battalion Chief Bob Bacic
Thomas Lodge, Planner I
Wayne Jessup, Principal Planner/Architect
Yvonne Redding, Planner II
Travis Woods, Recording Secretary

Guests

John McClennon	Paul Dorelli
Moises Rivera	Bruno Felos
Shirley Smith	Art Sites
Bradley Decklebaum	Debbie Orshefsky
Michael Bach	Herbert Dell
Stephanie Toothaker	Barbara Bouvier Scerbo
Gino Trancita	Robert Bayliss
Al Miniaci	Frederick Matthews
David Bolls	Joseph Scerbo

Gerri Udell
Shirley Smith
Karen Turner
Helen Kuna
Roseanne Cyclene
Mark Jacobson
Maxine Mittnick
Jim Blosser
Lawrence Mittnick

Joe Holland
Alice Smith
Oscar Garcia
Chris Gaba
Art Sites
Tivon Moffett
Seth Yeslow
Sid Workman
Woody Freeze

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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 Miller 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.

The Board agreed to take items 3 through 6 out of order to expedite the meeting.

Approval of March 21 and April 18 2007 meeting minutes.

Mr. Glassman asked that the names of dissenting Board members be included for the vote on item 4 of the April 18 2007 minutes.

Motion made by Mr. Glassman, seconded by Ms. Graham, to approve the minutes of the March 21 2007 meeting. Board unanimously approved.

Motion made by Mr. Glassman, seconded by Ms. Graham, to approve the minutes of the April 18, 2007 meeting as amended. Board unanimously approved.

Chair Freeman announced that the Board's next meeting was scheduled for June 20, 2007 at 6:30 p.m.

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3. ACPRE RCC Realty, LLC c/o Archon Group Yvonne Redding 4-Z-07

Request: ** * Rezone from B-2 (County) to CB

Legal Description: A portion of Tract 2, Shell at I-95, according to the plat thereof,
as recorded in P.B. 102, P 25 of the Public Records of Broward
County, Florida

Address: 200 Corporate Drive

General Location: North of NE 62 Street, East of NE 7 Avenue

Board members disclosed communications they had regarding this case.

Mr. Paul Dorelli, attorney for the owner, explained the property had been annexed into the City in 1995 but still retained County B-2 zoning. The County zoning was compatible with the surrounding use. Mr. Dorelli said the City had initiated rezoning in 2003 but it had never been completed. His clients wished the rezoning to City designation so they could make future use of the vacant parcel and operate under City code rather than County code. Mr. Dorelli pointed out that this County category had been repealed.

Mr. Dorelli presented aerial photos of the property and noted that there were no plans as yet for the property.

Ms. Redding explained that the request was for rezoning from the County B-2 to the City's CB designation. This was the City's least intensive commercial zoning. She noted that any development over 10,000 square feet would come before the Planning and Zoning Board for approval under conditional use for the site plan.

Ms. Redding explained that changes in staff priorities had resulted in the tabling of the property rezoning in 2003.

Ms. Redding said this met all applicable rezoning criteria, and the site plan would only be presented the Planning and Zoning Board if a project met certain intensity levels.

Chair Freeman opened the public hearing.

Mr. Moises Rivera, representative of Realty Masters, the adjacent property, asked what the owner planned to do with the property in the future. Mr. Dorelli said there were no plans in development, but any project would be compatible in the current zoning. He explained it would be easier in the future to refer to the City's design standards rather than referring to the County's, which had been repealed.

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. Adams, seconded by Ms. Fertig, to approve. Board unanimously approved.

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4. City of Fort Lauderdale / Fire Station 49 **Anthony G. Fajardo** **33-R-07**

Request: **	Public Purpose Use / 15,763 SF Fire Station / SBMHA
Legal Description:	Parcel 1, "Bahia Mar", according to the plat thereof, as recorded in P.B. 35, P. 39, of the Public Records of Broward County, Florida
Address:	1015 Seabreeze Boulevard
General Location:	Approximately 80 feet north of Harbor Drive on the west side of State Road A1A.

Board members disclosed communications they had regarding this case.

Ms. Mina Samadi, Public Works Department, explained that there was already a station, built in 1969, on the site, which they planned to demolish. The new station would have three stories, three bays, a community room and public restroom facilities.

Ms. Samadi said they were requesting relief from eight of the City's requirements, all of which were under the public purpose use Section 47-18.26 since they were requesting replacement of an existing station.

The first item for which Ms. Samadi requested relief was zoning. The current property was zoned South Beach Marina and Hotel area District, which did not allow for a fire station.

The second item was the setback requirement. Due to the site constraints, she said they could not meet the required twenty-foot setbacks for the building front and east side. She explained that on the east side of the property, the building would be on the property line, and on the south side, the building would be approximately one and a half feet from the property line.

The next item requiring relief was the 20% height distance separation to the adjacent building. The Fire House would be approximately fifty feet tall and was adjacent to a residential property approximately thirty-nine feet tall. Due to the site constraint and program for the station building, Ms. Samadi explained they could not meet that requirement.

Regarding parking requirements, Ms. Samadi stated the requirement was two spaces per bed. Ten firefighters' beds would be located in the new station and they had

nineteen spaces, so they would be short one space. They did not anticipate any issues regarding the station's operation and felt the nineteen spaces would be sufficient.

Ms. Samadi explained the landscaping area would be short by approximately 2 – three caliper shade trees, 2 – two caliper shade trees and two flowering trees. The landscaping area would be short 70 square feet, 8% of the requirement.

Ms. Samadi stated the shadow restriction required a one-foot setback for every foot of building height over thirty-five feet. The building height was fifty feet, and they could not meet this requirement.

Regarding the required ten-foot landscaping and physical barrier on the buffer yard, Ms. Samadi said they had provided eighteen inches to five feet of landscaping and separation, as well as a six-foot wall and decorative fencing, but could not fully meet the requirement.

Ms. Samadi said a public meeting had been held on January 30, 2007, and another was scheduled. They had also met with the Central Beach Alliance.

Mr. Clesielski reminded the Board that since this was a public purpose use, it was a Site Plan Level IV and must be approved by the City Commission. The applicant must meet the criteria in Section 47-18.26.f.1 through 8. The applicant's written response to each of the eight criteria had been included in the Board's packet. The packet also included narratives addressing adequacy requirements and neighborhood compatibility.

