

APPROVED

**TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD
MEETING MINUTES**

*Jarvis Hall - 4505 Ocean Drive
Wednesday, October 17, 2018*

1. CALL TO ORDER

Chair Lanata called the Planning and Zoning (P&Z) Board meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at 6:13 PM.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

ROLL CALL

Members present were John Lanata, William Ferrante, Jeffrey Whyte, Bernard Petreccia, Alan Bluestein, 1st Alternate Howard Goldberg and 2nd Alternate Emeline Savidge. There were no absent members. Also present were Assistant Town Attorney Kathy Mehaffey, Development Services Director Linda Connors, Planner Jhanelle Campbell and Clerk Kaliah Lewis.

3. APPROVAL OF MINUTES

a. Previous Meeting Minutes – October 3, 2018

Mr. Petreccia made a motion to approve the minutes of October 3, 2018 with the spelling corrections for Howard Goldberg and Emeline Savidge. The motion was seconded by Mr. Ferrante. The motion carried unanimously 5-0.

Chair Lanata informed the board as to why he would be stepping down/reclusing himself and he would not vote for the two agenda items under new business and 1st Alternate Howard Goldberg also explained why he was stepping down/reclusing himself and he would not vote for the two agenda items under new business. The two agenda items would be chaired by Vice Chair William Ferrante and 2nd Alternate Emeline Savidge would vote on these items. Vice Chair Ferrante explained the procedure for hearing the agenda items and after asking for public comments, he turned the meeting over to Development Services Director Linda Connors to present new business.

4. PUBLIC COMMENTS

There were no requests for general public comments not specific to the agenda items at this time.

5. NEW BUSINESS

a. 2018-CU-01-Marina By-The-Sea, LLC's Site Plan Amendment and Conditional Use Application for a Marina Mooring Area in the B-1 Zoning District.

b. 2018-L2-SPM-02- Marina By-The-Sea Site Plan Review – 226-230 Basin Drive.

Development Services Director Linda Connors gave a PowerPoint presentation stating what tonight's agenda items are about. The proposed request for a conditional use application for the marina included but not limited to a marina mooring area and alternate navigational channel,

approve by conditional use the marina use, and also a site plan amendment. The project is related to the docks and does not affect the landward side of the property or the structures. It is located in a B-1 commercial district and it covers 226 and 230 Basin Drive.

The marina mooring area establishes a larger mooring area than a standard mooring area allowed by code. The applicant is also requesting site plan approval for the marina and upland property. This proposal includes six new finger piers which have been designed to meet code requirements and pilings located within the proposed marina mooring area, to establish 14 boat slips (the same number as exist now) and an ADA accessible restroom. The property is located in the Silver Shores Yacht Basin. Over the years, work was done without permit to expand the size of the marina to include finger piers and piles that were beyond the code allowed navigation area. In 2015, the Town Commission's consensus was to move forward to add marina to use allowed in the B-1 commercial district and to continue to allow marina regulation usage. In 2016, after several attempts, the marina was added to the uses allowed in a B-1 district as a conditional use. This conditional use decision was because of the impacts a marina could have on the immediate neighborhood. The ordinance also established definitions like marina mooring area, and clarified the process for moving through the conditional use process for the marina. Ms. Connors explained that the finger piers, constructed without permit, were in a deplorable condition and a previous owner removed them. This application will bring it one step closer to establishing a marina within the boundaries of the code.

The request is for 22,225 square feet for the marina mooring area which would allow 14 slips for water craft up to 84 feet and provide a navigation channel. The proposed navigational channel would be 35 feet on the west and 40 feet on the east with a turning basin of 60 feet. There would be three large boats at the terminus of the canal and eleven boats ranging in size from 31 feet to 80 feet. The Town hired an international consultant to review this plan for the proposed marina mooring area. Ms. Connors explained that the Town's consultant suggests that the boat basin should have a turning radius of a minimum of 1.3 times the length of the boats that utilize the canal, although 1.5 times the boat length would be optimal. Discussion ensued about the current code regarding common docking area. Since the property is located in a basin, it shares common docking area with its neighbors to the east and west. Section 30-311 of the Town's code requires that property owners with common docking areas must enter into an agreement with the Town regarding the placement of structures or docking a boat in the shared common area. The applicant has submitted a draft agreement with their neighbor to the west (4322 East Tradewinds Drive). Staff is reviewing the agreement to ensure the final agreement will meet code requirements (per code, agreement must be with Town and then recorded with the County). However, they have not yet been able to secure an agreement with the neighbor to the east as the property is for sale. Securing the agreements will be a condition of the development order. If an agreement cannot be reached, the proposed improvements in the common docking area may not be built and slip 14 cannot be developed or used.

The application is in compliance with the Town's Comp Plan. Ms. Connors reported that staff is recommending conditions of approval to ensure that potential adverse impacts to the public health, safety and general welfare are prevented or minimized. These relate to hours of operation, noise, external lighting, maximum number and size of watercraft permitted. In addition, the marina use requirements specified in Section 30-271(m) are included as conditions of approval. They discussed the listed condition recommendations. Ms. Connors explained the 300 foot notice which was given plus they noticed properties along the canal. She introduced the applicant, Ryan Barna.

