



TOWN OF HILLSBORO BEACH

1210 Hillsboro Mile, Hillsboro Beach, Florida 33062

January 11, 2022 | 9:00 AM

BOARD OF ZONING & APPEALS AGENDA

MAYOR DEBORAH L. TARRANT
VICE MAYOR IRENE KIRDAHY
COMMISSIONER VICKY FEAMAN
COMMISSIONER BARBARA BALDASARRE
COMMISSIONER JANE REISER

TOWN MANAGER WILLIAM 'MAC'SERDA, ICMA-CM
TOWN ATTORNEY DONALD J. DOODY, ESQ
TOWN CLERK SHERRY D. HENDERSON, CMC

YOU ARE HEREBY NOTIFIED that a Board of Zoning & Appeals Public Hearing will be held Tuesday, January 11, 2022 at 9:00 a.m. A quorum of the Board be physically present at the meeting. The public can attend in person. However, for health and public safety, the meeting will also utilize communications media technology to allow the public to join via Zoom video conference. LIVE ZOOM Meeting number: 878 4736 1566 Passcode: 951699

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

I. QUASI-JUDICIAL PUBLIC HEARINGS

- A. **QUASI-JUDICIAL PUBLIC HEARING** - Eric Fordin, with the Related Group, authorized agent for Development Project located at 1174-1185 Hillsboro Mile, Hillsboro Beach, FL 33062 Requests a Variance Pursuant to Section 12-283 of the Town's Code to Exceed the Height Limitations in Section 12-142 of the Code. Variance Request for Height up to 130 feet and 10 stories.

Staff: Presented by Jim Hickey, Development Planner (CG&A)

Address: 1174-1185 Hillsboro Mile, Hillsboro Beach, FL 33062

Request: As to Section 12-142(a), a variance to permit 10-story, 130 foot building where 3 stories and 35 feet of height is permitted

All Interested Parties are Sworn in by the Town Attorney

- ☐ Staff Presentation
- ☐ Commission Discussion
- ☐ Public Hearing Opened
- ☐ Public Comments
- ☐ Public Hearing Closed
- ☐ Commission Discussion
- ☐ Commission Motion & Second
- ☐ Commission Vote

- B. **QUASI-JUDICIAL PUBLIC HEARING** - Eric Fordin, with the Related Group, Authorized Agent for Development Project Located at 1174-1185 Hillsboro Mile, Hillsboro Beach, FL 33062 Requests a Variance Pursuant to Section 12-283 of the Town's Code to Exceed the Height Limitations in Section 12-142 of the Code. Variance Request for Use of Roof Beyond the Maximum Height of 130 feet.

Staff: Presented by Jim Hickey, Development Planner (CG&A)

Address: 1174-1185 Hillsboro Mile, Hillsboro Beach, FL 33062

Request: As to Section 12-142(b), a variance from Section 12-142(b) to permit decorative features above the maximum height of the building of 130' so long as such decorative features comprise an area of 10,810 square feet or less and have a maximum height of 145'

All Interested Parties are Sworn in by the Town Attorney

- ☐ Staff Presentation
- ☐ Commission Discussion
- ☐ Public Hearing Opened
- ☐ Public Comments
- ☐ Public Hearing Closed
- ☐ Commission Discussion
- ☐ Commission Motion & Second
- ☐ Commission Vote

II. ADJOURNMENT



1210 Hillsboro Mile
Hillsboro Beach, FL 33062

TOWN OF HILLSBORO BEACH

Phone: (954) 427-4011
Fax: (954) 427-4834

TO: Mayor Tarrant and Town Commission
THROUGH: Mac Serda, Town Manager
FROM: Jim Hickey, Planning Consultant
DATE: January 11, 2022
SUBJECT: Request of a Variance to allow for Additional Height and Number of Stories located at 1174 -1185 Hillsboro Mile.

The Property Owner, Hillsboro Mile Property Owner, LLC and authorized agent, Eric Fordin (Applicant) are requesting approval of a variance from Sec. 12-142A of the Land Development Code (LDC) to allow for an increase in height and number of stories within the Residential Medium (RM-16) zoning district. The agent is also requesting consideration of a variance for the percentage of usage of the rooftop which will be processed through a separate variance request and analysis. The development also requires an application for site plan approval as well as a request to amend the Non-vehicular Access Line (NVAL) per Broward County requirements. The proposed development is currently zoned Residential Medium (RM-16).

Background

The subject property is located at 1174 -1185 Hillsboro Mile and contains two vacant parcels. The current owners purchased the property in December 2020 and are in the process of developing the property. The site includes two separate parcels. Parcel A is 5.4 acres and is located between Hillsboro Mile (A1A) and the Intracoastal Waterway. Parcel B is 6.4 acres and is located on the east side of Hillsboro Mile. Parcel B is identified a Local Area of Particular Concern (LAPC) and includes approximately 1/3 of the parcel. The parcel includes portions of the beach area which cannot be developed. The variance request is for Parcel B only. All buildings proposed on Parcel A will meet the requirements set forth in Sec. 12-142.

There was a previous variance request that was brought to the Zoning Board of Appeals (Board) for its consideration at the December 7, 2021, public meeting. This request was for a proposed building height of 170 feet and 15 stories. That request was denied by the Board. The Applicant resubmitted a revised site plan and variance requests on December 17, 2021, which is requesting a variance for a height of 130 feet and 10 stories which is the requested variance being analyzed within this staff report.