Mr. Ciesielski stated that if the Planning and Zoning Board determined the development met the standards and requirements of the ULDR and criteria for public purpose use, their recommendation would be forwarded to the City Commission. If the Planning and Zoning Board found the development did not meet the requirements of the ULDR and criteria for public purpose use and denied the request, procedures for appeal to the City Commission would apply.

Chair Freeman opened the public hearing.

Ms. Shirley Smith, Central Beach Alliance, said their Board had liked the proposal, and suggested a light to indicate the presence of a firehouse. They also wanted landscaping to blend in with the beach neighborhood, the wall at the rear of the property taken care of, and possible a dock. The project would be presented to the Alliance's full membership on May 24.

Mr. Art Sites noted the presence of a bench blocking the sidewalk in front of the firehouse. Mr. sites felt Fort Lauderdale's beach pedestrian areas were "appalling, we have some of the lousiest pedestrian/bicycle conditions probably in the United States, and absolutely in Florida." Mr. Sites wanted the Board to pay more attention to pedestrian/bicycle issues; he felt they were the "first line of defense."

Mr. Curtis asked Mr. Sites what he wanted them to do about this project. Mr. Sites suggested they approve the project, including the dock, and “as many public benefits as you can hook onto it and make it attractive.”

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 Mr. Glassman, seconded by Ms. Fertig, to approve.
Board unanimously approved.

Ms. Golub wondered if they should wait until after the project had been presented to the Central Beach Alliance full membership. Mr. Brewton explained that further public input could be provided when the project was presented to the City Commission.

Mr. Graham noted that she usually would not approve a project with the relief for which this project applied, but she acknowledged the restrictions some sites presented, and the City’s need to create state of the art stations, and said she would therefore vote to approve this project.

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5. City of Fort Lauderdale / Fire Station 54 Mike Ciesielski 37-R-07

Request: **	Public Purpose Use / 13,135 SF Fire Station / CB
Legal Description:	Lots 1, 2, 3, 4, 12, 13 and 14, Block 2, “Galt Ocean Mile”, according to the plat thereof, recorded in P.B. 34, P. 16, of the Public Records of Broward County, Florida
Address:	3200 N.E. 32 Street
General Location:	N.E. Corner of East Oakland Park Boulevard and N.E. 32 Avenue

Board members disclosed communications they had regarding this case.

Ms. Samadi explained that the existing station on this site was built in 1970, and would be demolished for this project. The new station would be two-story, with three bays, community facilities and rest rooms on the first floor and living and working areas for the fire rescue staff.

Ms. Samadi explained that they were requesting relief from six requirements for this project under public purpose use Section 47-18.26.

The first item for which they were seeking relief was parking. Ms. Samadi stated the requirement was two spaces per bed. Ten firefighters’ beds would be located in the new station and they had eighteen spaces, so they would be short two spaces. Ms. Samadi explained that secured parking was for firefighters only and they did not

anticipate any issues regarding the station's operation and felt the eighteen spaces would be sufficient. Four public spaces were provided along Northeast 32nd Avenue.

Ms. Samadi said they were also requesting relief from the landscaping requirement for the vehicular use area. They would provide approximately 9% of the needed landscape area.

The third item for which they were requesting relief was perimeter landscaping. Ms. Samadi explained that a depth of approximately five to ten feet was required for the station perimeter, but in some areas, they would provide thirty-four inches to eight and a half feet. Ms. Samadi said they had been able to utilize some landscaping area in the 32nd Avenue right of way, and combine this with landscaping to create a larger visual area. The recommendation for the eight-foot wide sidewalk had reduced the opportunity for landscaping.

Ms. Samadi stated they were also requesting relief from the minimum stacking distance. The minimum stacking distance was twelve feet by twenty-two feet, and a portion of the driveway met this, but the east side did not.

Regarding the peninsular and island landscape requirement, Ms. Samadi said one peninsula partially met the requirement, but orientation of the parking and driveway had made it impossible to provide adequate eight-foot wide islands.

The last item for which they were requesting relief was the tree installation of a minimum of eight feet. They could not meet the eight-foot requirement, but Ms. Samadi noted that the selected trees did meet the landscaping requirement.

Ms. Samadi reported that a community meeting had been held on February 26, 2007 and she had subsequently met with property owners in the area.

Mr. Ciesielski reminded the Board that since this was a public purpose use, it was a Site Plan Level IV and must be approved by the City Commission. The applicant must meet the criteria in Section 47-18.26.f.1 through 8. The applicant's written response to each of the eight criteria had been included in the Board's packet. The packet also included narratives addressing adequacy requirements and neighborhood compatibility.

Mr. Ciesielski stated that if the Planning and Zoning Board recommended approval, staff recommended the following condition:

1. A Phase I archeological study be conducted prior to any construction on the site.

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.

Ms. Fertig asked where the firefighters would relocate to during construction. Chief Basic explained there would be a temporary facility. Fire Department staff was currently working to determine the location. This applied to stations 49 and 54.

Motion made by Mr. Curtis, seconded by Ms. Adams, to approve. Board approved unanimously.

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6. City of Fort Lauderdale / Fire Station 54

Thomas Lodge

6-P-07

Request: Right-of-Way Vacation / CB

Legal Description: Lots 1, 2, 3, 4, 12, 13 and 14, Block 2, "Galt Ocean Mile", according to the plat thereof, recorded in P.B. 34, P. 16, of the Public Records of Broward County, Florida

Address: 3200 N.E. 32 Street

General Location: N.E. Corner of East Oakland Park Boulevard and N.E. 32 Avenue

Ms. Samadi explained that the alley bisected the existing fire station site. They were requesting vacation, but maintaining a utility easement over it. They would provide a new north/south access to connect the alley to East Oakland Park Boulevard. The additional space was needed for landscaping and parking areas for the new station 54. Ms. Samadi stated this was discussed at the February 26, 2007 public meeting.

Mr. Lodge reported that the Right of Way Committee had reviewed the request on August 24, 2006 and recommended approval.

Mr. Lodge stated the City Commission would review the request after the Planning and Zoning Board.

Mr. Lodge stated that if the Planning and Zoning Board recommended approval, staff recommended the following condition:

1. A Phase I archeological study be conducted prior to any construction on the site.

Mr. Lodge reported that staff had found the applicant had complied with all criteria and concurred with the applicant's assessment.

