

## Legislation Text

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**File #:** LN-149, **Version:** 2

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### PLANNING AND ZONING BOARD

Meeting Date: AUGUST 25, 2021

### 900 N OCEAN AIR PARK OBSTRUCTION PERMIT

**Request:** Air Park Obstruction Permit  
**P&Z#** 21-12400001  
**Owner:** Beach Villa 900 Ocean Blvd Condominium, Inc.  
**Project Location:** 900 N Ocean Blvd.  
**Folio Number:** Multiple Folios  
**Land Use Designation:** H (High 25-46 DU / AC)  
**Zoning District:** RM 20 (Multiple - Family Residences 20)  
**Commission District:** 1  
**Agent:** Andrea Harper (954-788-3400)  
**Project Planner:** Pamela Stanton (pamela.stanton@copbfl.com /954-786-5561)

### Summary:

The following is a brief summary of information on the proposed development and surrounding properties. The applicant is requesting Air Park Obstruction Permit (APOP) approval in order to construct a new 22-story mixed-use building with a maximum height of 243 feet Above Mean Sea Level (AMSL) which is approximately 230 feet Above Ground Level (AGL).

In conjunction with this APOP, the applicant has received Major Site Plan approval from this Board and is seeking Rezoning approval from the City Commission, in order to construct a mixed-use tower building with podium, with associated parking and landscaping areas on the subject property.

The application for this APOP was reviewed by Kimley-Horn, the City's Airpark consultant, as well as the Florida Department of Transportation (FDOT). Those comments have been included in this report's backup. The FAA has determined that the structure would not be a hazard to air navigation, and included three conditions in their report. Those conditions are included in this staff report and will be incorporated into the Development Order if and when issued.

### About the Air Park Obstruction Permit (APOP):

It is the purpose of the Air Park Overlay (APO) district to recognize an area adjacent to the runways of the Pompano Beach Air Park in which obstructions and incompatible land uses may pose a hazard to safe air park

operations and to apply regulations that prevent such obstructions and limit such incompatible uses. When a proposed structure height is 75% or more of the allowable Air Park Zone height limit, City staff and the City's Airpark consultant (Kimley-Horn) determine that the proposed structure is required to obtain approval of the APOP. If a structure is proposed within the Fort Lauderdale Executive (FXE) Airport airspace within Pompano Beach and is 75% or more of the allowable Airport Zone height limit for FXE, the applicant will be required to obtain a finding of no obstruction or an obstruction permit from the FXE Airport Manager, or the appropriate City of Fort Lauderdale designee, prior to issuance of a development order from the City of Pompano Beach.

In order to submit the APOP application, an application must include the FAA's determination letter verifying that a proposed structure is not an Air Park hazard. Furthermore, the APOP application with the FAA's determination shall be reviewed by the City's Airpark consultant and the FDOT prior to placement for the Planning and Zoning Board meeting. A final decision of the APOP application is made by this Board.

Please note that the APOP application must provide a structure height in two ways, Above Mean Sea Level (AMSL) and Above Ground Level (AGL). Height limits for each runway protection zone in the Air Park Overlay District are regulated based on Above Mean Sea Level (AMSL). Therefore the Federal Aviation Administration (FAA) requires the applicant to provide a structure height in Above Mean Sea Level (AMSL). A structure height in Above Ground Level (AGL) is also provided to determine difference between AMSL and AGL for the subject property and to identify a tangible height of a structure.

### AIR PARK OBSTRUCTION REVIEW STANDARDS

The Planning and Zoning Board may approve an Air Park Obstruction only on a finding that there is competent substantial evidence in the record that the issuance of the development order for Air Park Obstruction would not allow for the establishment or creation of an airport hazard based on the following criteria:

1. Comments received from the Florida Department of Transportation regarding the technical consistency with F.S. 333.025, as amended.

*Comments from FDOT were received on 7/8/2021. Comments are included in the backup material for this item. No significant comments were issued by FDOT regarding the Air Park Obstruction.*

2. The safety of persons on the ground and in the air.

*The FAA has determined that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities.*

3. The safe and efficient use of navigable airspace and any other aeronautical impacts.

*Both FDOT and the City's Airpark Consultant, Kimley-Horn, have reviewed the Air Park Obstruction application. FDOT has indicated that the application is technically consistent with section 333.025(4), Florida Statutes. The FAA has determined that the proposed structure would not have a substantial adverse effect upon the safe and efficient utilization of the navigable airspace by aircraft or on any*

*navigation facility and would not be a hazard to air navigation.*

4. The nature of the terrain and height of existing structures.

*The nature of the terrain in and around the project site is essentially flat. The project site is surrounded by existing residential buildings*

5. Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the Federal Aviation Administration.