The revised site plan and variance request submitted on December 17, 2021, proposes at total of 130 units, which is 9 additional units from the previous request. Twenty-eight residential units are proposed for Parcel A (west of Hillsboro Mile) within a 3-story structure including underground parking with a maximum height of 35 feet. There are up to 102 multi-family condominium-style units proposed for Parcel B on the east side of Hillsboro Mile. These units would be constructed within a 10-story, 130-foot tower with two underground stories for garage and storage and a rooftop level with private amenities. This request is 40 feet and 5 stories less than the previous submittal. The maximum height within the RM-16 zoning district is 35 feet and 3 stories and the

request would be 95 feet higher the maximum height in the zoning district and just over 3x the maximum number of stories allowed within the Town's Land Development Code (LDC).

As proposed, the proposed 130-foot, 10-story building within Parcel B of the development does not comply with the height requirements set forth within the RM-16 district as provided below:

Sec. 12-142. - Height regulations.

- (A) For property on the east side of SR A1A, no building or structure shall be erected or altered to a height exceeding 35 feet and shall not exceed 3 stories above the dune elevation. For property on the west side of SR A1A, no building or structure shall be erected or altered to a height exceeding 35 feet and shall not exceed 3 stories above the roadway crown elevation of SR A1A adjacent to the property.

The Applicant resubmitted the required site plan information along with an application for a variance from Sec. 12-142(A). The proposed site plan cannot be approved by the Town Commission without first consideration and approval of this requested variance. In addition, a second variance would need to be approved to allow for decorative structures and mechanical equipment to be an additional 15 feet above the proposed 130-foot building height to a maximum of 145 feet if this variance for height is considered and approved. There is a separate variance request which must be considered and approved in addition to this zoning request.

Analysis

Per Section 12-283, the Board of Zoning Appeals (Board) has the powers and should be its duty to grant variances from the Code. The Applicant is requesting relief through the criteria set forth in 12-283(C)(2) Instances of Hardship, which is as follows:

- (2) Instances of hardship. Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this chapter relating to the use, construction or alterations of buildings or structures, or the use of land will impose upon him or her unusual and practical difficulties or particular hardship, such variances of land will impose upon him or her unusual and practical difficulties or particular hardship, such variances of the strict application of the terms of this chapter as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of the variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this chapter, and at the same time, the surrounding property will be properly protected.

Below are excerpts from the Code-required criteria listed above with consultant planner's analysis of how the proposed development relates to the criteria shown in italics below.

"...the use of land will impose upon him or her unusual and practical difficulties or particular hardship..."

The Applicant has stated the property is identified as a Local Area of Particular Concern and contains a conservation easement which was executed in 1992. Based on the Applicant's

backup, the conservation area is 2.88 acres or 47 percent of the property. Therefore, the use of this property is hindered by the conservation area. It should be noted that 0.78 acres is located east of the Eastern Building Line and includes area which could not contain any vertical structures. Therefore, approximately 2.1 acres or 33% of the developable parcel is impacted by the conservation easement. Therefore, the conservation area reduces the overall footprint of the building creating some practical difficulties to develop the site.

“....such variances of the strict application of the terms of this chapter as are in harmony with its general purpose and intent,...”

The Applicant has stated the application is consistent with the general intent of the Town Code. Strict application would not allow the Applicant to maximize the intensity of development onsite due to one-third of the development site being conservation area. The request for additional height is in conflict with sections within the Town Code.

There are locations within the Land Development Code where the RM-16 district is identified and further described, “(with 3-Story maximum limit)” They include: Sec. 12-100, Sec. 12-102, Article VI, and further defined within Sec 12-142.

“...but only when the Board is satisfied that a granting of the variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this chapter, and at the same time, the surrounding property will be properly protected.

The Applicant has stated that they can only utilize two-thirds of the existing site due to the conservation area. This parcel is also unique in the Town as it is the only parcel with a large conservation area along the entire eastern portion of the property and does create an unusual hardship.

The Town’s Comprehensive Plan specifically identifies LAPC’s as provided below:

Policy 7.3.6 Preserve environmentally sensitive lands (Local Areas of Particular Concern) and use the land development regulation procedures for protection and preservation which involve notification and protection of private property owner rights.

Recommendation

The parcel contains a large conservation area which makes this site unique and does present unusual and practical difficulties and a particular hardship a hardship in maximizing the development of this site. The Applicant’s request for additional height will assist in providing sufficient use of the land, however, the proposed development would increase the height by 95 feet and increase the number of stories more than 3 times beyond the allowable height of 3 stories.

Should the Board of Zoning Appeals consider and approve the variance request, the consultant planner recommends the following conditions of approval:

1. Proposed site plan shall be no higher than the height and number of stories approved by the Board;

2. Applicant must receive approval by Broward County for any alteration and improvement of the LAPC and conservation area;
3. Should the proposed site plan associated with this variance request not be approved, submittal of a revised variance application, the Applicant will be required to resubmit a revised variance request and must be reconsidered by the Board along with site plan approval;
4. Variance shall be in effect so long as the site plan remains active and does not expire. Once the site plan expires, the variance approval shall also expire; and
5. Applicant shall work with the Town Attorney to draft a beach access easement agreement outlying the use of this easement by the Town prior to issuance of a building permit for vertical construction.

Applicant's Recommended Conditions of Approval

The Applicant has suggested the following condition of approval should the Board approve the variance application:

- A. The time limitation for completion of construction of the 10 story building on Parcel B, shall be as follows: the owner shall submit a building permit application to the Town within 1 year of approval of these variances and complete construction of the building on Parcel B within 5 years of receipt of a building permit for the 10 story building.