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 Ms. Graham, seconded by Ms. Golub, to approve, subject to staff condition. Board unanimously approved.

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1. Premier Bayshore Developers, LLC

Don Morris

136-R-06

**Request: ** Site Plan Level IV / Waterway Use / 63 Multifamily Units /
1175 SF Retail/Service / 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

Chair Freeman explained that this case was deferred from their April meeting.

Board members disclosed communications they had regarding this case.

Ms. Debbie Orshefsky, attorney for the applicant, requested thirty minutes for their presentation, noting that it was complicated and had a history she wished to explain. Chair Freeman agreed.

Ms. Orshefsky explained that the Decklebaums acquired the site in 2003, and their initial plan presented to the Planning and Zoning Board and the City Commission was a twelve-story, fifty-five unit condominium. This project had been denied by the City Commission, and the developer had lost the appeal in circuit court.

Ms. Orshefsky explained that this plan had never been presented to the Planning and Zoning Board because the City's Zoning in Progress was underway, and then "down zoning" had occurred.

Ms. Orshefsky said there was pending litigation regarding this fifteen-story plan dating back several years. Per her discussions with the City Attorney's office, Ms. Orshefsky informed that Board that if this plan were approved this evening, the pending lawsuit would be dismissed. She noted that one component of this lawsuit "challenges the essence of the neighborhood compatibility criteria."

Ms. Orshefsky stated that since that lawsuit was instituted, the Decklebaums had acquired additional property, and in 2006, they submitted a plan that represented the first iteration of the plan before the Planning and Zoning Board this evening.

While going through DRC and staff review, Premier Developers had chosen a new architect and legal team, and downsized the project. They also achieved a design element that allowed the building profile to come down. This entailed all parking being located below grade.

Ms. Orshefsky displayed renderings of the project from various vantage points, and numbered them as exhibits.

Mr. Oscar Garcia, architect, explained that they were charged with reducing the mass of previous versions of the project, creating a building that was aesthetically pleasing from all vantage points, making the building pedestrian-friendly and having it work within the context of the neighborhood. Mr. Garcia said they had also wanted to eliminate any visible means of parking and services to the building. Mr. Garcia explained that alternating the balconies visually brought the building down so it would not be perceived as a tall structure.

Mr. Seth Yeslow, architect, explained that they had first taken the core of the building and taken it to the eastern façade of the building on Bayshore Drive. They had then pulled elements out using glass punch-outs. He indicate the presence of glass curtain walls on the building.

Regarding the setbacks, Mr. Yeslow stated that on the north side, the glass punch-outs were twenty feet from the property line, but not continuously. The core of the building was at a thirty-foot setback. The glass punch-outs on the north side went up to thirty-four feet and then stepped back to a thirty foot setback to the core façade, which then rose to eighty feet, and stepped back again to forty feet. After another two floors, they stepped back again to approximately fifty-two feet on the roof level.

Mr. Yeslow explained that between the buildings, the ten-foot glass punch-outs were two stories high, and after two stories, then stepped back another ten feet so the buildings were first sixty feet apart, and then eighty feet apart. On the south façade, the first three floors of the building were at a twenty-six foot setback. Above that, the building had varied setbacks. At the closest point on Bayshore Drive, they were at twenty-six feet, but as the building went toward the Intracoastal and the property line tapered away, from thirty-four feet to eighty-four feet, there was a seventy-one foot setback.

Mr. Yeslow said the view corridors were twenty feet, sixty feet and twenty-six feet, for a total accumulated view corridor of 106 feet.

Regarding parking, Mr. Yeslow explained that they had eliminated any pedestal parking on the south building; there was only screened, at-grade guest parking. There was no parking element on the western façade on the Intracoastal. There were two levels of elevated parking in the north building, and Mr. Yeslow explained the automated elevator that moved cars between the floors, and a “wall of green” that screened the parking façade.

Mr. Yeslow explained that they had pulled the parking under the buildings via a U-shaped configuration and a two-lane one-way driveway that would prevent stacking onto Bayshore Drive. Mr. Yeslow stated a down ramp led from the U-shaped drive to

sub-grade parking, and a planter wall provided a visual barrier to cars pulling in and out. This configuration had allowed them to eliminate a third curb cut.

Mr. Yeslow noted that they had put all mechanicals in the core roof feature, allowing an almost 360° unobstructed roof terraces, which was encouraged in the building code.

Ms. Orshefsky said they had considered neighborhood compatibility of this building with the surrounding IOA uses from several perspectives. She displayed an aerial photograph depicting several projects and buildings in the area. Ms. Orshefsky explained that the zoning code on the beach dictated putting height along the ocean and Intracoastal, with lower-density NBRA, etc. through the center core. In 1989, this layout was consistent with the economic perspectives. Ms. Orshefsky said there was an established pattern of buildings consistent with the height, mass and scale of this project.

Ms. Orshefsky displayed a comparison of several projects in the area, comparing design elements, lot statistics, frontage, height, floor area ratio, and noted that the community had been requesting lower FAR, lower height and larger setbacks. She said this building compared very favorably to these other buildings in the area.

Ms. Orshefsky stated the key issue regarding setbacks, particularly in the IOA, concerned what was termed “modification of standards” in other districts. The IOA had different language. She referred to a regulation in paragraph 1D specific to this category. Here, the standard allowed an alternative setback standard not governed by different criteria, but subject Site Plan Level IV review [formerly known as a Development of Significant Impact].

Ms. Orshefsky explained that this allowed the City Commission to make the final decision regarding setback for projects along the IOA. This was not the same as a modification of standards; it was an alternative standard for setbacks.

Ms. Orshefsky presented one rendering of the project with setbacks that met or exceeded the setbacks in the alternative standard in the IOA, and another rendering of the building meeting half the height of the setbacks, which was a significantly larger, higher-mass building. She asked the Board to use this to help them evaluate whether the alternative standard was appropriate in this location.

Ms. Orshefsky noted that the design components described by the architect had a significant effect on viewscape from the waterway, and she asked the Board to consider the contribution this made to the tranquility and scenic qualities.

Ms. Orshefsky pointed out that if the “half the height” setback rule were applied to the sides and rear of the project, it would resemble a Mayan temple. She presented a graphic showing that virtually every building along the IOA had a twenty-foot or smaller setback.