*The FAA has determined that a proposed height of the building at 243 feet AMSL will not be a hazard to air navigation. As stated by the FAA, "The aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed structures."*

6. The cumulative effects on navigable airspace of all existing structures and all other known proposed structures in the area.

*As mentioned above, the FAA found that no hazard was presented by the proposed structure and in #5 above the FAA specifically cites that the FAA studied the cumulative impact resulting from the proposed structure when combined with the impacts of other existing or proposed structures.*

7. The development order for Air Park Obstruction, if issued, would not permit a nonconforming obstruction to become a greater hazard to air navigation than it was when the applicable airport protection Zoning regulation was adopted which allowed the establishment or creation of the obstruction, or than it is when the application for a permit is made.

*The proposed building will not be a non-conforming structure upon approval of the Rezoning application for the site, nor would granting the development order for an Air Park Obstruction Permit increase any existing non-conformity.*

8. Approval of a permit is not to be based solely on the determination by the Federal Aviation Administration that the proposed structure is not an airport hazard.

*Both FDOT and the City's Airpark Consultant, Kimley-Horn, have reviewed the Air Park Obstruction application and have not determined this to be a concern. As part of the Air Park Obstruction Permit process, the City's Airpark Consultant, Kimley-Horn reviewed the application as well as the Florida Department of Transportation (FDOT) for their review and comment.*

9. The following impacts to the Pompano Air Park:

- i. The potential to destroy or impair the utility of the Pompano Air Park and the public investment therein.
- ii. The character of existing and planned flight operations and developments at the Pompano Air

Park.

- iii. The effect of the obstruction on the state licensing standards for a public-use airport contained in chapter 330 and rules adopted thereunder.
- iv. The effect of the construction or alteration of the proposed obstruction on the minimum descent altitude or the decision height at the Pompano Air Park.

*The proposed building height of 243 feet AMSL is not anticipated to substantially impact or destroy the utility of the Pompano Air Park. As stated in the City's Airpark Consultant, Kimley-Horn, the FAA will need to change Runway 10's take-off minimums and (obstacle) departure procedures from the current 300 - 1 + 1 / 4 or Standard with minimum climb of 261 feet per NM to 300 to a proposed 300 - 1 + 1 / 4 or Standard with minimum climb of 301 feet per NM to 400. This may limit the types of aircraft which can use Runway 10 for departures during inclement weather. Kimley-Horn discussed this matter with the Airpark Manager. While the FAA Determined these changes to not adversely affect air navigation, both Kimley-Horn and the Airpark Manager concurred that if an existing aircraft could not perform the new departures stipulated by the FAA during inclement weather, the pilot would either delay their travel until the weather event passed or request to depart from one of PMP's other runways.*

10. The marking and lighting is in conformance with the specific standards established by the FAA.

*The City's Airpark Consultant, Kimley-Horn, has found that the development is lighted in accordance with FAA Advisory Circular 70/7460-1 M, Obstruction Marking and Lighting, red lights-Chapters 4,5(Red), & 15 as noted in the Determination Letter for Airstudies 2021-ASO-293-OE, 2021-ASO-294-OE, 2021-ASO-295-OE, 2021-ASO-296,-OE, 2021-ASO-298-OE, and 2021-ASO-299-OE.*

#### **Staff Conditions:**

The Development Services Department recommends approval of the Air Park Obstruction subject to the following comments and conditions:

1. Construction must commence prior to the expiration date of the FAA Determination, or any subsequent extension that may be granted.
2. If construction cranes are anticipated that exceed the maximum allowable height stated in the FAA determination letter, these temporary structures shall be submitted to the Federal Aviation Administration (FAA) and a Determination of No Hazard received.
3. FAA Form 7460-2, Notice of Actual Construction of Alteration, is required to be e-filed any time the project is abandoned or within 5 days after the construction reaches its greatest height (7460-2, Part2).
4. The Federal Communications Commission (FCC) is the licensing authority for the construction and an application for a construction permit must be filed within 6 months of the date of the FAA determination letter. The approval expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.
5. Revise the site elevations and/or building heights to match the proposed elevations, as described in

greater detail in the letter from the City's Airpark Consultant's recommendation #1 of the APOP review report dated August 4, 2021.