Attachments:

Development Application including Applicant's backup

**1174-1185 Hillsboro Mile
Hillsboro Beach, FL 33062
Land Development - VARIANCE**



TOWN OF HILLSBORO BEACH
1210 HILLSBORO MILE, HILLSBORO BEACH, FL 33062
PHONE (954) 427-4011 • FAX (954) 427-4834
www.townofhillsborobeach.com

RE: 1174-1185 Hillsboro Mile
Land Development
Variance Request

RECEIVED

NOV 10 2021

[Signature]

DEVELOPMENT APPLICATION

Submittal Date: _____

Zoning Board Meeting Date: _____

Property Control # _____

Town Commission Meeting Date: _____

PROPERTY OWNER(S)		AUTHORIZED AGENT	
NAME:	Hillsboro Mile Property Owner LLC	NAME:	Eric Fordin
ADDRESS:	315 S. Biscayne Boulevard Miami, FL 33131	ADDRESS:	315 S. Biscayne Boulevard Miami, FL 33131
PHONE:	954-418-8033	CELL:	786-402-0807
PHONE:	954-418-8033	CELL:	786-402-0807
E-MAIL	efordin@relatedgroup.com	E-MAIL	efordin@relatedgroup.com
FAX:		FAX:	

APPLICANT'S CERTIFICATION

(I) Eric Fordin (owner), (architect) or (authorized agent) affirm and certify that I understand and will comply with all provisions and regulations of the Town of Hillsboro Beach Florida. I certify that all drawings and specifications for buildings or structures costing \$5,000 or over for commercial buildings or \$10,000 for residential building must be drawn or verified by a state registered architect or engineer and his seal of office imprinted thereon. Additionally, I certify that the drawings that the drawings and specifications show full compliance and do fully comply with the Zoning Code. I understand that if any drawings or specifications are not in full compliance, the application will be rejected. If approved by the Town, the aforementioned real property described herein will be considered, in every respect, to be a part of the Town of Hillsboro Beach and will be subjected to all applicable laws, regulations, taxes and police powers of the Town including the Comprehensive Plan and Zoning Code. I further certify that all statements and diagrams submitted herewith are true and accurate to the best of my knowledge and belief. Further, I understand that this Application and attachments become part of the Official Records of the Town of Hillsboro Beach, Florida, and are not returnable.

[Signature]
Signature

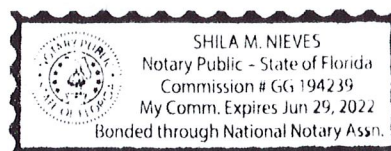
Eric Fordin

Print Name

STATE OF FLORIDA, COUNTY OF BROWARD

The foregoing instrument was acknowledged before me on this 5 day of November 20 21, by ERIC FORDIN as authorized agent for Hillsboro Mile Property Owner, LLC
Personally know ☒ or has produced identification _____. Type of Identification _____

[Signature]
Notary Signature
Shila M. Nieves
Print Notary Name



CHECK BELOW WHERE APPLICABLE

FINAL PLAT - \$1,000.00		REZONING - \$3,500.00
LAND USE PLAN AMENDMENT - \$3,500.00		SITE PLAN REVIEW - \$2,000.00
PRELIMINARY PLAT - \$1,000.00	X	VARIANCE - \$1,050.00

Hillsboro Beach Town Code Sec. 12.1.3d provides for the collection of service charges or fees, consultant review fees, etc. for the administrative processing and review of applications for development permits submitted to the Town for review and approval. The owner, architect or other authorized agents are urged to attend the Zoning Board of Appeals and Town Commission meetings. Each applicant must familiarize himself with the criteria and procedures. If all required information is not presented with this application by the submittal date, the project will not be placed on the agenda for review and consideration. PLEASE NOTE: THE FEES LISTED ABOVE ARE ADMINISTRATIVE FEES ONLY. YOU WILL BE BILLED BY THE TOWN OF HILLSBORO BEACH FOR ANY AND ALL ADDITIONAL EXPENSES WHICH WILL BE INCURRED BY THE TOWN THROUGH THE SERVICES OF THE TOWN ENGINEER/PLANNER, LEGAL ADVERTISING, REBUTTALS, CONSULTATION AS WELL AS POSTAGE FOR MAILINGS AND COURIER SERVICES RELATED TO YOUR PROJECT.

Items Required for Submittal: Must be submitted **30 days prior** to the Town Commission Meeting date.

1. This application and all applicable fees
2. Narrative letter describing the request
3. Letters from each adjoining property owners (with approvals, if possible) – Variance Application only
4. Approval letter from the Association and minutes (when applicable)
5. Agent's authorization letter (when applicable)
6. 1 electronic copy and 2 signed and sealed – Plans are to be standard architectural size
7. 1 set of plans for the City of Deerfield Fire Inspector / Plans Examiner (when applicable)

Code References: (All sections are available for viewing and printing on the website)

- Chapter 12 – Division 1. General Provisions
- Chapter 12 – Division 2. Development Review Requirements
- Chapter 12 – Division 3. Platting and Subdivision Regulations
- Chapter 12 – Division 4. Site Plan Procedures & Requirements
- Chapter 12 – Division 5. Zoning

GENERAL DATA

Project Location: 1174-1185 Hillsboro Mile District: _____

Proposed Zoning: RM-16 (same as existing)

Existing Comprehensive Plan Designation: Residential Medium 16 Units per acre

Proposed Comprehensive Plan Designation: No change

Existing Land Use: Vacant

Proposed Land Use: Residential

Total Site Area: _____ Sq. Ft. 11.768 Acres

Flood Zone Category: Various (see survey)

Is site currently serviced by public water? Yes ☒ No ☐

Is site currently serviced by public sewer? Yes ☒ No ☐

Describe briefly the nature of any improvements presently located on the subject property. Vacant

Describe the type of operation or business proposed; or the proposed construction. Residential

Estimated construction cost: \$333,000,000.00

Describe in detail the phasing of the proposed development. 1 Phase

State the reasons or basis for the Approval request, and explain why this request is consistent with good planning and zoning practice, will not be contrary to the Town's Comprehensive Plan, and will not be detrimental to the promotion of public appearance, comfort, convenience, general welfare, good order, health, morals, prosperity, and safety of the Town. Additionally, all standards set forth in the Town Code of Ordinances must be addressed. (Attach a separate Justification Statement if insufficient space.)

