

**PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, February 20, 2013 – 6:30 P.M.**

Cumulative

Board Members	Attendance	June 2012-May 2013	
		Present	Absent
Patrick McTigue, Chair	P	8	1
Leo Hansen, Vice Chair	P	8	1
Brad Cohen	P	6	0
Stephanie Desir-Jean	P	8	1
Michael Ferber	A	7	2
James McCulla	P	8	1
Michelle Tuggle	P	9	0
Tom Welch	P	8	1
Peter Witschen	P	7	2

It was noted that a quorum was present at the meeting.

Staff

Ella Parker, Urban Design and Planning Manager
D'Wayne Spence, Assistant City Attorney
Yvonne Redding, Urban Design and Development
Mohammed Malik, Chief Zoning Examiner
Dennis Girisgen, City Engineer
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

Index

- | | <u>Case Number</u> | <u>Applicant</u> |
|----|--|--|
| 1. | 41R12** | JEFAST Pelican Grand I, LLC / Pelican Grand Beach Resort |
| 2. | Communication to the City Commission
For the Good of the City | |

Special Notes:

Local Planning Agency (LPA) items (*) – In these cases, the Planning and Zoning Board will act as the Local Planning Agency (LPA). Recommendation of approval will include a finding of

Planning and Zoning Board

February 20, 2013

Page 2

consistency with the City's Comprehensive Plan and the criteria for rezoning (in the case of rezoning requests).

Quasi-Judicial items ()** – Board members disclose any communication or site visit they have had pursuant to Section 47-1.13 of the ULDR. All persons speaking on quasi-judicial matters will be sworn in and will be subject to cross-examination.

Chair McTigue called the meeting to order at 6:31 p.m. and all stood for the Pledge of Allegiance. The Chair introduced the Board members, and Urban Design and Planning Manager Ella Parker introduced the Staff members present. Attorney Spence explained the quasi-judicial process used by the Board.

Mr. Witschen noted a correction on p.4, paragraph 3 of the January 16, 2013 minutes: change both uses of "could" in this paragraph to "would."

Motion made by Ms. Tuggle, seconded by Mr. McCulla, to approve as corrected. In a voice vote, the **motion** passed unanimously.

1. JEFAS Pelican Grand I, LLC. / Pelican Grand Beach Resort Yvonne Redding 41R12

Request: ** Parking Reduction / Site Plan Approval

Legal Description: All of the Pelican Grand Beach Resort, a Hotel Condominium, according to the declaration of condominium recorded in official records book 43208, page 647, of the public records of Broward County, Florida

General Location: 2000 N. Ocean Boulevard

District: 2

The Board agreed by consensus that any members of the public who planned to address tonight's meeting should do so when the public hearing was opened, in the absence of a court order or injunction that would prevent presentation of the Item.

Disclosures were made, and any members of the public wishing to speak on this Item were sworn in.

Stephanie Toothaker, representing the Applicant, showed a PowerPoint presentation, stating that the Pelican Grand Beach Resort is within the RMH-60 zoning district, which allows high-rise, high-density, and multi-family residences and hotels. Permissible accessory uses for hotels within this district include dining rooms, restaurants, nightclubs, bars, retail stores, personal service shops, patio bars, and outdoor food service areas.

Ms. Toothaker explained that in 2001, the original application for the hotel was filed with the City. This application requested 168 rooms on 13 floors over a two-level parking garage for a total height of 140 ft. The original application also included a restaurant, observation room, and sundries shop. When the case was heard by the Planning and Zoning Board in 2001, the application was reduced to 168 rooms on 12 floors and a height of 129 ft., with no observation room. Side yard modifications were also granted to the hotel at this time.

During the construction phase of this project in 2003-04, the application was brought before the Board once more to request a roof structure over an outside area, as well as the addition of a southeast activity deck on the ground floor. These requests were granted by the Board.

Ms. Toothaker recalled that in 2008, the Pelican Grand had applied to the City for temporary use approvals, which would erect a tent over the southeast deck. The City granted these 30-day approvals before advising the Applicant to request a more permanent solution for the tent. In 2009, permanent administrative approval was granted with the conditions included in the Applicant's narrative, which stated that the tent was for the purpose of hosting wedding receptions and other like events.

After this approval was granted in 2009, a previous management company for the hotel had retained a company to erect the tent without a building permit. This resulted in a Code violation, after which the Applicant appeared before the Code Enforcement Board to seek an extension for the use of the tent. After meeting with the City Attorney at that time, the Applicant had sought "a higher level of review" of the tent. A Code Enforcement case is still pending in relation to the use of the tent. Ms. Toothaker explained that one request before the Board at tonight's meeting is for more permanent, yet temporary, approval of the tent.

