

STAFF REPORT 19-645
Kimberly Plat
098-MP-86

A request to amend the note on the plat has been filed with the Planning and Development Management Division. This plat was approved by the Board on November 18, 1986, for a 260 hotel room addition on 22.7 acres. The property is located on the north side of Southeast 17 Street Causeway (SR A-1-A), adjacent to the Intracoastal Waterway, in the City of Fort Lauderdale. The plat was recorded on February 2, 1987 (Plat Book 130, Page 1).

This plat has received numerous extensions to satisfy the findings of adequacy pursuant to Executive Orders in accordance with Florida Statute 252.363. In accordance with Section 5-181(o) of Broward County's Land Development Code, the current expiration date of the Findings of Adequacy is January 20, 2024. This request would extend the expiration date to 5 years from the Board approval.

At the time of platting, a binding letter was issued by the Florida Department of Community Affairs documenting that 256 hotel rooms, a 123 wet slip marina, 22,600 square feet of retail development and 40,000 square feet of restaurant existed on the site. The current note, which was approved by the Board on March 25, 2008 (Instrument No. 108167188), restricts the plat as follows:

This plat is restricted to a **512 room hotel (380 rooms existing and 132 proposed)**, a 123 wet slip marina (existing), **42 high-rise units, 52,400 gross square feet of commercial use (47,400 square feet existing and 5,000 square feet proposed)**, and **20,000 gross square feet of office use**. Commercial/retail uses are not permitted within the office use without the approval of the Board of County Commissioners who shall review and address these uses for increased impacts. Free standing banks or banks with drive-thru facilities are not permitted without the approval of the Board of County Commissioners who shall review and address these uses for increased impacts.

The 42 high-rise units shall be restricted to:

- Mixed-use buildings in which the residential floor area does not exceed 50% of the total floor area of the building; and/or
- Mixed-use buildings with the first floor limited to commercial development; and/or
- **Free standing multi-family residential uses provided that the gross residential acreage does not exceed 10 acres within areas designated as Urban Infill, Urban Redevelopment or Downtown Revitalization Areas or 40% of the total gross acreage of the commercial/residential development.**

On September 27, 2016, the Broward County Commission approved a subsequent plat note amendment. However, the plat note amendment agreement was never recorded and therefore the approval expired.

The existing hotel contains 380 hotel rooms, the additional 132 rooms approved by the prior note were never built. The applicant is requesting to amend the note to eliminate 228 existing hotel rooms; for a total of 152 existing rooms, and add 195 rooms; increase

the number of wet slips in the marina by 4 for a total of 127 wet slips; add 34 high-rise units for a total of 76 units; add 39 garden apartments and 12 townhomes where none were previously approved; decrease the commercial use by 24,400 square feet for a total of 28,000 square feet; and decrease the office use by 4,000 square feet for a total of 16,000 square feet.

The proposed Note Amendment reads as follows:

This Plat is restricted to **347 hotel rooms (152 rooms existing and 195 proposed), 127 wet slip marina, 76 high rise units, 39 garden apartments, 12 townhomes, 16,000 square feet of office use, and 28,000 square feet of commercial use (11,000 square feet existing and 17,000 square feet proposed).**

All residential units shall be restricted to:

- Mixed-use buildings in which the residential floor area does not exceed 50% of the total floor area of the building; and/or
- Mixed-use buildings with the first floor limited to commercial development; and/or
- **Free standing multi-family buildings wherein the residential acreage does not exceed 10 acres or 40% of the total acreage of the development site, whichever is greater.**

The proposed residential units are subject to the allocation of “flexibility units,” granted by the City of Fort Lauderdale. Therefore, Broward County Planning Council is requiring a restrictive note be placed on the face of the plat restricting all residential units to comply with certain requirements for consistency with the uses, the densities and the intensities of the Land Use Plan. Broward County Planning Council’s letter (Exhibit 3), explains the requirements further.

The applicant is advised that, in accordance with Ordinance 2013-30, effective October 4, 2013, high-rise units are defined as nine (9) or more attached dwelling units in a building with nine (9) or more residential stories (exclusive of parking levels). Additionally, as the proposed single-family dwelling units are attached, the City of Fort Lauderdale has determined the proposed development is in compliance with their Comprehensive Plan, as they classify the units as a multi-family building.

This request was evaluated by the Reviewing Agencies.

Land Use

The attached memorandum from the Broward County Planning Council indicates that the effective Land Use Plan designates the area covered by this plat for the uses permitted in the “Commercial” land use category and that this request is in compliance with the permitted uses of the effective Land Use Plan. Planning Council staff notes that they have received written documentation that the City of Fort Lauderdale allocated 127 “flexibility units” to the plat on May 15, 2019.

It is further noted that the allocation of “flexibility units” for this plat is not subject to Policy 2.10.1 of the Broward County Land Use Plan, as the subject parcel is not located within 500 feet of a Broward County or regional park, or an Environmentally Sensitive Land, as defined by the Broward County Comprehensive Plan, and is not located adjacent to another municipality.

Concurrency Review

This plat with the amended note satisfies the regional park concurrency requirement of Section 5-182(i) and the solid waste disposal concurrency requirement of Section 5-182(h) of the Land Development Code. In addition, this request represents a decrease of 215 PM peak hour trips. The plat is located within the Eastern Core Concurrency Management District and meets the regional transportation concurrency standards specified in Section 5-182(a)(5)a) of the Broward County Land Development Code.