See attached Appeal Submitted Pursuant to Section 12-283 of the Town Code.

Has any previous Application been filed within the last year in connection with the subject property?

Yes ☒ No ☐ If yes, briefly describe the nature of the Application. _____

Site Plan Application and Plat Note Amendment Letter of No Objection filed July 29, 2021.

Has a site plan been previously approved by the Town Commission for this property?

Yes ☐ No ☒ If yes, please note date of previous approval. _____

- (A) Every general contractor or other person being issued a building permit, shall deposit with the Town Clerk a bond in the amount of \$500 per each \$100,000 with a minimum of \$1,000 for any complete new building or an addition to existing building. The bond shall be in the form of a cashier's check.
- (B) By the deposit of the funds the contractor authorizes the Town of Hillsboro Beach, through its proper officials, to expend all or any portion of the bond to effect cleanup, during and after construction, if not satisfactorily performed by the contractor or person. Subsequent to the satisfactory cleanup of the vicinity of the construction, unused funds in whole or in part will be refunded to the contractor or person.
- (C) (1) It shall be the duty of the general contractor or other person receiving the permit to see that the premises and adjoining public areas shall be policed at all times during and after construction to prevent debris from being discarded on adjoining properties.
- (2) The DRO or the DRO's designate shall certify in writing to the Town Commission his or her determination and recommendation. The building plans and specifications shall be approved by the Town Commission prior to the issuance of a building permit. (1976 Code, CH. 12, Div. 5, Art. XV § 9)

memo

TO: Terri Lusk – Inframark
FROM: Sherry D. Henderson, Town Clerk
Date: November 16, 2021
RE: **PAYMENT – Variance Request (Land Development)**



Hello Terri,

Please note the attached check as payment for Development Application – **Variance Request** for 1174-1185 Hillsboro Mile Land Development Project.

Check #1060 is for \$1,050.00

DATE:11/04/2021 CK#:1060 TOTAL:\$1,050.00*** BANK:BOTO #4183(201565oa)
PAYEE:Town of Hillsboro Beach(v0012291) MEMO: Variance Application Fee

Property Address - Code	Invoice - Date	Description	Amount
Hillsboro Mile Property Owner LLC	20211104 - 11/04/2021	Variance Application Fee	1,050.00
			1,050.00

CHECK IS VOID IF ANY OF THE FOLLOWING SECURITY FEATURES ARE ABSENT: ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER

Hillsboro Mile Property Owner LLC

2850 Tigertail Ave
Suite 800
Miami, FL 33133

Bank of the Ozarks
17901 Chenal Pkwy
Little Rock, AR 72223

082907273

1060

**** ONE THOUSAND FIFTY AND 00/100 DOLLARS

TO THE
ORDER OF

11/04/2021

\$1,050.00***

Town of Hillsboro Beach
210 N University Drive Ste 702
Coral Springs, FL 33071

Non Negotiable after 90 Days

MEMO: Variance Application Fee

RUB RED IMAGE - DISAPPEARS WITH HEAT.

SEE BACK FOR TRUE WATERMARK

Holland & Knight

515 E. Las Olas Boulevard, Suite 1200 | Ft. Lauderdale, FL 33301 | T 954.525.1000 | F 954.463.2030
Holland & Knight LLP | www.hklaw.com

Debbie M. Orshefsky
(954) 468-7871
debbie.orshefsky@hklaw.com

December 17, 2021

VIA EMAIL:mserda@townofhillsborobeach.com

William "Mac" Serda, Town Manager
Town of Hillsboro Beach
1210 Hillsboro Mile
Hillsboro Beach, FL 33062

Re: Revised Variance Request and Revised Site Plan Approval

Dear Mr. Serda:

On December 7th, the Town Commission sitting as the Board of Zoning Appeals considered my clients' request for 2 variances related to the proposed height of the development planned for the property located at 1174-1185 Hillsboro Mile. Although members of the Board expressed concerns with the requested height of 15 stories/175 feet, there appeared to be a general consensus that 10 stories may be supported. We appreciate the Board providing us with a continuance to allow my clients to revise their plans consistent with Board comments.

We are hereby submitting our revised request for approval of the following variance:

- (i) to permit a 10 story/130 foot high residential development where 3 stories and 35' of height is permitted.

Enclosed is "Appeal of Hillsboro Property Owner, LLC ("Owner") Submitted Pursuant to Section 12-283 of the Code of Ordinances of The Town of Hillsboro Beach ("Code") Regarding Variance from Section 12-142 of the Code Revised December 17, 2021" which describes the technical aspects of the requested variance and the Owner's justification for this request. Pursuant to Section 12-286 of the Town Code, the Board of Zoning Appeals may set an expiration date for approved variances. We respectfully request that the expiration date for the variance be the same as that provided for site plan approval pursuant to Section 12-48(G) of the Town Code¹.

¹ (G) *Effective period of final site plan approval.* A final site plan shall be effective until the development is completed except that: if, after the expiration of 1 year from the date

In addition, the Site Plan for the proposed development has been revised to be consistent with the requested variance for the East Parcel, and to incorporate 3 story/35 ' high condominium units on the West Parcel; no variances are requested for the West Parcel development. The site plan now proposes up to 102 residential units on the East Parcel and 28 residential units on the West Parcel.

We look forward to the Board of Zoning Appeals/Town Commission consideration of this variance and site plan approval, as well as consideration of the plat note amendments requested via separate cover letter of this same date.

