

Mr. Stacer asked if this item was removed from the agenda.

Ms. McCleod responded yes.

Mr. Stacer also asked if the Board can move on to the next item.

Mr. Saunders asked if the request came from the applicant.

Ms. McCleod allowed Jean Dolan access to the virtual meeting.

Ms. Jean Dolan stated the applicant requested to withdraw the item from the agenda.

Mr. Stacer asked if the Board can move on to the next item.

Mr. Saunders responded yes.

4. [LN-67](#) **SABBIA BEACH PARCEL B REZONING**

<b>Request:</b>	Planned Development Rezoning
<b>P&amp;Z#</b>	20-13000007
<b>Owner:</b>	Fernbrook Florida, LLLP
<b>Project Location:</b>	730 N Ocean Blvd
<b>Folio Number:</b>	484331DE0010
<b>Land Use Designation:</b>	MH
<b>Zoning District:</b>	RM-20
<b>Commission District:</b>	1
<b>Agent:</b>	Paola A. West (954-529-9417)
<b>Project Planner:</b>	James Hickey, Consultant, with Scott Reale (954-786-4667) / scott.reale@copbfl.com

Mr. Stacer said before the applicant begins, he would like to put on the record that he has had ex parte communication with the architect on this project. Nothing will preclude him from exclusively ruling based on the evidence that is given in this meeting to pass judgment of the viability of this rezoning.

Jim Hickey (1800 Eller Drive, Ste 600 Fort Lauderdale, 33316) introduced himself to the Board. He states that the applicant, Fernbrook, LLLP, is requesting to rezone the subject property from Multiple Family Residence 20 or RM-20 to Residential Planned Unit Development, RPUD. This property is 0.72 gross acres and consists of one parcel. The general location is the southwest corner of N Ocean Boulevard (A1A) and NE 7th Court. The request is to demolish the existing structure on site which was used for a sales office for the Sabbia Beach Condominium and construct a 12-unit, 3-story residential development with a proposed density of 17 units per gross acre. The RPUD district is intended to encourage the use of innovative and creative design to provide a mix of different residential uses in close proximity to one another, while at the same time providing and efficient use of open space. The project aims to provide additional redevelopment and value to the north beach area. RPUD's are required to have a minimum of 5 acres; however, this requirement may be waived by the City Commission on finding that creative site

planning is necessary to address a physical development constraint, protect sensitive natural areas or promote a community goal when more conventional development would result in more difficult or undesirable development. The Commission would need to consider waiving this requirement if the RPUD application is approved.

Mr. Hickey said staff had a Zoom meeting with the applicant. There was a DRC meeting originally scheduled on the 20<sup>th</sup> but since they met to walk through all of the comments, so the DRC meeting did not take place. The site is 0.47 net acres and 0.72 gross acres and that will be important with regard to densities. The RPUD application requests a maximum of 3 stories and not to exceed 35 feet. This property is located within the Airpark Overlay District and the proposed height is not considered an Airpark Obstruction. The Land Use Designation is RM-20 which would allow a total of 9 units as the RM-20 district calculates density using the net density. The current RPUD proposal requests 12 units which is a density of 17 units to the gross acre.

As part of the RPUD requirements, applicant must submit development standards and identify the densities, building height, pervious area, street side and rear setbacks. The applicant is also requesting four deviations. The first deviation is for the Front Yard Setback. The request is to reduce the setback from 25 feet to 20 feet. The applicant states that the loss of the area in the front of the parcel for the right-of-way dedication has reduced the parcel greatly making it difficult to develop the proposed development in the existing footprint. The reduction in the front setback will assist in maintaining the rear setback directly adjacent to an existing residential development. The second deviation is related to density. The applicant is requesting a total of 12 units versus a maximum of 9 within RM-20 zoning. Staff said the existing RM-20 zoning district calculates the density of a parcel based on the parcel size (also known as net density) multiplied by the density of the zoning district (20 units to the acre) which would equal 9 units (0.47 acres x 20 units/acre = 9 units). All planned developments within the City of Pompano Beach calculate residential density using gross acreage, which is the total parcel area and ½ of any public right-of-way that is adjacent to the property. Based on that calculation, the net acreage (parcel size) of the site is 0.72 making the allowable density 17 units to the acre (0.72 x 17 units/acre = 12 units). The third deviation is for the pool location. The applicant requesting the pool be located within the front setback. The request to move the pool is based on the rear yard not having sufficient space to provide the pool area and the necessary landscaping for the adjacent parcel. Also, the pool location would not impact the existing neighbors and provide for more air and circulation as it is located on the southeast corner of the site. The fourth deviation is the 5- Acre Minimum. The applicant is requesting approval by City Commission for the reduction in size. The RPUD request is based on large area of site (2,426 square feet) dedicated for right-of-way purposes.