Ms. Orshefsky said new projects on Bayshore had been helping to improve right of way along Bayshore and adjoining streets. She presented renderings depicting improvements they agreed to make in the area.

Ms. Orshefsky reported that this project had been presented to the Central Beach Alliance in September 2006. Since then, the only changes were some internal modifications and clarification of plan dimensions. The Central Beach Alliance had voted 109 – 67 to support the project. Ms. Orshefsky said the project had suffered “fits and starts” waiting to be presented to the Planning and Zoning Board, which had created some confusion at the Central Beach Alliance, resulting in their rescinding their support for the project in March. Ms. Orshefsky assured everyone that this was the same project presented to the Central Beach Alliance last September.

Ms. Orshefsky presented letters of support from the Panama Club, Bayshore Towers, and others, as well as emails of support from individuals.

Mr. Koeth stated he was substituting for Don Morris, the project planner for this project. Mr. Koeth said the project comprised two multi-family residential towers with 63 dwelling units and 1,175 square feet of retail space. Pursuant to Section 47-12.5.D.4.b.2, the applicant requested approval of the following retail/service uses as possible options for the retail/service space that were not specifically listed in the IOA district, but were offered for sale to tourists and visitors: Apparel Sales, Art Galleries and Art Studios, Arts and Crafts Studio, Cosmetics Sales, Gift Shop, Florist, Jewelry Store, Photography Studio, Yoga or Pilates Instruction, Tailor/Seamstress/Dressmaking.

Mr. Koeth continued that the habitable height of both towers was 116.5 feet, with an overall height of 127' 8". A below-grade parking deck was proposed, together with limited parking on the ground floor of both towers, and additional parking on the second and third floors of the North tower. A swimming pool was proposed to be located in the required rear yard, and must be approved through a Site Plan Level IV review.

Mr. Koeth explained that the distance between the towers was sixty feet, where 20% of the height of the tallest building – 23.3 feet – was required.

Mr. Koeth described the following reductions the applicant was requesting pursuant to Section 47-12.5.D.1d.i:

North side yard:

- For the building height up to 35', a 20' yard;
- For the building height between 35' and 75', a 24.5' yard;
- For the building height between 75' and 115', a 34.6' yard;
- For the building height between 115' and 116.5', a 51'-8" yard.

South side yard

- For the building height up to 35', a 18'-10" yard;
- For the building height between 35' and 75', a 20' yard;

- Building height between 75' and 115', a 30' yard;
- Building height between 115' and 116.5', a 53'-1" yard.

Mr. Koeth informed the board that the applicant was requesting a 20' rear yard setback.

Mr. Koeth stated that if the Planning and Zoning Board determined that the proposed development met the standards and requirements of the ULDR and criteria for Site Plan Level III and IV review, they should recommend approval or approval with conditions to the City Commission necessary to ensure compliance with the standards and requirements of the ULDR and criteria for the proposed development or use. If the Board determined that the proposed development did not meet the standards and requirements of the ULDR and criteria for the proposed development or use, they should recommend denial to the City Commission.

Staff recommended the following condition if the project is approved by the Board: A valet parking agreement shall be required prior to final DRC sign-off.

Ms. Fertig stated she had a letter from the Panama Club condo signed by four board members stating this project "neither protects, preserves or enhances existing structures," which she felt was not a letter of support, and asked if the applicant had another letter from them.

Ms. Fertig asked Ms. Miller about the promise Ms. Orshefsky had made that if the Planning and Zoning Board approved this project, the applicant's lawsuit against the City would be dropped. Ms. Miller confirmed that the City was not asking the Board to approve this to make that litigation go away.

Ms. Fertig asked how many times the project was presented to Sunrise Intracoastal. Mr. Decklebaum informed her that this particular plan had been presented to the overall membership in January 2007; he had met with Dr. Udell, the association president, in November 2006. In July 2006, while they were developing this particular plan, he had met with Dr. Udell and a few neighbors.

Ms. Fertig asked if the number of units had changed as the project had. Mr. Decklebaum said the number of units ranged from 55 to 72; this plan had 63 units.

Ms. Fertig asked why the pool was located where it was. Ms. Orshefsky said this had been one of those "classic land use and design trade-offs." Moving the pool would have prevented the below-grade parking. This was as far west as the pool could be and not intrude into the parking.

Ms. Fertig asked what year they changed the height in this area. Ms. Orshefsky thought this happened in 2005. She noted that this building was less than the maximum 120 feet.

Ms. Graham referred to the design, and noted that many parking spaces were sacrificed because of the way the structural grid was laid out and columns paced in the parking area. She felt this was very inefficient and expensive.

Mr. Yeslow explained that they had gone to great lengths to lay out the grid to guarantee the below-grade parking would work. He explained their rationale for the design, and stated the column layout worked in relationship to the units and was the most efficient they could achieve.

Ms. Orshefsky stated that many properties in this area had pools located in the setbacks. Ms. Golub said many of these projects had requested variances for their pool, which the Board denied, and the City Commission had approved or denied. Ms. Golub stated, "I don't think that we can determine that something can continue to be in the future because it was in the past." Ms. Golub took issue with Ms. Orshefsky's contention that the south end of the building met the "half the height of the building" setback, when the proposed setbacks were nowhere near 58.25 feet.

Ms. Orshefsky referred to a code provision that within the central beach districts, the measurement of setback was not a straight line up maximum; it was the "wedding cake" design seen on the beach. Ms. Orshefsky said her graphic reflected "an accurate line of the measurement of what half the height of the side setbacks would be for this project if we were pursuing a Site Plan Level II review."

Ms. Golub noted that these setbacks were not entitlements. There was only one area where the 53.1 or 51.8-foot setback existed: the mechanical cover on the rooftop. Ms. Orshefsky said there was a specific code section allowing setbacks to relate to *portions of the structure*, not the total height. Ms. Orshefsky reiterated that the setbacks in their plan met the "alternative setback standards provided for a Site Plan Level IV review."

Mr. Brewton said the plans and setbacks had been reviewed, and "they are correct in their assessment that the plans that you have before you and the request for the modification does meet the criteria established in the code today." He confirmed for Ms. Golub that it was not mandatory that they grant the request for the modification.