The current Application requests a ground-floor meeting space in the location of the southeast paver deck, with a second-floor outdoor deck on the roof of this structure, and temporary use of the tent until construction begins on this meeting space and deck. She estimated that construction would begin in approximately one year. There is also a request for an 11th floor meeting space, which would be created by enclosing the 11th floor southeast deck to create a banquet area. The northeast paver deck would be partially enclosed to create a luxury spa. The 11th floor penthouse unit will be relocated to the 12th floor. No physical change would occur to the building's height, although its height calculations would be changed accordingly.

Ms. Toothaker stated that site plan modifications, renovation, and enclosure of existing areas would include the amenities listed above, as well as a 42-space parking reduction based on both new uses and a reevaluation of existing uses. A south side yard modification is also required in conjunction with approval of the

tent and the permanent ground floor structure. "Technical but not actual" yard modifications would also be required on the east and west sides of the building as a result of the change in height calculation.

With regard to the south side yard modification, the Applicant is requesting a change from the existing 50 ft. to 25 ft. 11 in., which would accommodate the use of the tent. When the tent is removed, this setback would increase to 28 ft. 5 in. The 25 ft. 11 in. modification would be in effect for one year.

The technical yard modifications are a result of height measurement, which reaches to the top height of interior finished floor space. Because only 11 floors are presently used as habitable space, this means the measurement would extend to the top of the 11th floor. After the 11th floor penthouse unit is moved to the existing area on the 12th floor, however, the measurement would be calculated differently. The current east and west side yard modifications are from 57 ft. 6 in. to 20 ft. The relocation of the penthouse unit means the Applicant will be requesting modifications from 63 ft. 9 in. to 20 ft. Ms. Toothaker emphasized that neither the building itself nor the existing setback is changing.

She continued that a recent City parking study of the Beach area resulted in changes to the ULDR with respect to hotels. Because the Pelican Grand is not included within the area of this parking study, the Applicant is requesting a parking reduction of 42 spaces. Ms. Toothaker pointed out that other City hotels are subject to a shared use provision, which would mean the parking reduction would not be necessary in another location. The City has approved the study conducted by the Applicant's parking expert, which concludes that there is a parking surplus of 10 spaces based on all the property's uses.

She showed slides of the accommodations included in the request, including the ground floor meeting space, luxury spa, banquet space, ground floor tent, and penthouse unit.

Ms. Toothaker stated that during the last year, the Applicant has met with the property's neighbors, including the Vue, Shore Club, Sun Tower, and Central Beach Alliance. These neighbors expressed concern with the use of the two proposed outdoor decks above the 1st and 11th floors. The Applicant is requesting voluntary site plan restrictions on these uses, which would prohibit the use of large speakers by outside groups and require that only the Pelican Grand's own sound system, which features a noise governor, would be used. Amplification would not be allowed on the outdoor decks after 8 p.m., and sound may not exceed 60 decibels from complainants' premises between 12 p.m.-10 p.m. or 55 decibels after 10 p.m. Outdoor events must end by 10:30 p.m., and outdoor decks may not be used for movies or laser light shows.

Ms. Toothaker noted that the hotel has never been cited for a noise complaint. She concluded that the Central Beach Alliance granted unanimous approval of the proposed site plan, save one abstention. Letters regarding the project were provided to the Applicant from the Vue, the Sun Tower, and the Shore Club. Resolutions were also received from the FLRA, Broward Workshop, and Greater Fort Lauderdale Chamber of Commerce.

Yvonne Redding, representing Urban Design and Development, said the Applicant is requesting Site Plan Level 3 Review, yard modifications, and a parking reduction. A traffic study was performed in relation to the parking reduction and reviewed by City Staff, which agreed with the study's conclusion. She confirmed that the building's height would not change, but the yard modifications were requested due to changes in the structure's habitable interior space. The site plan was originally approved by the Board in 2001, with several modifications over time. Ms. Redding stated that the Applicant had documented these modifications and administrative changes.

There being no further questions from the Board at this time, Chair McTigue opened the public hearing.

Dan Lindblade, President of the Greater Fort Lauderdale Chamber of Commerce, advised that he had attended events located within the existing tent, and found these uses to be appropriate from an economic development perspective. He asserted that the Chamber was supportive of the Application, and wished the community to understand that the Applicant planned to be a good neighbor.

John Weaver, President of the Central Beach Alliance (CBA), said the project was presented to members at their May 31, 2012 meeting. He stated that there appeared to be little difference between the requested modifications and the hotel's existing practices and amenities. He added that the noise issue is subject to an existing Ordinance and unrelated to an upgrade of the building. The CBA's residents had voted 154-11 in support of the Application.