The proposed development as currently proposed is consistent with the City's Comprehensive Plan. The proposed RPUD district has a higher number of units than the existing RM-20 zoning district (12 units proposed in the RPUD versus 9 in the RM-20), however, density is calculated using gross density in the RPUD district so the actual units per acre in the proposed RPUD is 17 units to the acre. The requested Deviations will reduce the front setback from 25 feet to 20 feet due to the large right-of-way dedication required by the plat and the intent of the development to maximize the setbacks and landscape areas to the west of the property. In addition, the request to relocate the pool area to the front (east) of the property will reduce noise impact from adjacent neighbors and also help to maintain a landscape buffer to the west property line. The density requested is in keeping with the adjacent residential areas. And although below the 5-acre minimum size requirement, the proposed development is in keeping with the PD requirements within the City's Chapter 155 - Zoning Code.

Given the information provided to the Board, as the finder of fact, staff provides the following recommendation and alternative motions, which may be revise or modified at the Board's discretion.

#### Alternative Motion I

Recommend approval of the modification of the RPUD rezoning request as the Board finds that rezoning application is consistent with the aforementioned pertinent Future Land Use goals, objectives, and policies and the purpose of the Residential Planned Unit Development (RPUD) district purpose.

#### Alternative Motion II

Table this application for additional information as request by the Board

**Alternative Motion III**

Recommend denial as the Board finds that the request is not consistent with the goals, objectives, and policies of the Comprehensive Plan.

Staff Recommends Alternative Motion I.

Staff finds that there is sufficient information to support this rezoning request. The applicant has worked with City staff to provide the necessary information to show that the rezoning meets the intent of the Future Land Use goals, objectives, and policies, the purpose of the Planned Development and the RPUD district purposes.

Fred Stacer asked if there are any questions for staff.

Ms. Tobi Aycock asked if condition number 8 is requesting a 34' building, and not a 35' building as stated in the staff report.

Mr. Hickey said that is correct. Ms. Aycock also asked whether superior building design is required. Mr. Hickey replied that superior design is one of the criteria they look at and the design proposed is provided in the back up. It is enhancing the surrounding properties.

Ms. Carla Coleman asked how far the pool is from the street.

Mr. Hickey said 22 feet but he would like the engineers to answer.

Ms. Coleman asked if the pool will be in the setback.

Mr. Hickey said correct, it is within the setback.

Ms. Kovac asked what type of screening will surround the pool since the pool will be in the front.

Mr. Hickey said the applicant is proposing a metal fence, but he would like to give that question to the applicant.

Mr. Stacer asked Mr. Saunders to confirm they do not need to acknowledge anything about the 5 acre minimum (assuming it passes).

Mr. Saunders said that is correct, and advised that their recommendation is about consistency with the comprehensive plan.

Mr. Stacer said a statement was made that the RM-45/HR had a 105' height restriction, but he wanted to confirm the HR does not have a height restriction. He said he wanted it on the record. He also said that Mr. Hickey said 12 units per acre but he thinks what he meant to say was that it is 12 units total.

Mr. Hickey said yes, that is correct. The request is for 12 units on the property and with RPUD it would be a 17 unit per acre that the applicant is requesting.

Mr. Scott Reale said that he wants to clarify that the subject property is the smaller west parcel, not the existing high rise at Sabbia Beach.

Ms. Paola West (10152 Indiantown Rd. Unit 159 Jupiter, FL, 33478) introduced herself and the team. She said that she does have a presentation that she would like to present. She said that they recently named the project Ocean 723. She said in addition to what Scott said, this is a rezoning for the property West of N Ocean Blvd. They were originally under one tax folio but recently it was separated. It is the property where the sale center is located. It is about 20,300 or so square feet. She showed the location of the dedication. She said that the overall development was

approved with the tower to the east with three units with the allowable density. They pointed out that the building meets 34' but will not build anything over what the RPUD allows. They are asking for 12 units maximum where 9 units are allowed by code today, utilized the gross densities rather than the net which is less than the maximum.