Mr. Glassman asked about the retail uses, and Ms. Miller clarified that this was not Mixed Use; retail was permitted with residential in the beach area. Ms. Orshefsky reiterated that they had submitted a list of specific uses and had promised that the retail would be owned, maintained and operated by the condo association.

Mr. Glassman noted that it was unusual to include retail space in a condo, and wondered why this had been done. Ms. Orshefsky said the developer added this element to allow the owners another use and source of revenue.

Mr. Glassman said he had read conflicting letters from the neighbors regarding this. A letter of support dated May 14 was sent by the manager of the Panama Club, and

stated it was from the board of directors. Another letter from the Panama Club dated May 16 from named board members, expresses opposition to the project. Ms. Orshefsky said she did not have the May 16 letter. Mr. Glassman asked if they had met with the board of the Panama Club, or negotiated any settlement with any board members that involved “any kind of consideration or cash for support of the project.”

Ms. Orshefsky said Mr. Decklebaum had conducted these meetings, and she explained that in response to shadow studies showing that this project would partially shade the Panama Club pool for the winter months, they had come to “an understanding with them where we will be contributing to their modifying the swimming pool to put in a heater.”

Mr. Glassman wanted to clarify that the code to which Ms. Orshefsky referred regarding their setback modifications actually said “*may* be reduced..., not *shall* be reduced, or not taken for granted that it will be reduced.” He felt this was where adequacy and neighborhood compatibility came in. Ms. Orshefsky felt that had met the standards for the granting of approval.

Mr. Glassman said he had read the court rulings, and noted that when this project was previously presented, neighborhood compatibility was a very big issue. But this was not discussed much in the staff report, and there was no staff finding regarding it. Mr. Glassman listed points from the court findings, and asked Mr. Koeth why this revised site plan: two buildings at ten stories, rather than the one building at twelve stories discussed by the court, was more neighborhood compatible.

Mr. Brewton said the staff had not stated this version met neighborhood compatibility; staff had the applicant present their response to meeting the neighborhood compatibility requirement to the Planning and Zoning Board. Staff was helping the Board understand the requirements to aid them in making their decision. Mr. Glassman wondered why staff was “neutral” regarding this project. Mr. Brewton said staff believed “the facts will speak for themselves.”

Mr. Curtis asked if staff was using “an objective standard or a subjective standard” in deciding whether to make a recommendation in the staff report. Mr. Brewton said it was subjective, and that “the staff has reevaluated its position...” He stated the Department Director decided whether or not staff would make a recommendation. Mr. Curtis asked what standard the director used, and how staff could make any recommendation without first meeting with the neighbors. Mr. Brewton said in the future, staff’s position would be that “we’re going to rely on the applicant presenting the facts to this Board for the Board to make that decision.” Mr. Curtis asked specifically if there would be “no further staff recommendations in the staff report related to neighborhood compatibility.” Mr. Brewton replied that “as of tonight, May 16th , you can rely on that.”

Chair Freeman opened the public hearing.

Mr. Michael Bach, Panama Club unit owner, stated he was representing the board of directors, who had asked him to attend this meeting and present the May 14 letter, of which the Planning and Zoning Board already had a copy, stating their approval of the project. Mr. Bach read the letter.

Mr. Glassman asked Mr. Bach to name the board members. He asked Mr. Bach about the other letter from the same four people, stating their opposition to the project. Mr. Glassman read the opposition letter, and noted that this letter was not dated, but the bottom of the page said "5/16/2007."

Mr. Bach acknowledged that there had been significant objection to the project in the past, and admitted this was confusing.

Ms. Graham asked Mr. Bach about some specific changes noted in the May 14 letter, indicating that the garage would be sealed and vented to the roof, and asked Mr. Bach how the board was aware of this sophisticated ventilation system. Mr. Bach said this was worked out between the developer and the board of directors. Ms. Graham did not see how this ventilation system was possible. Mr. Decklebaum said he had given "verbal assurance" to the Panama Club president that they would ventilate through the roof. This was not indicated on the plans.

Mr. Yeslow said he would not make any representations regarding mechanical systems that were not yet designed. Mr. Yeslow said, "all manner of exhaust can be vented through the roof," and if the owner had decided to do this, they would do so.

Mr. Bach informed Ms. Fertig that he was not in attendance at the board meeting when they had voted to support the project. Mr. Bach said he had been emailed the letter by the president of the condo association. He had no knowledge of the letter's author. Ms. Miller admitted the letters into evidence.

Ms. Fertig said she had received the May 16 letter in her email, but had only printed the attachment, so she could not say right now who had emailed it to her.

Ms. Adams asked if a mailing had been sent to neighbors within a 700-foot radius, as the Board had requested. Ms. Orshefsky confirmed this was done; the mailing list had been provided by staff. She believed the notice had not brought any new inquiries for neighbors. Mr. Brewton said he had seen no neighborhood response from the mailing. Mr. Brewton said the applicant had provided the names. He confirmed that 594 letters had been mailed; 28 were returned for invalid address.

Dr. Robert Bayliss, Sunrise Intracoastal resident, stated he did not support the project, and asked the Board to abide by the existing rules for setbacks and neighborhood compatibility for this neighborhood.

Mr. Al Miniaci resident, stated he supported the project, and said he believed the developer had worked with the neighborhood to make the project compatible.

Mr. Sid Workman, Alhambra Place resident, said he supported the project, and commented on the shortcomings of his own building's design. He felt this project presented "a great number of interesting solutions to a difficult problem," and was a superior design.

Mr. Herbert Dell, Americas on the Park resident, said he supported the project. He thought the buildings were very aesthetically pleasing, and the developer was friendly to the community.

Mr. Tivon Moffett, Commodore resident, stated he thought this was "a responsible development, within the guidelines... well designed, a very attractive building."

Mr. Lawrence Mitnick, Americas on the Park resident, described the project site as "a source of trash, and is now a source of ugliness; something needs to be put there." He felt this was a beautiful building, and the developer had "jumped through hoops to get the parking out of sight, to please the neighbors around them."

Mr. John McClennon said he had represented many developers, and had represented Premier a couple of years ago in Palm Beach. He said that project had sold out because of the reputation of the developer. Mr. McClennon said buyers of the Palm Beach project had informed him that the finished product exceeded their expectations. Mr. McClennon felt this building would be an asset to the neighborhood.