Sincerely,
Debbie M. Orshefsky
Debbie M. Orshefsky

cc: DJ Doody, Town Attorney (via email with encl)
Sherry Henderson, Town Clerk (via email with encl)
Jim Hickey, Town Consulting Planner (via email and hand delivery, w/encl)
Mr. Eric Fordin
Mr. Arthur Gallagher
Mr. Ray Fort

of approval by the Town Commission, a period of 90 days occurs in which no valid building permit is in effect, the final site plan approval shall be null and void unless extended by the Town Commission.

REVISED
December 17, 2021

**Appeal of Hillsboro Property Owner, LLC ("Owner") Submitted Pursuant to
Section 12-283 of the Code of Ordinances of The Town of Hillsboro Beach
("Code") Regarding a Variance from Section 12-142 of the Code**

INTRODUCTION

On July 29, 2021, Owner filed an application for site plan approval for the development of 121 residential units upon the 11.2 +/- acre property located at 1174-1185 Hillsboro Mile and described on Exhibit A hereto (the "Development Property"). On December 7, 2021, the Town Commission sitting as the Board of Zoning Appeals considered a request for height variances and suggested the Owner revise its request for height variances to reduce the height of the proposed development from 15 stories/175' to 10 stories/130'. The following is submitted in response to that direction.

The Development Property comprises two parcels bisected by SR A1A/Hillsboro Mile. The East and West Parcels are described on Exhibit A hereto and are approximately 6.1 and 5.1 net acres, respectively and 11.7 gross acres including A1A. On the East Parcel, the Owner proposes to develop a 10-story condominium building with a measured height not to exceed 130 feet with up to 102 residential units (the "East Building"). On the West Parcel, the Owner proposes to develop 28 low rise condominium units and related amenities intended for exclusive use by the project's residents, including a recreational building, tennis courts and a private 11-slip marina.

REQUESTED VARIANCE AND APPLICABLE CRITERIA FOR REVIEW

On October 31, 2021, the Town's Consulting Planner, Jim Hickey, issued review comments regarding the site plan submitted for approval on July 29, 2021, and noted that the proposed East Building exceeds the currently permitted height for development within its existing RM-16 zoning pursuant to Section 12-142 of the Code. Pursuant to Section 12-142(a) of the Code, buildings are limited to three stories or 35 feet of height. The proposed East Building is 10 stories or 130 feet. The Owner hereby requests a variance pursuant to Section 12-283 of the Code to exceed the height limitations in Section 12-142 of the Code as follows:

1. As to Section 142(a), a variance to permit a 10 story/130 foot building where 3 stories/35 feet of height is permitted.

In support of this variance the Owner offers the following justification.

Section 12-283 of the Code provides that the Board of Zoning Appeals has the power and duty to authorize a such a variance from the strict application of the Code:

[W]henever a property owner can show that a strict application of the terms of this chapter relating to the use, construction or alterations of buildings or structures, or the use of land will impose upon him or her unusual and practical difficulties or particular hardship, such variances of land will impose upon him or her unusual and practical difficulties or particular hardship, such variances of the strict application of the terms of this chapter as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of the variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this chapter, and at the same time, the surrounding property will be properly protected.

In authorizing such variances, the Board must also:

[F]irst determine that it will not impair an adequate supply of light, air and sunshine to adjacent property or unreasonably increase the congesting in streets or highways or increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Town of Hillsboro Beach.

ARGUMENT IN SUPPORT OF REQUESTED VARIANCE

In support of the requested variance, the Owner offers the following:

- (1) a description of the "unusual and practical difficulties or particular hardship" imposed by "a strict application of the terms of [the Code]";
- (2) an explanation that "such variances of the strict application of the terms of this chapter [i.e. Chapter 12 of the Code] as are in harmony with its general purpose and intent";
- (3) an assurance "that a granting of the variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this chapter and at the same time, the surrounding property will be properly protected"; and
- (4) a description of how the requested variance "will not impair an adequate supply of light, air and sunshine to adjacent property or unreasonably increase the congesting in streets or highways or increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Town of Hillsboro Beach."

(1) **Description of the "unusual and practical difficulties or particular hardship" imposed by "a strict application of the terms of this chapter"**

The Development Parcel is designated on the Broward County Land Use Plan as a "Local Area of Particular Concern" ("LAPC"). This LAPC contains portions of the beach and dune community that are considered an endangered habitat within Broward County. In 1992, the then-owner of the Development Property entered into an agreement (the "Conservation Agreement") with Broward County establishing and designating a "Conservation Area" within

the East Parcel in order to “preserve the best portion” of the property. Exhibit B hereto depicts the Conservation Area. The Conservation Area is approximately 2.877 acres, or 47 percent of the entire East Parcel. In accordance with the Conservation Agreement, the Conservation Area cannot be developed, and no structure, foundations or pilings may be placed within its boundaries, other than dune crossovers.

As a result of the Conservation Agreement and the requirement to preserve the Conservation Area, the strict application of the 3-story/35-foot height limitation to development within the East Parcel imposes "unusual and practical difficulties or particular hardship" upon the Owner in that:

(a) the Conservation Area is the *only* conservation area in the Town of Hillsboro Beach ("Town"), and as such, by its very existence and concomitant restrictions, creates an "unusual and practical difficult[y] or particular hardship" upon the Owner by constraining the area on which development can occur to less than 53 percent of the East Parcel; and

(b) the depth of the East Parcel, including the Conservation Area to the Easterly Building Line, is approximately 443 feet, but the area outside of the Conservation Area which can be developed is only 220 feet; this limited depth, together with the required building setback under the Code of 85 feet from the center line of A1A/Hillsboro Mile, leaves a physically constrained developable area that is only 135 feet deep.

(2) **"[S]uch variances of the strict application of the terms of this chapter are in harmony with its general purpose and intent"**

The general purposes and intent of Chapter 12 of the Code is to protect the public health, welfare and safety of the residents of the Town. The proposed development plan for the Development Parcel meets these purposes and intent, as more particularly described in (4) below. The requested variances result in a development plan which creates harmony between these fundamental standards and the resulting project.