Mr. Barna introduced himself as the manager of Marina By-The-Sea, 230 Basin Drive, and he explained who else was in attendance tonight for the marina. He gave a PowerPoint presentation regarding the history of the marina and the watercraft that were there over the years. He wanted to demonstrate what size boats the marina operated with in the past. Their proposal on the site plan shows a medium range of 44.5 feet and an average of 49.5 feet. He explained what other marinas use for maneuvering which differed from what the consultant recommended. He addressed how an eighty foot boat would maneuver into the marina. At the end of this presentation, Vice Chair Ferrante called for public comments.

Members of the public were called and Thomas Kasic asked how many slips there are currently in the marina and Mr. Barna answered that there are fourteen. Ms. Mehaffey reminded that this is for public comments and that the speaker must speak into the microphone. Frank Tropepe said that he is both a resident and business owner in Lauderdale-By-The-Sea said that changing from storage to a marina would affect the parking situation in Town. Marina parking would need to accommodate a captain, boat staff, etc. especially for an eighty foot boat. The long-term plan and usage must be looked into. Ed Ellis testified that the Town paid good money for a consultant, and should follow our own consultant's recommendations. He said that there is no mention of sewage (e.g., sewage management plan or sewage pump off). It needs to be demanded during this approval process. He suggests a condition requiring the marina to adopt the consultant's requirements. John Lanata agreed that the Town spent a lot of money for a consultant's report and it does not look like it was followed in any methodical way and talked about the 1.1 length overall ratio for a turning situation as opposed to what is being proposed. He also felt that the other property (4337 Seagrape) would sign the agreement. He agrees about the parking issues and that some sort of sewer system should be accomplished. Howard Goldberg said that he represents Ann Vitale. That property is up for sale and there are offers but other problems. They are working diligently to try to accommodate but in the end, it would be the government's decision. He then spoke about safeguards for the Town and in particular that the environment has to be protected at all costs. There were no other public speakers at this time.

Ross Tannenbaum, who is one of the owners of the marina project, said that they have not made a decision on pump out. He had a productive conversation with Mr. Ellis and told him that they would seriously consider pump out after they are finished with their analysis. He pointed out that the residents up and down that channel have the right to rent out their docks. He explained why he felt that 1.1 is consistent for this market of existing marinas. Alan Bluestein asked (1) is this going to create more traffic and (2) what is the next plan if this gets approved. Mr. Tannenbaum answered that what is being proposed is less water traffic than has been there for the past twenty years and he explained that the new ownership is made up of residents who live in the area. They plan to keep the marina up and they have tenants here to speak, if necessary. He explained how they want the marina to look the best it could look. For the second question, their goal is to work within the code and explained their future plans and the amount of parking in the current code. He then answered about eighty foot boats from a business perspective has the most value because there are a lot of places for smaller boats. He feels that in season, all the slips should be filled up. If there were no other public comments, Vice Chair Ferrante closed the public comments portion for this agenda item and opened up the meeting for board questions/comments.

Jeffrey Whyte wanted to know about liability and insurance overview for workers on a boat, etc. Ms. Connors specified that the Town has specific regulations prohibiting extensive work on boats. The ability for extensive work, e.g., overhaul of a boat, at the marina would not be allowed per code. Just general and simple repairs would be allowed. Mr. Tannenbaum further explained that there were two large boats with a history of non-compliance at the marina and they got rid of

them. Ms. Connors informed Mr. Whyte that liability insurance is outside the scope of the Planning and Zoning Board's review. Bernard Petreccia asked about the properties on the east and the west and the fourteen slips in the marina. Ms. Connors explained about the common docking area and the need to reach an agreement before using it for slip #1 and slip #14. Mr. Tannenbaum understands this situation. Mr. Petreccia wanted to know if the property owner that owns the house on the "southwest" side is okay with all this and Ms. Connors explained that they do not share common docking with the marina. Ms. Connors pointed out the common docking area. There was a question regarding a pump-out facility and Ms. Connors spoke about the condition for Florida Clean Marina Status which among other things, establishes if a marina is environmentally sound. The marina must get and maintain that status for all of the State's regulations. Ms. Connors then spoke about the condition to not allow anyone to stay overnight on a boat at the marina. If the Town changes that condition in the future and allows overnight stays with people living aboard their boat, then it would recommend that they have a number of pump out stations based on the number of liveaboard boats. Right now, there is no option for liveaboards.