Mr. David Bolls, manager of La Rive condo, said their condo president, and three of the five board members supported this project. He noted how quickly the Decklebaums responded to any issues at the property.

Ms. Alice Smith, Sunrise Intracoastal resident, said she had many concerns. She said when she and her neighbors looked across the Intracoastal now, it was "concrete canyons." She felt they should follow the existing code, and "just because you can make exceptions doesn't mean you should."

Ms. Shirley Smith, vice president of the Central Beach Alliance, said they had seen several site plans for this project. They had rejected the first plan of one building at twelve stories, and the second plan at fifteen stories. In September 2006, the current two-building site plan was presented, and although they had been disappointed that the once-promised linear park with access to the Intracoastal had disappeared, the membership had voted 109 to 78 to support the project.

Ms. Smith stated this site plan had been pulled for several months for staff questions. At the March 2007 membership meeting, the Central Beach Alliance had revisited the most recent site plan, and voted 84 – 0 to withdraw its support for the project. Ms.

Smith said the reasons were: request for setback relief, especially where the pool was situated; the Canyon effect on the Intracoastal; the issue of neighborhood compatibility. Ms. Smith noted how narrow the Intracoastal was at this location.

Ms. Smith said the membership had objected to the removal of the linear park and the addition of retail space as well.

Mr. Gino Trancita, Sunrise Intracoastal resident, was upset that the project had turned from one building into two, and said, "now we're going to see, really, the Grand Canyon right in front of us." He asked the Board to oppose the project.

Ms. Roseanne Cyclene, Sunrise Intracoastal resident, said she agreed with Mr. Trancita and opposed the project because it was too high.

Mr. Chris Gaba, Sunrise Intracoastal resident, asked the Board to "look very carefully at the perspectives that you've been shown because they are very off." He asked the board to deny the request: he felt it was incompatible with the neighborhood and would create the "concrete canyon" effect. He also pointed out how narrow the Intracoastal was at this point.

Ms. Barbara Bouvier Scerbo, Sunrise Intracoastal resident, said this was not about the proposed project, but about "the manipulation of a developer to continue to go to any length to beat the system." Ms. Scerbo stated this narrow part of the Intracoastal was "already a Lego nightmare," and asked the Board to reject the project.

Mr. Joseph Scerbo, Sunrise Intracoastal resident, said the Board was not voting on the reputation of the developer. Mr. Scerbo said a beautiful project could be built on this property by meeting the requirements and applying under Site Plan Level I or II. Mr. Scerbo asked the Board to oppose the project.

Mr. Art Sites said he was opposed to the project and was also "opposed to having to wait almost three hours to speak." He noted that many people had left the meeting after waiting a couple of hours. Mr. Sites thought the building was too tall and was not compatible with the neighborhood. He stated that when Bridgeside Square was built, the developer's representative had "donated \$125,000 to each of two neighborhood associations just to be quiet and shut up." Mr. Sites objected to the letter presented by Mr. Bach on behalf of his board's members. He said he felt sorry for people living opposite this development, noting it was "just another block in the concrete canyon, and yes, there is a sea of asphalt out there, and a sea of cement on a barrier island, and it shouldn't happen."

Ms. Maus assured Mr. Sites that the Planning and Zoning Board weighed every project individually that was presented to them.

Mr. Joe Holland, Central Beach Alliance member, said he opposed this project. He said this was about the difference between that base code and the modifications that affected the project's profit margin. Mr. Holland felt that "making a canyon of the Intracoastal in this location was not an appropriate [impact]." Mr. Holland remarked on the perspective drawing that represented the view from Dr. Udell's property; he felt the rendering of the water was not right. He said he took offense to those sorts of graphics being used in these presentations.

Mr. Holland said this was also about the platform that had gotten their current City Commissioner elected: a platform "of the people about controlling growth on the barrier island." Mr. Holland admitted that they were "having a little trouble on the City Commission level lately," but hoped they would continue to make an impact.

Mr. Holland felt some of the confusion at the Central Beach Alliance involved the rear setback; the rear setback had not been discussed at their first meeting and the board had rendered a positive vote. Mr. Holland suggested a flip chart comparing the setbacks be prepared before this project went to the City Commission. Mr. Holland asked Mr. Brewton to continue to include public input as part of the formula for neighborhood compatibility and not rely on the input of developers.

Mr. Fred Matthews, Sunrise Intracoastal resident, said he had purchased his home because of the view of the water. He did not understand the purpose of having two buildings instead of one. Mr. Matthews did not think they needed to close in the area any more.

Dr. Gerri Udell, president of the Sunrise Intracoastal homeowners association, presented a photo from the seawall at the northern end of her property, and stated the width of the Intracoastal here was approximately half the height of the proposed project.

Dr. Udell informed the Board that she had ten letters from association members who were unable to attend this evening, and one from the homeowners association. She provided copies of all letters for the public record. Dr. Udell read the association letter, which raised objections to the building's height and mass, and the concrete canyon effect it would have on the Intracoastal, and one letter from a resident, who objected to the buildings' height, design, and view obstruction.

Dr. Udell said the item had been deferred ostensibly to allow the developer time to talk with her, but she had not received any contact since the last Planning and Zoning Board meeting. Dr. Udell said she had never attended a planning meeting, but had only been called after plans were drawn up and submitted. Dr. Udell stated that every time the neighborhood had met with the developer, the neighbors said the project was too massive, but the developer had said he could not modify the plans.

Dr. Udell said, "he purchased the property after the City election in which two 'pro-over-development' commissioners were voted out of office; he was aware that the citizens of

Fort Lauderdale were angry at their politicians for giving away the zoning code in favor of huge high rise developments in the areas of the City where there previously were none, yet there has been no sensitivity to this issue shown in the plans.”

Dr. Udell said she and her neighbors did not approve a waiver of the rear yard setback. She pointed out that the plans called for a wall located twenty feet from the seawall that was 120 feet high. Dr. Udell also objected to the pool's location right next to the seawall, the reduction of the 58.25-foot north and south side yard setbacks to 20 feet, the potentially noisy rooftop entertainment area, and the retail use, because there was inadequate parking.

Dr. Udell said every aspect of her house had been built in accordance with the zoning code, and they were only asking for the developer would do the same. She asked the Board to recommend denial to the City Commission.