Moreover, the granting of this variance is consistent with and in furtherance of Policies 2.23.3 and 2.23.4 of the Broward County Land Use Plan (applicable in the Town pursuant to the Broward County Charter and Land Development Code), which, provide:

POLICY 2.23.3 Broward County shall implement strategies for the protection of Local Areas of Particular Concern and other environmentally sensitive lands such as: acquisition by public or private organizations; establishment of a County trust fund for acquisition; **adoption of innovative land development regulations**; conservation easements; transfer of development rights; deed restrictions; and restrictive covenants. (emphasis added)

POLICY 2.23.4 By 2019, Broward County shall work with Broward’s municipalities and interested stakeholders to study and recommend incentives to preserve designated environmentally sensitive lands that are privately controlled.

The requested variance is an example of an innovative land development regulation that will allow the Owner to develop its site while preserving the environmentally sensitive lands in the Conservation Area.

(3) **"[A] granting of the variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan"**

as established by [the Code], and at the same time, the surrounding property will be properly protected"

The requested variance to permit a 10-story/130-foot residential building upon the East Parcel is not a "mere convenience to the applicant" but rather "will alleviate" the "demonstrable and unusual hardship or difficulty" associated with the Conservation Area as described above.

The 2.1 acre portion of the Conservation Area to the Easterly Building Line reduces the developable area of the East Parcel by 33%. This hardship makes it difficult, if not completely impossible, for the Owner to avail itself of the entitlements provided by the Code for the East Parcel, including the 16-units per acre density. If the Development Parcel were developed in accordance with the RM-16 height limitations, the proposed development would provide limited sight lines, reduced green and open space, close proximity to the neighboring properties and create a "canyon" effect on State Road A1A, all of which are undesirable consequences. The requested variance would permit greater side setbacks, better view corridors and increase the amount of green space on the development.

(4) The granting of the variance " will not impair an adequate supply of light, air and sunshine to adjacent property or unreasonably increase the congesting in streets or highways or increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Town of Hillsboro Beach."

Side yard requirements, density requirements and landscape and open space requirements are provided to assure that development provides an "adequate supply of light, air and sunshine to adjacent property", doesn't add to congestion on streets and highways and generally protects the "public health, safety, comfort, morals and welfare" of the residents of the Town.

The requested variance to permit the additional height of the East Building and related development plans are intended to directly address and improve these conditions. The proposed luxury, for sale, residential condominium, with its reduced density, greater sight lines, and additional green space, will enhance the Town's welfare and benefit the Town and its residents.

With the additional height, the Owner has planned side yards which create a separation between the East Building and its neighbors to the north and south which is considerably wider than would be provided by the 17.5 foot side yards required for a 3 story/ 35 foot high building pursuant to Section 12-142 of the Code. Thus, as proposed, a 10 story/ 130 foot building provides a greater supply of light, air and sunshine to adjacent property than would be provided by 17.5 foot side yards required for a 3 story/ 35 foot building.

In addition, upon the authorization of the requested variance, the Owner has agreed to reduce the density of the proposed development of both the East Parcel and the West Parcel from the 188 units which could be developed pursuant to the RM-16 zoning. A density reduction results in a reduction in the traffic generated by the proposed development.

Based upon the foregoing, we respectfully request that the Board of Zoning Appeals grant the requested variance.

TOWN OF HILLSBORO BEACH, FLORIDA

Board of Zoning Appeals Meeting

Tuesday, January 11, 2022, at 9:00AM

For Development Project Located at:
1174-1185 Hillsboro Mile, Hillsboro Beach, Florida 33062

VARIANCE and SITE PLAN APPROVAL REQUESTS

NOTICE IS HEREBY GIVEN the Town of Hillsboro Beach, Florida will hold a Board of Zoning Appeals Meeting Quasi-Judicial Public Hearing on January 11, 2022, at 9:00 A.M. Eric Fordin, with the Related Group, authorized agent for land development project located at **1174-1185 Hillsboro Mile, Hillsboro Beach, FL 33062** requests two (2) Variance Requests pursuant to Section 12-283 of the Town's Code to exceed the height limitations in Section 12-142 of the Code as follows:

1. As to Section 12-142(a), a variance to permit 10-story, 130-foot building where 3 stories and 35 feet of height is permitted.
2. As to Section 12-142(b), a variance from section 12-142(B) to permit decorative features above the maximum height of the building of 130' so long as such decorative features comprise an area of 10,810 square feet or less and have a maximum height of 145'.

NOTICE IS FURTHER GIVEN the Town of Hillsboro Beach Commission will meet for a Regular Town Commission Meeting immediately following adjournment of the Board of Zoning Appeals meeting for consideration of Site Plan Approval for property located at **1174-1185 Hillsboro Mile, Hillsboro Beach, FL 33062**.

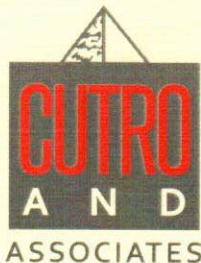
Information on the Variance Requests and Site Plan Approval Request can be obtained at Town Hall, 10 days prior to the Public Hearing. Public comments on the request will be received in-person at the Public Hearing on January 11, 2022 as well as virtually via Zoom or can be provided in writing to the Town Clerk prior to the Public Hearing via email: TownClerk@TownofHillsboroBeach.com.

The public can attend in person or virtually via Zoom video conference and provide public comment. Zoom Meeting log-in details will be provided on Town Website.

If any person decides to Appeal any decision made with respect to any matter considered at the Public Hearing, he/she will need a record of the proceedings and for such purposes may need to ensure that a verbatim recording of the proceedings is made, which records include the testimony and evidence upon which the Appeal is to be based.