Ina Lee, Chair of the Beach Council and Vice Chair of the Convention Visitors' Bureau (CVB) Marketing Advisory Committee, stated that one area of focus for the CVB is bringing visitors into the City for weddings and similar events. She asserted that these events are of great importance to the City's economic growth. She concluded that the Beach Council is supportive of the Application, and emphasized the importance of tourism to Fort Lauderdale.

Fred Carlson, private citizen, stated he is a former president of the Central Beach Alliance. He said the Pelican Grand is "a well-run hotel" and a community-oriented business, and noted that adding a solid roof to its venues would decrease any level of noise coming from the property.

Joe Miele, President of the Vue condominium, said he had abstained from voting at the recent CBA meeting, as the Applicant had not yet made a presentation to the Vue's residents. Since that time, a presentation has been made, which resulted in unanimous support from the board. He felt the Pelican Grand has acted as a good neighbor during his tenure as president, and agreed that the new construction would serve to further eliminate any noise.

Gary Sieger, resident of the Shore Club, played a video recording of an event at the Pelican Grand, which is roughly 100 ft. from his residence. He requested that the Board restrict the hotel's upper decks from emitting amplified sound, clarifying that this referred to the deck atop the 11th floor and the deck that would eventually be atop the permanent structure that would replace the tent.

Mr. Sieger also requested that the two enclosed banquet or event spaces be soundproofed, with no open windows that would allow noise to extend beyond the perimeter of the building. He pointed out that the hotel is located in a residential zoning district, and added that the 2001 site plan for the hotel stated the 11th floor deck would be used as a pedestrian sundeck rather than event space; when the building was granted administrative review in 2009, the use of this space was changed.

He concluded that he was supportive of the project, as it would serve to enclose the tent; however, he did not feel a hotel within a residential zoning district should emit the type of noise it has produced.

Mr. Cohen asked if any other members of the Shore Club were present at tonight's meeting. It was clarified that other residents of the Shore Club were also present. Mr. Sieger explained that he was the only resident expressing concern with amplified sound or soundproofing.

Nick Catalano, President of the Shore Club, stated that he is a longtime resident of the building and has experienced only a few noise issues. He asserted that the Pelican Grand has been a good corporate neighbor, and that the Shore Club is unanimously supportive of all the negotiated items.

Vice Chair Hansen asked if Mr. Catalano felt the video provided by Mr. Sieger was indicative of the hotel's practices. Mr. Catalano replied that the video was taken out of context, as he has only experienced similar conditions on a few occasions, which have been corrected if he has contacted the hotel. He estimated that he has made "one or two" such calls during his time as a resident of the Shore Club.

Vice Chair Hansen asked if the video was filmed from the deck that would be restricted after 8 p.m. Mr. Catalano said the noise came from the tented area.

Ms. Toothaker confirmed that both decks would abide by the noise restriction after 8 p.m.

Art Seitz, private citizen, played an audio recording from the hotel, which he said was typical of the noise he had experienced "once a month for four years." He declared that the Pelican Grand was more concerned with money than with acting as a good neighbor, and noted that the CBA does not act as a neighborhood association. He reiterated that the hotel is located in a residential neighborhood, and concluded that he felt existing Code should be enforced with regard to the property.

Ms. Desir-Jean requested clarification that the Applicant had never received a Code violation. Ms. Toothaker said no violation related to noise has been received.

Tom Connick, representing Anthony Conetta, resident of the Shore Club, said there is a concern that the Pelican Grand will continue to negatively affect his client and other residents through noise emanating from the property. He agreed with the restrictions suggested by Mr. Sieger for restricted amplification, closed windows, and soundproofing.

Mr. Connick asserted that the Board should grant these restrictions for two reasons: the location of the hotel in a residential zoning district, which is described in the ULDR as "intended primarily for dwellings" as well as other land uses that support a residential environment. While hotels are indicated, he felt the support of a residential environment was a key phrase, as the hotel is not located within a district that encourages resort activities. He provided the Board members with copies of the City's noise Ordinance, noting that amplified sound is restricted from emanating 50 ft. from a location.

Mr. Connick also noted that District 2 is not currently represented by a City Commissioner. He said it was his understanding that any decision made by the Board would be final within 30 days unless the City Commission asked to evaluate the issue and vote upon it. As it is possible no Commissioner would be elected from District 2 within this time frame, he asked if the Applicant or the Board might voluntarily agree to allow an additional 30 days for a decision so a District 2 City Commissioner could review the Application.

Mr. Witschen asked if Code allows any City Commissioner, not only the Commissioner for a given District, to call up an item for review. Attorney Spence confirmed this.

Ms. Tuggle asked how many other residents Mr. Connick represented at tonight's meeting. Mr. Connick clarified that he was hired by Mr. Connetta only.