The proposed development meets RM-20 minimum regulations except for four. In the land use map there is a minimum and a maximum and they are only asking for 12 units, where the maximum is 17. They are also requesting a deviation for the front setback from 25' to a 20' setback. They are also asking to place the pool in the front rather than the rear and that the 5 acre minimum be waived. The development and platting for the high-rise development to the east (Sabbia Beach, Parcel "A"), included the subject property lost about 2,459 sq. ft.—a significant amount of land— for-right-of-way purposes for both North Ocean Boulevard and NE 7th Place. Land use density is calculated utilizing areas to the centerline of adjacent roadway. A total of 14 dwelling units are permitted in the LM Land Use, utilizing the minimum gross land use density calculation (20 dwelling units per acre) and a total of 17 dwelling units are permitted in the LM Land Use utilizing the maximum gross land use density calculation (25 dwelling units per acre). The RPUD will only be providing 3 additional units from what is allowed by right in the RM-20 zoning district today (for a total of 12), utilizing the net zoning density calculation.

The project allowed by right would look like every other project in the area. The proposed project not only provides a superior architectural design of the building, but also goes above and beyond landscape minimums as well as provides for the maximum buffering and screening of the project's parking areas. The purpose for needing this deviation is due to the 8-degree angle of the rear and front property lines. This angle discourages a building to be located close to any of property line, especially if there are buffer or perimeter landscaping requirements. The angle further forces the building to be shifted toward the center of the lot to maintain the setback requirements. Because the Applicant wants to respect the neighbor to the rear (Oceanside Apartments) and provide the required buffers and green space, this deviation is necessary. Locating the pool to the rear would make this area noisy for the adjacent neighbors and accessing it would prove challenging since the parking garage is located on the first and second levels of the building. There is about 20-25 feet between the angled rear property line and the proposed building, which becomes narrower as the property line moves closer to the building at an angle, to the 10-foot setback minimum. This does not provide enough room for the pool. The sun in the afternoon is too hot to use the pool or deck without proper ventilation. The proposed location takes advantage of the breeze coming in from the southeast to offset the heat. The pool would be in the shadow during most of the morning and mid-day hours if it is located on the west side (rear), rendering it practically useless as an amenity.

Code section 155.3603(A), Note 1 states 5-acre minimum "May be waived by the City Commission on finding that creative site planning is necessary to address a physical development constraint, protect sensitive natural areas, or promote a community goal when more conventional development would result in more difficult or undesirable development." The site lost about 2,426 sq. ft.—a significant amount of land— for-right-of-way purposes for both North Ocean Boulevard and NE 7th Place. The remaining site area of 20,341 sq. ft. leaves little land to build a multi-family project, which is what the site is zoned for. On the east side of North Ocean Boulevard, the development pattern is high-density residential (mostly high-rises). On the west side of the subject property, west of North Ocean Boulevard, is medium density residential zone with many low-density housing developments. The site proposes a superiorly-designed multi-family residential development, which acts as a transition between the lower density development pattern to the west and the high-density development pattern to the east. The site does not require 5 acres to offer this transition to the neighborhood or superior level of design.

Mr. Stacer asked the board if they have any questions for staff. There were none. He said he wanted to clear up one thing that was said. Someone mentioned that in the original master plan across the street, there were three units scheduled for this side of the road. It did not say that they were removing units off of this property to increase their density across the street.

Ms. West said no. What they meant to say was that the east development was built with three units less.

Mr. Stacer mentioned that the rendering does not show all of the shade trees. It shows more of the buildings and the palm trees

Ms. West said she would like to defer that question to the landscape architect. She also said that she would like to mention that a community meeting was held. There were issues concerning beach access, the Breaker's parking, and they made mention that there would be an agreement with the church to the north for the construction parking. They do not foresee the need to request parking other than for construction. There were no objections.

Mr. Gustavo Carbonell, architect on behalf of the developer, (1457 NE 4 Ave, Fort Lauderdale, FL) stated he would like to clarify the front building setback reduction. The pool is located in a deep pocket in the front yard, and very few parts of the building have a 20' setback, primarily the elevator tower. The property is an angled site. The building has a lot of offsets, different parapet height, every unit has two balconies, one off the living and one off the bedroom and color scheme; therefore, they feel that this is a superior design including the landscaping that is proposed. There is approximately 40' from the edge of the sidewalk to the edge of the pool. The fencing proposed is a picket fence so that it meets the child fence requirement and it will have a hedge in front of that as well for privacy, along with the aesthetics beside the street trees.