Impact Fees

Road impact fees were satisfied for 380 hotel rooms, a 123 wet slip marina and 47,400 square feet of commercial use. Transportation concurrency fees will be due for 4 wet slip marina, 76 high-rise units, 39 garden apartments, 12 townhomes, and 16,000 square feet of office use. The residential units are further subject to school and park impact fees and administrative fees for parks. Park impact and administrative fees were paid for 42 high-rise units. Therefore, all residential units are subject to school impact fees, and the additional 85 units proposed by this request are also subject to park impact and administrative fees, which will be assessed and paid in accordance with the fee schedule specified in the ordinance during the review of construction plans submitted for County environmental review approval.

Demolition credit applied towards the assessment of transportation concurrency fees may only be utilized for development which satisfies the above conditions. If a demolition permit for existing structures is issued more than eighteen (18) months prior to the date of development and environmental review of constructions plan, impact fees shall be assessed in accordance with the current fee schedule which may be amended every October 1, unless otherwise waived or exempted, and paid on the date of building permit issuance.

Regional park impact and administrative fees are subject to an annual adjustment on October 1. The applicant is further advised that, in cases where a building floor may have both commercial and office uses on it, the entire floor will be assessed for commercial use.

Reviewing Agency Comments

The attached letter from the City of Fort Lauderdale, dated November 8, 2019, indicates no objection to this request.

Staff from the Highway Construction and Engineering Division and the Transit Division has reviewed this request and has no objection to the modification of the plat note as requested as no modification to the existing as access has been submitted.

The Environmental Planning and Community Resilience Division has reviewed this request and at this time, this site is not included in the Protected Natural Lands Inventory and is not adjacent to a site in the inventory. The Environmental Review Report, coordinated by the Planning and Development Management Division, is attached.

The attached letter from the School Board indicates that the site plan was reviewed consistent with the plat application and determined to preliminarily meet public school concurrency. The project proposes 39 (three or more bedroom) garden apartment units, 12 (three or more bedroom) townhouse, and 76 high-rise units, which generates 22 (11 elementary, 5 middle and 6 high school) students. The Final School Capacity Availability Determination is attached.

The attached pre-application letter from the Florida Department of Transportation (FDOT) indicates approval of the proposed modifications of the site are subject to the conditions and comments contained therein. The applicant is advised to contact Roger Lemieux, FDOT Permits Coordinator, at 954-777-4372 or Roger.Lemieux@dot.state.fl.us.

The Aviation Department has advised that this property is within 20,000 feet of Fort Lauderdale-Hollywood International Airport. Any proposed construction on this property or use of cranes or other high-lift equipment must be reviewed to determine if Federal Aviation Regulation Part 77, Florida Statutes, Chapter 333 and/or the Broward County Airport Zoning Ordinance apply. Based on the location of the proposed project, the FAA may need to review to determine whether the project is a potential hazard to aviation. To initiate the Federal Aviation Review, access the FAA Web Page at: <http://oeaaa.faa.gov/oeaaa/external/portal.jsp>.

In addition to the above findings, Aviation Department staff have no objection to the request subject to the conditions contained in the attached memorandum.

Broward County's consulting archaeologist has reviewed this request and, based on available information including archival documents, maps, the Broward County Land Use Plan and the Florida Master Site File (FMSF), that the proposed project will not have an adverse effect on any known historical or archaeological resources or areas of archaeological or paleontological sensitivity.

The consulting archaeologist also notes that this plat is located within the City of Fort Lauderdale, which is outside the jurisdictional boundaries of Broward County Historic Preservation Ordinance 2014-32. Accordingly, the archaeologist suggests that the property owner/agent contact Trisha Logan, Planner III Historic Preservation Board Liaison, at 954-828-7101 to seek project review for compliance with municipal historic preservation regulations. In the event any unmarked human burial remains are discovered, pursuant to Florida Statute Chapter 872.05, all activity that may disturb the unmarked burial shall cease immediately, and the district medical examiner shall be notified. Such activity shall not resume unless specifically authorized by the district medical examiner or State Archaeologist. The Broward County medical examiner can be notified at either 954-357-5200 or med_exam_trauma@broward.org.

Staff recommends **APPROVAL** of this request, provided the applicant:

- 1) Records a document acceptable to the County Attorney's Office to amend the note on the face of the plat prior to **March 31, 2021**.

The amended note must also include language stating the following:

- A) Any structure within this plat must comply with Section 2.1.f., Development Review requirements of the Broward County Land Use Plan regarding hazards to air navigation.
- B) If a building permit for a principal building (excluding dry models, sales and construction offices) first inspection approval are not issued by **March 31, 2025**, then the County's finding of adequacy shall expire and no additional building permits shall be issued until such time as Broward County shall make a subsequent finding that the application satisfies the adequacy requirements set forth within the Broward County Land Development Code. The owner of the property or the agent of the owner shall be responsible for providing evidence to Broward County from the appropriate governmental entity, documenting compliance with this requirement within the above referenced time frame; and/or
- C) If construction of project water lines, sewer lines, drainage, and the rock base for internal roads have not been substantially completed by **March 31, 2025**, then the County's finding of adequacy shall expire and no additional building permits shall be issued until such time as Broward County shall make a subsequent finding that the application satisfies the adequacy requirements set forth within the Broward County Land Development Code. The owner of the property or the agent of the owner shall be responsible for providing evidence to Broward County from the appropriate governmental entity, documenting compliance with this requirement within the above referenced time frame.

In addition, staff recommends that the Board authorize the Mayor to sign an order approving this agenda item subject to staff findings, comments and recommendations.

The applicant is advised that, in accordance with Section 125.022, Florida Statutes, the issuance of a development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.