Dr. Udell confirmed for Ms. Fertig that during her tenure on the Marine Advisory Board, they had discussed waterway views along the Intracoastal, and the impact of buildings and the use of rear yard setbacks. Dr. Udell said the pool was not supposed to be located in the rear yard setback, and she felt the noise from the entertainment area would travel across the canal into her neighborhood.

Ms. Graham said she did not have the north and south elevations in her package, nor did she have a sheet index to know if these should have been included. Ms. Graham remarked that the developer was requesting even greater relief from the setback requirements below grade in order for the parking garage to work.

Mr. Yeslow directed Ms. Graham to the north/south elevation sheets: A-2.0-2. Ms. Graham confirmed that on the west elevation, the setback should have been 58.25 feet, but they were requesting 20 feet. Mr. Yeslow explained that the closest point was at 20 feet, but that there was a “stepping” in the façade. Mr. Brewton confirmed that the rear elevation showed a straight wall for which code required a setback of half the height of the building: 58 feet. Ms. Fertig confirmed with Mr. Brewton that a setback of half the height was required, but the plan showed a 20-foot entire rear yard setback.

Ms. Adams asked Mr. Yeslow about the view corridor between the two buildings. Mr. Yeslow replied that the distance between facades was sixty feet at grade, and eighty feet at over twenty-four feet.

Ms. Graham referred to the subterranean garage plan, and noted that there was an eleven-foot setback below grade on the north side. Mr. Brewton stated setbacks were established at grade and above.

Ms. Karen Turner, Bayshore Embassy resident, explained that she was a member of the Central Beach Alliance and a realtor. She indicated she shared the same objections as other residents to the height and massing of the project, and the canyon effect. Ms.

Turner said she had asked Mr. Decklebaum to put town homes on the property. She said she did not want Mr. Decklebaum to be unable to recover his money on the property, "but there's a limit to how much you want to destroy the neighborhood for what you want to put there." Ms. Turner said the developer had met with Bayshore Embassy.

Ms. Turner pointed out that Mr. Decklebaum knew what the code was when he purchased the property because he had already built La Rive. She asked the Board to not approve the project.

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.

Ms. Orshefsky wanted to clarify that there would be valet parking available at the building, but it would not be mandatory.

Ms. Orshefsky said the linear park mentioned by Ms. Smith had not been part of a project since it was a fifteen-story building. She said the September presentation had not included this. The plan presented then had included the commercial space and the rear setbacks measurements.

Ms. Orshefsky stated that the Intracoastal at this location was 316 feet wide and the buildings were 127 feet tall. She said they had prepared the graphic from the west side pursuant to a specific staff request, from a location staff had agreed to.

Ms. Orshefsky stated the IOA area had 5,100 linear feet of water frontage. The eight existing buildings had a frontage of 2,135: 42%. If this project were added to this, the total frontage would be 2,578: 51%. Ms. Orshefsky felt the developer had "done a pretty good job of preserving the kinds of openings between these buildings consistent with the code and the neighborhood as it has evolved."

Ms. Orshefsky related that she had worked with Planning and Zoning Board members Curtis and Glassman on two other projects in the area that were ten-story buildings with alternative setbacks.

Mr. Glassman reminded Ms. Orshefsky that the Royal Atlantic was a single building project that had started at fifteen stories and had been reduced to ten stories. Mr. Glassman thought he would support a single building at ten stories, like the Atlantic. Ms. Orshefsky said at that height, the building would be 200 feet wide.

Mr. Decklebaum informed Ms. Fertig that the last time he had appeared before the Planning and Zoning Board he was attempting to acquire the fourth parcel. The project at that time was not within the setbacks, and after acquiring the parcel, the project was still not within the setbacks. Mr. Decklebaum said his original intent for the property was for a building similar to the original design with a waterfront park for the community. This plan had been rejected through negotiations with City Commissioners.

Ms. Fertig recalled that at that time, “the applicant was trying to acquire a fourth piece of property; without that fourth parcel, it did not fall within the setbacks, which was a major issue...in the last conversation we had. It was not just height...it dealt with setbacks. Mr. Decklebaum said this had been the single fifteen-story building plan, and it had not gone to a vote because they had been working with City staff to redesign the building. They were also in the process of acquiring additional property. Ms. Orshefsky said with the additional parcel, that fifteen-story project would still not have met the rear setback.

Ms. Orshefsky informed Ms. Graham that the original architect had created a two-building design, and Mr. Garcia and Mr. Yeslow reworked this design to the current configuration. Ms. Graham remarked on the view advantage provided by creating two buildings with increased separation toward the top of the buildings. This provided at least two views for all units, and three views for the top units. In a single building, the interior units would only have only one view. In order to attain that clearance between the towers and provide the views, the building must be pushed into the setbacks.

Mr. Yeslow said the building separation was first introduced by the former architect as a means to decrease the building mass and open the view corridor. He agreed that the result was an enhanced view for the remaining units. This had also been done to remove the third curb cut and allow the ramp into the subgrade parking level.

Mr. Yeslow explained that there were twenty-two parking spaces between the second and third level, accessed by the parking elevator system.

Mr. Curtis said, “Any inference by Ms. Orshefsky that either I or the civic association at the ...Sunrise Intracoastal approved of or condoned La Rive is a pure misrepresentation. That was a compromise done solely because of the sitting Commission at that time.”

Mr. Curtis asked Mr. Brewton about the valet parking requirement. Mr. Brewton explained that this condition was related to the type of parking that was proposed. Per the ULDR, the mechanical parking must be valet. Mr. Decklebaum said he had been unaware that the mechanical parking required valet, but agreed to comply with all City codes that were applicable.

Mr. Curtis asked Ms. Orshefsky’s intent for promising the Board earlier that if they recommended approval of the project, the applicant’s lawsuit against the City regarding this project would be dropped. Ms. Orshefsky said she was “just trying to give the Board the benefit of all the background related to this project. ...I didn’t want someone to later say, ‘are you presently in litigation with the City?’” She said she “in no way intended that to influence the Board in terms of ‘you’ve got to approve this so you can settle litigation’, that’s not the way this City operates and I would not have any expectation to that effect. It was in the interest of full disclosure about the history of the project.” She agreed with Mr. Curtis that this was not part of the criteria for consideration.