In accordance with the American with Disabilities Act and Florida Statute 286.26, persons with disabilities needing special accommodations to participate in these proceedings should contact the Town Clerk no later than two days prior to the Public Hearing at 954-427-4011 for assistance.

Sherry D. Henderson, CMC Town Clerk
TOWN OF HILLSBORO BEACH, FLORIDA
12/27/2021



CERTIFICATION LETTER

Town of Hillsboro Beach

Date: December 28, 2021

Applicant: Related Group

Legal Description: A portion of Parcel A of The Enclave At Hillsboro Beach as recorded in Plat Book 154 Page 31 in the Public Records of Broward County, Florida. AKA: Lots O-1 thru O-6 and I-1 thru I-6

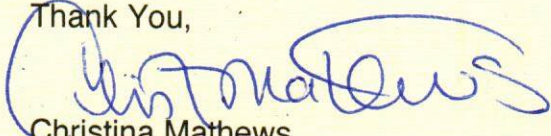
Address or General Location: 1174-1185 Hillsboro Mile

Type of Application: Variance and Site Plan

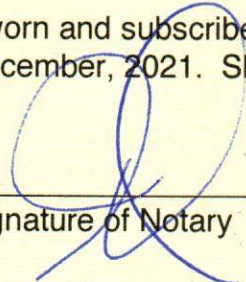
This letter certifies that the attached list of property owners was prepared using the latest tax folio rolls supplied by the Broward County Property Appraisers Office as of December 17, 2021. This list includes all properties within 300 feet from each property line of the subject site in compliance with the Town of Hillsboro Beach notification regulations.

This letter also certifies that the attached notification was sent to the persons on the list of property owners. The notice was mailed December 28, 2021.

Thank You,


Christina Mathews

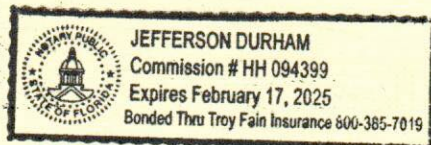
Sworn and subscribed before me this 28th day of December, 2021. She is personally known to me.



Signature of Notary

1025 Yale Drive
Hollywood, Florida 33021
954-920-2205

Email: cutroplanning@yahoo.com





1210 Hillsboro Mile
Hillsboro Beach, FL 33062

TOWN OF HILLSBORO BEACH

Phone: (954) 427-4011
Fax: (954) 427-4834

TO: Mayor Tarrant and Town Commission
THROUGH: Mac Serda, Town Manager
FROM: Jim Hickey, Planning Consultant
DATE: January 11, 2022
SUBJECT: Request for Variance to allow Decorative Features and Mechanical Equipment above 50 feet – 1174-1185 Hillsboro Mile

The Property Owner, Hillsboro Mile Property Owner, LLC and authorized agent, Eric Fordin (Applicant) are requesting approval of a variance from Sec. 12-142B of the Land Development Code (LDC) to allow the use of the rooftop area for decorative features and mechanical equipment of a building beyond the maximum height of 50 feet to a height of 145 feet. The Town's Land Development Code (LDC) allows for decorative features to be 15 feet higher than the maximum height of the district which is currently 35 feet. This variance is in conjunction with a companion variance to revise the proposed height of a building located at 1174-1185 Hillsboro Mile to 130 feet. This variance request would be to allow for an additional 15 feet of height to 145 feet for decorative features and mechanical equipment. The development also requires an application for site plan approval as well as a request to amend the notation of the plat as well as an amendment to the Non-vehicular Access Line (NVAL) per Broward County requirements. The proposed development is currently zoned Residential Medium (RM-16).

Background

The subject property is located at 1174 -1185 Hillsboro Mile and contains two vacant parcels. The current owners purchased the property in December 2020 and are in the process of obtaining the necessary land development approvals in order to develop the property. The site includes two separate parcels. Parcel A is 5.4 acres and is located between Hillsboro Mile (A1A) and the Intracoastal Waterway. Parcel B is 6.4 acres and is located on the east side of Hillsboro Mile. Parcel B is identified a Local Area of Particular Concern (LAPC) and which includes portions of the beach area and a conservation easement exists on approximately 1/3 of the parcel. This variance request is for Parcel B only. All buildings proposed on Parcel A will meet the requirements set forth in Sec. 12-142.

There was a previous variance request that was placed on the Zoning Board of Appeals (Board) for its consideration at the December 7, 2021, public meeting for a request for a variance in height. As the corresponding variance request for a proposed building height of 170 feet and 15 stories was denied by the Board, the Applicant requested to table this request to the January 11, 2022, Board meeting. The Applicant resubmitted a revised site plan and variance requests, and plat note/NVAL request on December 17, 2021.

The Applicant is requesting a variance from the Land Development Code (LDC) to go above the required 50 feet allowed within the LDC to a maximum height of 145 feet which will be 15 feet beyond the proposed 130-foot height of the building with the corresponding variance request. The Applicant will utilize a maximum of 20% of the rooftop for decorative features as well as

mechanical equipment. Within the 130-foot building, the proposed development includes ten (10) private balcony areas with small “splash pools” for the penthouse units. There will also be a main sunset pool for the use of all owners in the building. As the pools and balconies are part of the rooftop, they are not considered part of the additional height which is the subject of this variance application. This variance pertains to the decorative features that will shield the necessary mechanical equipment for the elevator and HVAC equipment for the building. The Town’s LDC allows utilization of 20% of the roof and an additional 15 feet for rooftop structures as provided below:

Sec. 12-142. - Height regulations.

...

- B) It is further provided that purely decorative features such as cupolas, tower, railings, not including signs, nor containing any living areas and not covering more than 20 percent of the roof area may be erected to an additional height not to exceed 15 feet, provided that the overall height of the building shall not exceed 50 feet.