Mr. Witschen asked if Mr. Connick felt enforcement of the City's noise Ordinance was an issue. Mr. Connick replied that in reality, the Ordinance was not being enforced, which he felt was sufficient reason to limit the Applicant's ability to produce noise within a residential district.

Joe Holland, private citizen, said he lives roughly four blocks west of the subject property. He expressed concern regarding noise, as he has periodically experienced it at his residence. He explained that sound can be carried on the wind from properties such as the hotel, which creates difficulty in enforcing noise restrictions.

He added that other issues with the hotel include "curb appeal" problems, as truck deliveries occur in front of the property on a public street and may contribute to traffic and pedestrian safety hazards. He also characterized valet within the area activity as intensive, and noted that the hotel's underground garage uses a rack system. He concluded that the public park area should include more pedestrian features.

As there were no other members of the public wishing to speak on this Item, Chair McTigue closed the public hearing and brought the discussion back to the Board.

Mr. Cohen remarked that enclosing the open areas on the property would result in less noise. He added that the property would have impact windows, which would also restrict sound. He felt the changes proposed by the Application were appropriate.

Vice Chair Hansen stated he shared Mr. Holland's concerns with regard to deliveries: although these would not be substantially affected by the changes proposed in the Application, he pointed out that additional weddings and other events could make these issues worse. He also expressed concern with noise, noting that it would be difficult to enforce the noise level during evening hours when an event is in progress. For this reason, he commented that he would like to see amplified sound restricted to inside the building as a condition.

Ms. Toothaker pointed out that the hotel has agreed to hold no more outdoor wedding receptions. Vice Chair Hansen asked if this would include events on the deck above the building's first floor. Ms. Toothaker confirmed that there would be no bands, DJs, or other live music outside the building. She noted that it is typical, however, for small speakers to be located around a pool deck, which is the case at neighboring buildings such as the Shore Club.

Chair McTigue requested additional detail on the new first floor structures planned for the building. Jiro Yates, architect for the Applicant, explained that there will be four operable openings, either sliding glass or French doors, facing

directly east, or toward the beach. The windows on the building's south side are not intended to be opened. He also confirmed that the intent is to use large missile impact glass for these structures.

Chair McTigue asked if a condition could be imposed to require these doors remain closed after 8 p.m. Ms. Toothaker said the restrictions to be self-imposed by the Pelican Grand are beyond what is required by Code, and requested that no further restrictions be imposed by the Board.

Mr. Witschen asked how the City would enforce the restrictions offered by the hotel. Attorney Spence said when the conditions of approval will be adopted as part of Site Plan Approval, any violations would be treated as a violation of Code.

Ms. Desir-Jean commented that she had visited the site, and was not in favor of imposing further restrictions than those offered by the Applicant. She stated that most members of the public had suggested the hotel was a good neighbor, and the self-imposed conditions would be documented in writing.

Ms. Toothaker said the self-imposed conditions are cited in the Applicant's letters to the Vue and the Shore Club, as well as part of the site plan application. She clarified that while ceremonies, such as weddings, may be held on the outdoor decks, receptions will not be allowed there, and noise governors will be installed inside the tent. When the tent is replaced with an indoor structure, noise limits within specific time frames will no longer be used.

Mr. McCulla asked if the Applicant could confirm that the eastern doors would never be left open after 8 p.m. Ms. Toothaker pointed out that the Applicant has worked with a noise consultant and the event rooms are intended to be soundproofed so no noise will be emitted on the south side; if the doors are opened, sound will only carry to the east.

Motion made by Mr. Witschen, seconded by Vice Chair Hansen, to approve, subject to all Staff conditions, subject to all the conditions that were offered either to any of the condominiums or to this Board, specifically as to the regulation of sound and hours of the uses.

Mr. McCulla requested that the Applicant's letter to the Shore Club, dated November 15, 2012, be included in the conditions. Mr. Witschen said he would accept this inclusion. Ms. Toothaker confirmed that the letters to the Vue and the Shore Club, and included in the Board's information packets, are identical, and agreed that the Applicant is requesting that these restrictions be included as conditions of approval.

In a roll call vote, the **motion** passed 8-0.

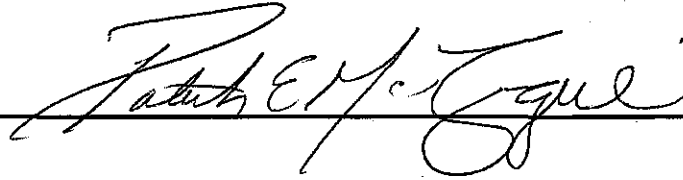
2. Communications to the City Commission

None.

3. For the Good of the City

None.

Chair



Prototype



There being no further business to come before the Board at this time, the meeting was adjourned at 7:55 p.m.

[Minutes prepared by K. McGuire, Prototype, Inc.]