

**PLANNING AND ZONING BOARD  
CITY OF FORT LAUDERDALE  
CITY HALL – CITY COMMISSION CHAMBERS  
100 NORTH ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA  
WEDNESDAY, MARCH 16, 2016 – 6:30 P.M.**

**Cumulative**

<b>Board Members</b>	<b>Attendance</b>	<b>June 2015-May 2016</b>	
		<b>Present</b>	<b>Absent</b>
Patrick McTigue, Chair	P	10	0
Leo Hansen, Vice Chair	P	8	2
Theron Clark	P	6	1
Stephanie Desir-Jean	P	9	1
Steven Glassman	P	9	1
Rochelle Golub (dep. 8:01)	P	9	1
Richard Heidelberg	P	7	3
Catherine Maus (dep. 8:02)	P	8	2
James McCulla	P	8	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  
Eric Engmann, Urban Design & Planning  
Anthony Fajardo, Chief Zoning Administrator  
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

**Communications to the City Commission**

None.

**I. CALL TO ORDER / PLEDGE OF ALLEGIANCE**

Chair McTigue called the meeting to order at 6:30 p.m. and all recited the Pledge of Allegiance. The Chair introduced the Board members, and Urban Design and Planning Manager Ella Parker introduced the Staff members present. Assistant City Attorney D'Wayne Spence explained the quasi-judicial process used by the Board.

Chair McTigue advised that Applicants and their agents are allowed 15 minutes for presentations; representatives of associations and groups are allowed five minutes, and individuals are allowed three minutes.

## II. APPROVAL OF MINUTES

**Motion** made by Ms. Desir-Jean, seconded by Ms. Maus, to approve. In a voice vote, the **motion** passed unanimously.

## III. AGENDA ITEMS

### Index

<u>Case Number</u>	<u>Applicant</u>
1. 7P13**	PDKN P-4 LLC / Bokamper's Sports Bar and Grill
2. ZR15007** *	WB Divine Investments LLC / Benedetti Medical Office Building

### **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 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.

1. <b><u>Applicant / Project:</u></b>	PDKN P-4 LLC / Bokamper's Sports Bar and Grill
<b>Request: **</b>	Right-of-Way Vacation / 20 x 35 foot portion of alley
<b>Case Number:</b>	7P13
<b>General Location:</b>	3212 NE 32 Street
<b>Legal Description:</b>	A portion of the 20 foot wide alley in Block 2, "Galt Ocean Mile", according to the plat thereof, recorded in Plat Book 34, Page 16 of the Public Records of Broward County, Florida, lying north of Lot 4 and south of Lot 11, and of said Block 2, bounded on the east by a line between the southeast corner of said Lot 11 and the northeast corner of said Lot 4, and bounded on the west by a line between the southwest corner of said Lot 11 and the northwest corner of said Lot 4.
<b>Case Planner:</b>	Eric Engmann
<b>Commission District:</b>	1

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

Courtney Crush, representing the Applicant, explained that the request is for a partial alley vacation. The Applicant, Bokamper's Sports Bar and Grill, first came before the Board for approval in December 2012. Two conditions of final Site Plan approval at that time were a land swap between the City and the Applicant as well as the proposed alley vacation.

Ms. Crush showed an aerial view of the site, noting that a portion labeled as an access easement is a former alley, which was vacated when a fire station was demolished. The request would vacate a 700 sq. ft. portion of the property to extend it for construction of a parking lot on the parcel. The City will then construct a new fire station on a vacant lot to the north.

As part of the Application, a proposed condition of the vacation would be an access easement through the final parking lot for any user of the alley who wishes to continue traveling west. Criteria for vacation of an alley include recognition the right-of-way is no longer necessary for public purposes, and that alternate routes are provided. Ms. Crush pointed out that at present, the alley is a dead end located behind a vacant building. The Application would extend the alley and improve vehicular travel of that portion of the block.

Mr. Glassman noted that a letter from AT&T in the backup materials states that the utility objects to vacation of the alley. Ms. Crush advised that City Code criteria require all utilities to be relocated and/or provided with easements; AT&T has indicated that there is an existing pole that may remain in place with an easement. In addition, due to existing City gravity lines to carry wastewater, the City proposes that the Applicant provide an easement back to the City for utility purposes when the land swap occurs.

Mr. Heidelberger asked if the existing office building would be demolished. Ms. Crush clarified that the property owner is considering possible uses for this property and has no plans to demolish it at this time.