As someone from the public wished to speak, without objection Ed Ellis spoke about qualifying for the Florida Clean Marina designation, even if you do not have a pump out system and Ms. Connors agreed with his statement. Jeffrey Whyte asked about regulatory agencies and the Town. Ms. Connors explained why the Army Corp of Engineers was not in the review because it is in a canal and the building permit would dictate what other reviews would be necessary. Vice Chair Ferrante called for a motion. As this is a complicated issue, Ms. Connors gave some suggestions to move forward as there were two applications that were discussed. One is the Conditional Use to establish the marina mooring area and criteria they need to follow and the second is the site plan application. She suggests taking each one separately starting with the conditional use application. Then decide the appropriate marina mooring area based on the proposal with the slip sizes on page 3 of the staff report or look on page 8 of the staff report and talk about the navigational clearance. Ms. Connors reviewed the Town's application process and explained that when the Town uses a consultant, the applicant actually pays for those services. Bernard Petreccia asked the attorney how the motion should be stated. Ms. Kathy Mehaffey explained that the motion should be specific and she gave an example to recommend for approval subject to condition which should be specific as possible (e.g., if the condition is regarding navigation clearance number state that one number like 1.5 or 1.3, etc.). Jeffrey Whyte wanted to know if there is a Town concern regarding the turning radius and boat length and what is the implication. Ms. Connors explained that it is not in the code there isn't any certain rule that you have to follow on this. That is why the Town's consultant report was also presented this evening and the applicant presented his presentation and the history of the marina. The board's decision and recommendation would be based on information you have heard but not on a set rule or standard that the Town has for our code.

Bernard Petreccia wanted to know about maneuvering especially for the eighty foot boats and it was suggested to get clarification from Mr. Tannenbaum's boat captain. Von Smeltzer said that he has been operating boats for 28 years as a living and he answered Mr. Petreccia's question. Mr. Petreccia wanted to know what happens when boats would be across from them and both Von Smeltzer and Ross Tannenbaum explained. Ms. Connors suggested taking the marina mooring area as a first step and breaking it down into pieces. She reminded that the applicant has proposed a marina mooring area of 22,255 square feet with 14 slips (reflecting the size of the boat in each slip) and a proposed navigational channel of 35 feet on the west and 40 feet on the east with a turning basin of 50 feet. She asked the board if they recommend approval of that area or changes to the area based on the size of the boats.

Mr. Whyte made a motion to approve the marina mooring area with 22,225 sq. ft. with the slip allocation as presented. The motion died for a lack of a second.

Vice Chair Ferrante made a motion to approve contingent on the east and west properties approving agreements... but this did not have a second because it dealt with the common docking area which is already a requirement of the code..

Mr. Whyte made a motion to approve the marina mooring area as presented. The motion was seconded by Mr. Petreccia. For Discussion: 2nd Alternate Emeline Savidge voiced her concerns and wanted to give residents more rights. The motion carried by roll call vote 3-2 (Alan Bluestein and 2nd Alternate Emeline Savidge opposed).

Development Services Director Linda Connors spoke about the conditions starting on page 10 of the staff report and if there are any other recommendations the board wants added.

Mr. Petreccia made a motion to approve the conditional use based on staff's recommendations. The motion was seconded by Vice Chair Ferrante. The motion failed by roll call vote 2-3 (Alan Bluestein, Jeffrey Whyte, and 2nd Alternate Emeline Savidge opposed).

Ms. Connors said that the next item is the site plan application for construction of the site. She said that staff reviewed the application and recommends approval. She read into the record the five conditions outlined by staff. She explained that this is based on the construction of the dock, piers, etc. Jeffrey Whyte wanted to know who owns the docks. Ms. Connors gave a brief history starting with the developers digging the canal and up to the present.

Mr. Petreccia made a motion to approve the site plan as per staff's recommendations. The motion was seconded by Vice Chair Ferrante. The motion carried by roll call vote 5-0.

Ms. Connors explained that staff will take the board's recommendations and bring them forward to the Town Commission Meeting on November 13, 2018.

6. OLD BUSINESS

7. UPDATES/BOARD MEMBER COMMENTS

8. ADJOURNMENT

Mr. Whyte made a motion to adjourn at 7:40PM. The motion was seconded by Mr. Petreccia. The motion carried unanimously 5-0.


Vice Chair William Ferrante

ATTEST:

Date Accepted: 11/14/18

Development Services Director Linda Connors



FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Goldberg Howard		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE	
MAILING ADDRESS 1960 Ocean Mist Dr		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☐ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
CITY LBS 33062	COUNTY	NAME OF POLITICAL SUBDIVISION:	
DATE ON WHICH VOTE OCCURRED Oct 19 2018		MY POSITION IS: ☐ ELECTIVE ☐ APPOINTEE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Howard Goldberg, hereby disclose that on Oct 17, 2018:

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by
whom I am retained; or
- ☐ inured to the special gain or loss of _____, which
is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Represent MARMIA by the SEA or share holders
in another transaction in City

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>ANASTASIA A John</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Planning & Zoning Board</i>	
MAILING ADDRESS <i>223 Marine Ct #108</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>FT LAUD</i> COUNTY <i>Broward</i>		☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <i>10/17/18</i>		NAME OF POLITICAL SUBDIVISION:	
		MY POSITION IS: ☐ ELECTIVE ☒ APPOINTEE	

WHO MUST FILE FORM 8B

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For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, John Lanata, hereby disclose that on 10/17, 20 18:

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by
whom I am retained; or
- ☒ inured to the special gain or loss of which I am an abbatr, which
is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

I am an abbatr and have an interest
in the outcome.

10/17/18
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.