Ms. Orshefsky felt the Central Beach Alliance's reversal was due to misunderstandings about the linear park and other items that had been discussed at the September meeting. She confirmed for Mr. Curtis that they wished the Board to "pay attention to the first vote, give more credibility to that than you do the second vote."

Mr. Holland told Mr. Glassman that the developer's presentation had lacked information that was presented later in the staff report. Their first vote had been based on the developer's presentation. Ms. Orshefsky had indicated earlier that she would feel disenfranchised if she were a member of the Central Beach Alliance because of that March meeting, but Mr. Holland informed Mr. Glassman that the March meeting was very well noticed, and the developer had been invited to participate, but had declined. The membership was aware that reconsideration of this project was to be discussed, and Mr. Holland said the meeting was "well advertised and a good turnout, and they had to stay a long time through a lot of other presentations to get to that point in the voting."

Mr. Brewton confirmed for Ms. Golub that distance separation requirements for two buildings on one site were not the same as setback requirements.

Ms. Graham noted that there was an additional 33'8" of height above the tenth floor penthouses. There were other components she could not identify on the roof that she felt added a lot of extra height. Ms. Orshefsky said there had been discussion in the DRC process regarding how the "roof stuff" would be treated, and staff had decided that the maximum measured height of the building was 116 feet.

Mr. Garcia explained that the principal problem with most buildings was that mechanical systems were exposed on the roof. The extensive parapet had been designed to hide mechanical systems that were not yet designed.

Mr. Yeslow stated the penthouse roof slab was at 106'6"; the highest point on the building was at 127'8". This was 21'2" above the roof deck. Ms. Graham felt that this roof element had added incredible mass to the building, and if they were restricted in what had to be done on the roof, and they were forced to be more efficient, the building might be a bit lower. Ms. Graham pointed out that the additional roof element height amounted to an additional three floors.

Ms. Orshefsky said the maximum height in this district was 120 feet; this building was less than that and therefore met the code requirement; they were also consistent with and compatible with the heights of other buildings in the IOA district.

Ms. Graham asked Mr. Brewton about adding the additional height to the roof over and above the maximum height. Mr. Brewton said there was a code requirement to screen roof-mounted mechanical equipment.

Mr. Brewton said regarding neighborhood compatibility, the Board had heard the applicant's comparison to all of the taller buildings in the neighborhood, but the Board must consider all structures in that area to determine neighborhood compatibility, not just the tall ones.

Ms. Fertig asked how the building height would be changed if they had not utilized below-grade parking. Mr. Yeslow said the maximum height would be the same. Ms. Fertig rephrased her question to ask how many floors at-grade parking would have taken. Mr. Garcia said it would take two or three stories.

Mr. Brewton wanted the Board to understand that the staff had not recommended or directed the applicant to utilize the below-grade parking. They had indicated they did not want to see the exposed parking area at grade. Ms. Fertig noted that there were things that could be done to camouflage at-grade parking.

Ms. Graham remarked on the "proportionality of the packaging of these functions in the building," the habitable space, the parking, and the setbacks and green space, and noted the cleverness of the combination below-grade and mechanical parking to utilize space, but pointed out that this was what had necessitated putting the pool in the setback. Ms. Graham felt the architects had done the best they could, but when she saw things that did not "work proportionally between these three functions, I just rarely ever can approve it."

Ms. Maus wanted Ms. Fertig to provide a copy of the email that contained the letter attachment she had printed out as a means of authenticating the attachment, but Ms. Miller said since it was not here now, it could not be part of the evidence. Ms. Maus did not understand how they could have admitted an undated, unauthenticated letter for the record. Ms. Miller said it was up to the Board, in a quasi-judicial hearing, to decide what weight to give submissions. Ms. Maus felt the letter should not have come onto the record.

Ms. Fertig offered to withdraw the letter, but assured everyone that she knew no one at the Panama Club, and did not know the names of the Panama Club board members.

Motion made by Ms. Adams, seconded by Ms. Maus, to approve item 136-R-06, subject to staff conditions. Motion failed 3 - 6 with Mr. Glassman, Mr. Curtis, Ms. Fertig, Ms. Graham, Ms. Golub and Chair Freeman opposed.

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2. PHD Development, LLC / Downtown Deco II Yvonne Redding 28-R-07

Request: ** Site Plan Level III / 4 Townhouses / ROC

Legal Description: Lots 7 and 8, Block 2, of "Alden's Subdivision" as recorded in P.B. 2, P. 26 of the Public Records of Broward County, Florida

Address: 807-813 S.W. 4 Avenue
General Location: East side of SW 4 Avenue, South of SW 8 Street

Board members disclosed communications they had regarding this case.

Mr. Woody Freeze, architect, explained that this was a four-unit town home project. He stated they had calculated density at the RMM-25 guidelines. Mr. Freeze informed the Board that the project complied with all setback requirements.

Mr. Freeze presented a rendering different from the Board's packet rendering because they had redesigned the back-out parking so the parking could be exited in a forward motion.

Ms. Redding stated this was an allowable use and the project complied with the RMM zoning district regulations. The applicant had responded to neighborhood concerns regarding the tree on the site by performing a survey of the tree to ensure it would not be damaged. The applicant had also resolved the issue regarding the back-out parking, and had provided the required eight spaces on site. The project also met the setback and height 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.

Ms. Adams asked about community input. Ms. Redding said there was a letter from the community describing their concerns about the tree and the back-out parking, and a later letter stating the applicant had addressed these concerns.

Motion made by Ms. Graham, seconded by Mr. Glassman, to approve as presented, with the alterations to the driveway configuration and the tree, and subject to all staff conditions. Motion passed 9 – 0.

For the Good of the City

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Ms. Adams asked why things were included in their package that they should not consider, i.e. the documentation regarding the lawsuit. Ms. Fertig said she was glad there was something substantiating that there was a reason the Board turned the project down because without something saying a third party found the Board turned it down for a reason, one could believe the only issue was height, which it was not.

Mr. Glassman felt this was germane to the project.

Ms. Adams felt the information's inclusion was in conflict with their discussions.

There being no further business to come before the Board, the meeting was adjourned at 11:08 p.m.

Chair:

Attest:

Travis Woods [for Jamie Opperlee, Recording Secretary]