Chair McTigue disclosed that he is a member of the City's Fire Bond Committee.

Eric Engmann, representing Urban Design and Planning, stated that the request would vacate a 20x35 ft. portion of an alley. The request is predicated upon a proposed land swap between a group representing the owners of Bokamper's Sports Bar and Grill and the City. The alley abuts property owned by the Applicant and the City, and would be divided with half the alleyway going to each party if vacated.

Mr. Engmann noted that Staff Conditions 1 and 2 should be struck from the Item and replaced with a revised Condition, which is as follows: The City shall reserve and retain an access and utility easement over the right-of-way area that is to be vacated. Condition 3 will not be changed.

Mr. Engmann concluded that Staff has received a letter from a neighbor of the property, which did not raise any concerns with the proposed alley vacation. Staff recommends approval of the Application.

There being no other questions from the Board at this time, Chair McTigue opened the public hearing. As there were no individuals wishing to speak on this Item, the Chair closed the public hearing and brought the discussion back to the Board.

**Motion** made by Ms. Maus, seconded by Vice Chair Hansen, to approve with Staff Conditions. In a roll call vote, the **motion** passed 9-0.

2. **Applicant / Project:** WB Divine Investments LLC / Benedetti Medical Office Building
- Request: \*\* \*** Site Plan Level IV, Parking Reduction, Rezone the northern portion of the site from Residential Mid Rise Multifamily /Medium High Density District (RMM-25) to Exclusive Use Parking Lot (X-P) with Flex Allocation of Commercial to allow for a proposed parking lot associated with the new medical use.
- Case Number:** ZR15007
- General Location:** 3025 E Commercial Boulevard
- Legal Description:** Lots 5, 6, 7, 8 and 31, Block 4, Coral Ridge Commercial Boulevard Addition, according to the plat thereof, as recorded in Plat Book 43, Page 13, of the public records of Broward County, Florida.
- Case Planner:** Eric Engmann

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

Lawrence Martineau, representing the Applicant, stated that the subject property includes a building that was vacated in 2007 and gutted in 2009. The Applicant hopes to renovate the existing space for an orthodontic practice, with another dental or medical practice in the adjacent tenant space. The property also includes a small lot across from an alleyway. The lot is currently zoned RMM-25.

The existing building previously provided 12,000 sq. ft. of restaurant use. The proposed building is 7935 sq. ft. of medical office use, with a smaller footprint planned for the site. Medical office use requires one parking space for every 150 sq. ft., which means 53 parking spaces would be required. The Applicant has determined that the design of the facility would allow 26 parking spaces on the site. A traffic study has been done in order to request a parking reduction and use the public parking provided in a right-of-way on Commercial Boulevard.

Staff Conditions for the Application include rezoning the back lot to XP in order to allow the parcel to continue to be a surface parking lot, as well as landscaping and sanitation requirements and neighborhood compatibility. The Applicant is seeking approval for Site Plan Level IV. The proposed use is allowable under CB zoning.

The Applicant has also received preliminary approval from the Florida Department of Transportation (FDOT) to relocate driveway access into the parking lot adjacent to the building. The Site Plan will include two Americans with Disabilities Act (ADA)-accessible parking spaces and five regular parking spaces, which, in addition to the 19 spaces in

the back parking lot, will total 26 parking spaces. The total reduction requested is 27 spaces.

While no tenant has been found thus far for the adjacent space, it will be classified as Medical Office Use, as this is a more restrictive use for parking requirements. Mr. Martineau clarified that the existing building is a two-story structure with exterior stairs and a raised portion to accommodate vaulted ceilings.

Vice Chair Hansen requested clarification of the dimensions of the original building's kitchen and serving area. Mr. Martineau replied that this is difficult to determine, as the original building was gutted; however, he estimated that kitchen space came to approximately 7000 sq. ft. The building's hours of operation will be from 8 a.m. to 5:30 p.m. through the week and 9 a.m. to 1 p.m. on Saturdays.

Mr. Engmann of Urban Design and Planning stated that the Application requests Site Plan approval, rezoning of the northern portion from RMM-25 to XP with commercial flex allocation, and a parking reduction. The Application seeks to construct a new medical use on the property. The proposed 7932 sq. ft. medical building is zoned CB. The northern half of the site is zoned RMM-25 and contains a nonconforming parking lot. Public parking in front of this strip of Commercial Boulevard is partially owned by FDOT and partially owned by the City.