Although no living areas are proposed for the rooftop, the proposed development will include outdoor living areas in the form of private balconies and pool areas for the penthouse units and residents. The usage of balconies for this accessory use to the main condominium/apartment were not anticipated in the LDC and are therefore not mentioned within the LDC. Through review of the Town’s LDC and the site plan review process, these outdoor areas were not deemed living areas as they will not be within an enclosed building. When considering this variance, the analysis includes both the height of any objects above the proposed 130 feet as well as the required 20% maximum usage of the rooftop above the roof height.

The corresponding site plan for this proposed development cannot be considered by the Board without first consideration and approval of both this requested variance and an additional variance to allow for additional height (130 feet) within the RM-16 zoning district. This variance would require approval by the Zoning Board of Appeals (Board) prior to consideration of the proposed site plan.

Analysis

Per Section 12-283, the Board has the power and should be its duty to grant variances from the Code. The Applicant is requesting relief through the criteria set forth in 12-283(C)(2) Instances of Hardship, which is as follows:

- (2) Instances of hardship. Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this chapter relating to the use, construction or alterations of buildings or structures, or the use of land will impose upon him or her unusual and practical difficulties or particular hardship, such variances of land will impose upon him or her unusual and practical difficulties or particular hardship, such variances of the strict application of the terms of this chapter as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of the variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this chapter, and at the same time, the surrounding property will be properly protected.

Below are excerpts from the Code-required criteria listed above with consultant planner's analysis of how the proposed development relates to the criteria shown in italics below.

"...the use of land will impose upon him or her unusual and practical difficulties or particular hardship,..."

The Applicant has stated the property is identified as a Local Area of Particular Concern and contains a conservation easement which was executed in 1992. Based on the Applicant's backup, the conservation area is 2.88 acres or 47 percent of the property. Therefore, the use of this property is hindered by the conservation area. It should be noted that 0.78 acres is located east of the Eastern Building Line and includes area which could not contain any vertical structures. Therefore, approximately 2.1 acres or 33% of the developable parcel is impacted by the conservation easement.

Although there are site constraints, the proposed development will only utilize 20% of the rooftop. However, this area includes a mechanical equipment and elevator equipment which are not explicitly identified within the City's LDC. All of the decorative features as well as mechanical equipment are no higher than 15 feet higher than the maximum proposed height of 130 feet.

"....such variances of the strict application of the terms of this chapter as are in harmony with its general purpose and intent,..."

The Applicant has stated the application is consistent with the general intent of the Town Code and the strict application would not allow the applicant to maximize the intensity of development. Although there is less usable space within the parcel, the Applicant is only using 20% of the rooftop area above the proposed 130 feet. The use of the rooftop area for outdoor recreation uses and all mechanical uses could be accommodated within the existing code set forth in Sec. 12-142B.

"...but only when the Board is satisfied that a granting of the variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this chapter, and at the same time, the surrounding property will be properly protected.

The Applicant has stated that they can only utilize two-thirds of the existing site due to the conservation area. And although, this makes the site more challenging to develop, it does not provide a hardship to the Applicant where the rooftop area is concerned. The Applicant proposes to keep the decorative areas and mechanical equipment within the 20% of the roof and have all structures be no more than 15 feet above the rooftop.

The Town's Comprehensive Plan specifically identifies LAPC's as provided below:

Policy 7.3.6 Preserve environmentally sensitive lands (Local Areas of Particular Concern) and use the land development regulation procedures for protection and preservation which involve notification and protection of private property owner rights.

The use of 20% of the roof top area would be in keeping with the Comprehensive Plan and Town's LDC and provide the Applicant with appropriate use of the property.

Town Planner Recommendation

For this variance request, the applicant is keeping within the 20% requirement for the use of the rooftop beyond the proposed 130-foot height being requested in the other variance request. This area is proposed to be used for decorative features as well as for mechanical equipment. The use of the rooftop area for private recreation areas and pools are located within the 130-foot rooftop and are therefore not part of the 20% requirement. Therefore, use of 20% of the rooftop would be sufficient to development this property.

Should the Board of Zoning Appeals consider and approve the variance request, the consultant planner recommends the following conditions of approval:

1. Variance shall only allow decorative features or mechanical equipment within the maximum of 20% usage of the rooftop and no feature shall be higher than 15 feet of the approved height of the structure.
2. Proposed site plan must be consistent with this variance or any variance approved by the Zoning Board of Appeals;
3. Applicant must receive approval by Broward County for any alteration and improvement of the conservation area;
4. Should the proposed site plan associated with this variance request not be approved, submittal of a revised variance application will require reconsideration by the Board along with site plan approval;
5. Variance shall be in effect so long as the site plan remains active and does not expire. Once the site plan expires, the variance to approve such a site plan shall also expire; and
6. Applicant shall work with the Town Attorney to draft a beach access easement agreement outlying the use of this easement by the Town prior to issuance of a building permit for vertical construction.

Applicant's Recommended Conditions of Approval

The Applicant has suggested the following condition of approval should the Board approve the variance application:

- A. The time limitation for completion of construction of the 10 story building on Parcel B, shall be as follows: the owner shall submit a building permit application to the Town within 1 year of approval of these variances and complete construction of the building on Parcel B within 5 years of receipt of a building permit for the 10 story building.

Attachments:

Development Application including Applicant's backup

VARIANCE #2

For Variance #2, the supporting documents are the same as Variance #1.

Please review information provided for the 1st Variance request.

Staff: Presented by Jim Hickey, Development Planner (CG&A)

Address: 1174-1185 Hillsboro Mile, Hillsboro Beach, FL 33062

Request: As to Section 12-142(b), a variance from Section 12-142(b) to permit decorative features above the maximum height of the building of 130' so long as such decorative features comprise an area of 10,810 square feet or less and have a maximum height of 145'