Mr. Stacer asked Mr. Carbonell if it is accurate to say that the rendering shows the palm trees instead of Buttonwood trees, thus it will actually look fuller than the renderings.

Mr. Carbonell said that is correct. The street trees that will be in that area beside the sidewalk of the property will meet the City's Landscape codes. They have a second layer of trees between the pool and the state road, plus the hedge material. If they showed all of that, it would be difficult to see the building.

Mr. Stacer asked if there is anyone from the public present that would like to speak on this item.

Mr. Richard Schwartz (812 N Ocean Blvd Pompano Beach, FL) said that this is a warm up for the future meeting with a much larger planned development at 900 N. Ocean Boulevard. He asked if 12 units will be built and not 17 units.

Mr. Stacer said yes.

Mr. Schwartz said Sabbia is much taller than 35'. He asked how many parking spaces will be on the property.

Ms. West said 22 parking spaces.

Mr. Schwartz asked if there is something closer to this new building that they will have access to for the residents to get on the beach.

Justin Ralso (723 N. Ocean Blvd. Pompano Beach, FL) said on the North side of Sabbia Beach is a secured access way which leads past the pool deck and that the people of Sabbia would not be happy with the people across the street walking past them every time they want to go to the beach. The Southside is a dog run which cannot be accessed by the beach. He said they are currently speaking to the Admiralty Towers requesting for them to sell 12 memberships to use the public beach access which is the south end of their property. It is a good chance that this will be the beach access.

Ms. West said the closest beach access point is either on NE 10 Street or south of 5<sup>th</sup> Court.

Mr. Schwartz said that there is a public easement where anyone can come across the North parking lot. Short of the agreement with Admiralty towers, he stated there will be more people walking onto our North Parking lot.

Mr. Stacer said a public access is a public access.

Mr. Schwartz asked if the City wants to remove the center lane of North Ocean Blvd.

Mr. Stacer said he is not aware of any of this. He said that it is a state road.

Mr. Schwartz said he is concerned with the emergency exit. He asked how we will get off of the barrier island in the case of an emergency with all of the new developments.

Mr. Stacer said that the City has to meet those requirements per the county and cannot exceed that without requesting it. With the amount of the entitlements around the beach based on the land use plan, we cannot exceed that without asking the county but by design we have met those requirements.

Mr. Reale said this is merely a rezoning and not a land use plan amendment.

Mr. Saunders suggested that Mr. Schwartz should contact Development Services for further details to keep the board on task with the request at hand.

Mr. Schwartz said he just wanted to voice his concerns in the case of an emergency.

Mr. Stacer closed the public hearing.

Mr. Stacer said the plans show the green buttonwoods as being 16' in height with 8' spreads and when you come around the building it is Silver Buttonwoods with 12' in height and with a 4' spread. They have a project north of this and that the sizes of the trees were disappointing. He said he would like to see those other trees at a 16' and an 8' spread at the time of the site plan.

Mr. Mike Phillips (301 E. Atlantic Blvd. Pompano Beach) said that there are smaller trees because they have overhead power and that is the best choice. They did not try use bigger trees because they do not have the ability to.

Mr. Stacer asked if there is a possibility from the staff stand point, to have larger than 4' spreads with a building this size. He would like to see more of a buffer on the first floor before the site plan.

Mr. Phillips said they can work with staff to add more height there.

Mr. Stacer said it is very attractive and he is obviously going to support it.

Ms. Joan Kovac said that she would like the applicant to remember that the undergrounding of the utilities is underway and coming and will give us a break for bigger trees and it will affect that property.

**MOTION** was made by Carla Coleman and seconded by Joan Kovac that the Board finds that competent, substantial evidence has been presented for Rezoning PZ #20-13000007 that satisfies the review standards for the application and the Board recommend approval of the application with no conditions. All voted in favor.

## **G. OTHER BUSINESS**

### 1. REPORTS BY STAFF

### 2. BOARD MEMBERS DISCUSSION

Ms. Kovac stated the Fishing Village is up and running and stated it was wonderful to see the number of visitors coming.

Mr. Miller thanked Darlene Smith for her service on the Board. He mentioned they are grateful for what she has done for the City and she will be missed. He stated maybe in the future she will be back again.