When the existing building is replaced, the site must conform to current Code. The Applicant proposes parking spaces in front and renovation of the space in back, with the same amount of commercial parking spaces as previously provided. When renovation is complete, parking of commercial vehicles may not park in the RMM-25 zoned parcel, which is the purpose for rezoning this parcel to XP.

Mr. Engmann noted that the City's Department of Transportation and Mobility has analyzed the Applicant's information, which shows three parking lots located within 700 ft. of the subject property. This is considered sufficient at all times to handle the proposed use. The Applicant has addressed all criteria for the request and has completed the public participation process as documented in the Staff Report. Staff recommends approval of the Application.

Mr. Glassman requested additional information on the City's comfort level with the proposed parking reduction. Mr. Engmann replied that of the 53 spaces required, 26 will be provided off-site. In the three parking areas available, there would never be fewer than 73 spaces.

Mr. Glassman noted that no individuals had attended the public participation meeting, and asked if Staff had heard from any neighbors in the nearby residential area. Mr. Engmann referred to an email from a nearby neighborhood association representing this area, which did not take issue with the proposal. He continued that Staff received some calls from individual residents in this area, who expressed concern with access

from the subject site onto 51<sup>st</sup> Street; however, there is no such access, and the Applicant plans to improve the property with hedges and landscaping to reduce light spillover.

He advised that he has received one email from a property owner in the general vicinity of the Application, who expressed opposition to the parking reduction. Both Mr. Engmann and Ms. Parker spoke to the individual who sent the letter to discuss the approval process. The letter is included in the record.

Mr. McCulla asked how individuals are expected to access the back parking lot if there is no access to and from 51<sup>st</sup> Street. Mr. Engmann replied that there is an alley between the north and south lots, as well as a two-way connection through the Commercial Boulevard side of the property.

Mr. McCulla requested clarification of the zoning of the adjacent parking lots. Mr. Engmann replied that these are zoned RMM-25, and are legal nonconforming uses. He also noted that the 26 spaces in the back parking lot are on private property and are not intended for use by the general public.

Mr. Martineau explained that it is the Applicant's intent for the back parking lot to be used exclusively by employees of their building during office hours; however, the Applicant would not object to public use of this lot during off-hours.

Ms. Golub asked if it would be necessary to access the back parking lot through the alley. Mr. Martineau replied that cars can go through the subject site to reach the back lot. The alley will remain open and drivers may cut through the parking lot to reach other parking.

Ms. Golub pointed out that the 27 spaces to be used to complete the parking requirement may have other daytime uses. Mr. Martineau advised that the parking study was done when nearby restaurants were open for lunch.

Mr. Martineau continued that the orthodontist's office will have 12 to 14 employees, and reiterated that these employees will use the back parking lot. The anticipated adjacent tenant would also have its staff use this back lot.

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

Adam Zucker, owner of Zuckerello's Restaurant, stated that employees of a nearby 12-story building, as well as employees of two other nearby restaurants, park in front of his restaurant in the public spaces. He asserted that the buildings do not have sufficient parking, and advised that he has 42 employees at multiple restaurants who typically park some distance away.

Mr. McCulla requested information on parking during lunch hours. Mr. Zucker replied that at times his patrons have difficulty finding parking spaces at lunch. He added that his restaurants open for dinner at 4 p.m., when the proposed facility will be open.

Mr. Zucker continued that he would like written consent from the Applicant for his customers to use the back parking lot after office hours have ended. Mr. Martineau stated that after redevelopment, the back lot in question will be available for public parking after hours.

Mr. McCulla asked if making the parking lot open to the public after 5:30 p.m. could be made a condition of rezoning the lot to XP. Attorney Spence replied that any condition imposed by the Board must help the Applicant meet one of its required criteria. He felt the request for a parking reduction may serve as the appropriate criterion in this case.

Ms. Golub asked for further clarification of how parking will be handled in the subject area during lunch, as Mr. Zucker had alleged a lack of parking. Mr. Engmann reviewed the analysis, pointing out that during lunch hours, approximately 46 of 85 spaces are taken, which leaves more than the 27 spaces needed by the proposed office for off-site parking. Parking peaks at 6 p.m., when parking difficulty occurs for restaurants; however, the subject facility will be closed by this time, providing additional spaces.

Mr. Martineau noted that the facility will not schedule appointments after 5 p.m. and will close the office doors at 5:30 p.m. All of the office's staff will not be present at that time. He concluded that the Applicant is willing to enter into a written agreement, if necessary, to allow other businesses to use their parking lot after hours.

Mr. Heidelberger commented that there may be additional issues, such as liability, if another business entity is allowed to use space owned and maintained by the Applicant. He advised that he would recommend a legal agreement in this case. Mr. Martineau stated that there must be a cross-access agreement to address liability and other concerns.

Attorney Spence explained that Code Section 47-20.3.A.6, which addresses parking reductions, states that conditions may be required on parking facilities if they are necessary to preserve the character and integrity of the neighborhood affected by the proposed reduction, and to mitigate any adverse impacts that may arise in connection with approval of a parking reduction. Based on the testimony given, he suggested the Board may impose a condition recognizing the impact of a parking reduction, and which keeps the subject parking lot open to the public in order to address the neighbor's concerns.

He continued that the Board would not be able to enforce any type of private agreement between the Applicant and Zuckerello's Restaurant; however, the parking reduction could be revoked if the Applicant fails to meet this condition.

Patricia McDonnell, private citizen, stated that her office is located in the same center as Zuckerello's. She pointed out that the area includes another vacant two-story office building, as well as an office building occupied by attorneys on its ground floor. She characterized parking in the area as very difficult, pointing out the number of restaurants in the area.

Bruce Wolczanski, private citizen, stated that he lives to the north of the property. While he did not take issue with the building renovation or parking reduction, he expressed concern with traffic that is likely to cut through a lot to the west, which has 31 spaces. It was clarified that this lot is owned by a separate entity.

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

**Motion** made by Mr. McCulla, seconded by Mr. Clark, to move all three items for approval, adding the condition to the parking reduction that the owner must leave the rezoned parking area open to the public when they are not open for business. In a roll call vote, the **motion** passed 8-1 (Ms. Golub dissenting).

#### **IV. COMMUNICATION TO THE CITY COMMISSION**

None.

#### **V. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE**

Chief Zoning Examiner Anthony Fajardo recalled that new rezoning criteria were presented to the Board some months ago. This Item has since changed from what was originally recommended by the Board. It has gone before the City Commission for a first reading, after which the Commission requested additional changes. A second reading with these further amendments was planned for March 15, 2016. The City Commission has deferred the Item's second reading until April 19 so they may hear feedback from the Planning and Zoning Board and the Council of Fort Lauderdale Civic Associations.

Mr. Fajardo distributed copies of the rezoning criteria, including a brief summary of changes made. He noted that the Board originally sent a communication to the City Commission to address rezoning criterion #2 by either eliminating this element or making it optional. The City Commission, however, expressed concern with removal of language referring to the character of neighborhoods.

He continued that language was added, including a list of permitted and conditional uses for the proposed zoning district that are similar in density and intensity to these uses for adjacent zoning districts, based upon the development pattern of the subject area. The proposed zoning district must also provide a suitable transition between itself and the neighboring zoning districts. This was later amended to require a suitable



transition within 500 ft. The proposed zoning district must also be consistent with the established development pattern of the area.

At the March 15 City Commission meeting, there was opposition to the proposed distance, with varying alternatives proposed. The Commission ultimately directed Staff to come back to the Planning and Zoning Board to seek additional input on this issue before it is brought before the City for an official second reading.

Mr. McCulla asked if the City Commission understood that this issue was raised because many rezoning requests did not adequately address criterion #2. Mr. Fajardo replied that the Commission was provided with all applicable backup materials, and that this issue was discussed in Staff's presentation. The Council of Fort Lauderdale Civic Associations also gave Staff feedback and raised concerns on this issue. Ultimately, however, the Commission determined that removing the word "character" was not how they wished to proceed.

Vice Chair Hansen advised that the term "suitable transition" should not be accompanied by a particular number or distance, but should be left open to interpretation. Mr. McCulla pointed out that there is nothing in the current language that recommends a transition, and stated that the criteria should be left alone.

Mr. Clark asked how the criteria would be interpreted if the subject area is undeveloped or blighted. Mr. Fajardo replied that the intent is to establish rezoning that is consistent with an existing pattern of development while allowing different uses and intensities. He offered the example of placing a CB zoning district beside a B-1 district, pointing out that a B-1 district allows a broader variety of uses at a similar height to the CB district.

Ms. Golub asked if the impact of transition would not be considered if it were more than 500 ft. away, pointing out that only those neighbors within 300 ft. of a property are required to be sent notice. She agreed with Mr. McCulla that defining the issue is more important than assigning a specific distance, advising that establishing a distance would limit the impact and effectiveness of the proposed Ordinance.

Mr. Fajardo noted that there had also been discussion of 1000 ft. as the appropriate distance. He added that there was also discussion of natural barriers, such as rivers, canals, or major rights-of-way. Ms. Golub suggested that neighborhood compatibility may be more important than consistency within plans.

Mr. Glassman observed that the City Commission had seemed to feel the Board's recommendation was not sufficiently specific. He recalled that there had been discussion of the scale of a project in relation to the size of a parcel. Mr. Fajardo explained that there was a proposal that 500 ft. may be sufficient distance for a small site, while the distance for larger sites could be established in relation to the longest length of the site. He advised that Staff has not yet determined a rational formula to determine these distances.

Mr. Glassman commented that he was more in favor of the City Commission's approach to the rezoning criteria than of the recommendation submitted to them by the Board. He requested clarification of the intent in removing language referring to the character of an area. Mr. Fajardo replied that Staff sought to meet the intent of the Board's recommendation by removing this statement and having sub-areas A, B, and C clearly address intent through development pattern and suitable uses. Mr. Glassman concluded that he would like to see Staff flesh out the issue of scale.

Ms. Maus stated that the intent of the proposed Statute is not helped by imposing an arbitrary number upon it to constitute suitable transition. She pointed out that the number would not take very tall buildings or large development parcels into account.

Ms. Golub asked if the change would apply to Innovative Design (ID) zoning. Attorney Spence clarified that the change would apply to ID zoning in addition to the other criteria that make up this zoning district. Mr. Fajardo observed that while ID zoning does apply the standard criteria for rezoning, there are additional criteria that must be met. Attorney Spence added that the ID process establishes criteria for a new zoning district, rezones a parcel to that new district, and approves a Site Plan that will serve as zoning Code for the new district.

Ms. Desir-Jean asked if the City Commission's issue appeared to be with assignment of a specific number or the idea of a sliding scale. Mr. Fajardo replied that the City Commission hoped the Board would give them greater guidance on its thoughts.

Ms. Golub left the meeting at 8:01 p.m.

Ms. Maus left the meeting at 8:02 p.m.

Ms. Desir-Jean asked if there has been consideration of adding "and/or" to the proposal in an attempt to develop a sliding scale. Mr. Fajardo noted that Staff did not feel "and/or" would be the best way to fulfill the Board's intent. He recalled that the Board had not felt it was appropriate to make the language dealing with the character of an area optional, but had been more in favor of eliminating this language altogether.

Mr. Fajardo concluded that there did not seem to be consensus among the Board members, as some members were in favor of establishing a specific distance, while others felt this would be an arbitrary figure.

Vice Chair Hansen proposed that the Board agree on eliminating the 500 ft. distance while allowing for the establishment of a sliding scale. Mr. McCulla did not agree with this suggestion. Ms. Desir-Jean advised that the Board should have additional time to consider this issue, and noted that the full Board was no longer present to provide consensus.

Mr. Fajardo also recalled that a Neighborhood Development Criteria Revision (NDCR) project was undertaken in 2007 by the Council of Fort Lauderdale Civic Associations. This large project deals with development impacts on the character of existing neighborhoods, and addresses the mass and scale of buildings, site layout, driveways, and maintenance of single-family residential neighborhoods.

The City's consultant developed a presentation that was brought before the Board some time ago. Because there was little agreement between neighborhoods and developers on many of its issues, the project was placed on hold. Since that time, Staff has been directed to proceed with simple changes that can have a large impact on existing Code, such as building façades, driveways, entrances, landscaping, and public rights-of-way that help maintain a residential feel in existing neighborhoods.

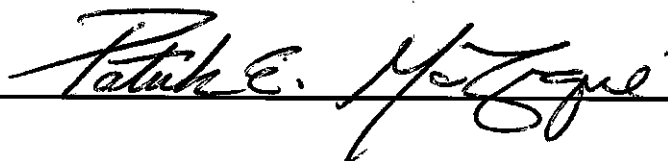
Mr. Fajardo distributed a notice that was sent to the Council of Fort Lauderdale Civic Associations as well as to members of the development community. He explained that the goal is for Staff to bring this issue before the City Commission prior to its August 2016 break, which means it should be presented to the Planning and Zoning Board by May. While there is nothing for the Board to review at this time, language will be sent to the Council and the development community as it is created and will be presented to the Board at its May meeting. Information will also be updated on the City's website.

## VI. ADJOURNMENT

There being no further business to come before the Board at this time, the meeting was adjourned at 8:11 p.m.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.

Chair



Prototype

