MINUTES
TOWN OF HILLSBORO BEACH
BOARD OF ZONING & APPEALS MEETING
DECEMBER 7, 2021

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Deborah L. Tarrant called the meeting to order at 9:00 a.m. Roll was called with the Commission members and staff present as listed below.

Town Commission:
Mayor Deborah L. Tarrant
Vice Mayor Irene Kirdahy
Commissioner Jane Reiser
Commissioner Barbara Baldasarre
Commissioner Vicky Feaman

Town Staff:
Town Manager Mac Serda
DJ Doody, Town Attorney
Town Clerk Sherry D. Henderson, CMC

Mayor Tarrant commented on the outstanding attendance both online and in-person. She reviewed the process for public comment and explained comments would be limited to three (3) minutes per person.

Town Attorney DJ Doody explained the Quasi-Judicial procedures to be followed throughout the meeting. He noted emails and written comments would not be read aloud but had been reviewed by Board members and would be entered into the record.

I. QUASI-JUDICIAL PUBLIC HEARINGS

A. Mark Rothenberg, with Ellermar Luxury Home Builders, authorized agent for property owner is seeking variance to the height limitations governing the proposed structure located at 925 Hillsboro Mile, Hillsboro Beach, FL, 33062, property east of RS-2 zoning district; parcel number 484320000400

Mr. Doody swore in all those giving testimony at the hearing.

Joe Arenal, Development Planner with RMA, presented the item. He explained the applicant was working on plans for a four (4) story, single-family house and was currently responding to site plan review comments. He noted the proposed home included 26,465 square feet of air-conditioned space and 38,625 square feet total under

roof and was zoned RS-2. He stated the site plan approval would be addressed separately.

Mr. Arenal stated the applicant was requesting a variance to exceed the maximum allowable building height of 35 feet by four (4) feet, one (1) inch for elevator mechanical equipment, for an overall height of 39 feet, one (1) inch. He outlined the distances from the proposed maximum height to the property lines and stated the requested elevator was close to the center of the residence.

Mr. Arenal discussed the items submitted with the application, and stated staff found the application would pose minimal to no impact to adjacent homes, and if the applicant could justify the selection of elevator type and physical space necessity, staff would recommend acceptance of the variance. He explained the height allowances made for single-family residences in neighboring communities.

Mark Rothenberg, Ellermar Luxury Home Builders, presented on behalf of the owner. He explained the request was not for the entire home, but an elevator shaft in the middle of the building. He stated he and the architect were present to answer any questions.

Vice Mayor Kirdahy asked why a traction type elevator was used as opposed to a hydraulic lift, as that was requiring the additional height.

David Alekna, Tower Elevator, explained that it was an environmentally sensitive area, and the hydraulic lift would be an oil-based system. He noted there were issues with the functioning of the hydraulic system after prolonged exposure to salt water. He stated the traction option would give a much better performance and be more environmentally friendly.

Vice Mayor Kirdahy stated most of the elevators in the area were hydraulic and did not have issues. She asked whether the traction elevator was also faster. Mr. Alekna responded that speeds can vary, but top-end traction elevators would be faster.

Mr. Alekna stated they had also gone with what is called a basement option, locating the majority of the hoist machine and controls down in the building, so only those items absolutely needed to support the elevator were located above.

Mayor Tarrant opened a public hearing on the application.

Rick McCarty, 921 Hillsboro Mile, stated the property is two (2) doors from him and has sat idle for more than 10 years. He commented that he was not hearing a hardship from the applicant, and other options were available. He recommended the variance be denied.

Mayor Tarrant closed the public hearing.

Commissioner Reiser asked staff whether any other comments were made by surrounding residents. City Manager Mac Serda stated none were received by staff.

Mr. Rothenberg noted the immediate neighbors on either side had been consulted, and because of the location, they had no objection.

Commissioner Baldasarre asked Mr. Rothenberg to define the hardship.

Mr. Rothenberg stated he is not an elevator expert, so they hired a consultant, and it was the elevator expert with 30 years of experience who had advised on the type of elevator to best serve a four (4) story structure such as this home. He noted they had minimized the impact of the variance request by only elevating the area of the shaft as necessary to accommodate the elevator.

Shane Ames, architect on the project, discussed servicing and leaked hydraulic oil with other elevators and stated they had gone through exhaustive design work to find an elevator for this project. He noted the size of the elevator shaft and stated the hardship is to be environmentally sensitive to the community.

Mayor Tarrant commented that the Town Code addresses antennas and chimneys, but it is past time the code address elevators. She stated her position was that this project would not require a variance if the Code was up to date. She asserted every single-family home being built in Town was requiring an elevator, and she would prefer this type of elevator be used for the reasons discussed.

Vice Mayor Kirdahy agree the Codes needed to be looked at, and stated she did not really see a hardship, as there is an alternative.

Mr. Arenal added that when the Code was written, the majority of residents had pitched roofs, which was probably why elevators were not included in the exceptions for RS-2.

Motion made by Commissioner Reiser, seconded by Commissioner Baldasarre, to approve the variance request for 925 Hillsboro Mile due to the hardship of eliminating potential oil leakage into the ground beneath the home. She stated the Code should be reviewed to address the issue without need for variance in the future. In a roll call vote, the **motion** passed unanimously. (5-0)

B. Eric Fordin, with the Related Group, authorized agent for the 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 heigh limitations in Section 12-142.

Mr. Doody swore in all those giving testimony at the hearing.

Jim Hickey, Town Planner with CG&A, presented the item. He explained the applicant was requesting a variance from Section 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. He stated the applicant was also requesting consideration of a variance for the percentage of usage of the rooftop which would be processed through a separate variance request and analysis.

Mr. Hickey provided a background on the RM-16 district, explaining in that district there is a limit of 35 feet in height and three (3) stories. He noted most tall buildings in Town are within the RM-30 district, which has different requirements. He stated the property is made up of two (2) vacant parcels, including parcel A on the west side of the road, which is 5.4 acres between Hillsboro Mile and the Intracoastal, and parcel B, which is located on the east side of Hillsboro Mile.

Continuing, Mr. Hickey explained approximately 1/3 of parcel B is identified as a Local Area of Particular Concern (LAPC) and includes beach which cannot be developed. He stated the LAPC was designated in 1992 and is the only conservation area within the Town, totaling 2.78 acres on the eastern portion of the site. Mr. Hickey stated the conservation area begins 10 feet to the west of the dune and is identified as an endangered habitat. He stated the LAPC includes mitigation recommendations which require obtaining Broward County approval and following specific construction requirements if that approval is obtained. He discussed those requirements briefly and clarified the only development allowed in that area would be dune crossovers.

Mr. Hickey stated the applicant had submitted a site plan to develop the site on July 29, 2021. He explained the proposed site plan includes a total of 121 units, with nine (9) residential units proposed for parcel A within three (3) story structures with a maximum of 35 feet, and 112 multi-family condominium-style units on parcel B. He stated the proposed units on the east side of Hillsboro Mile would be constructed within a 15-story, 170-foot tower with an additional two (2) underground stories for garage and storage, and a rooftop level with private amenities. He noted the variance was only for the east parcel of the property, where the height is measured by the average dune height.

Continuing, Mr. Hickey explained how staff had reviewed the application, including analysis by the consultant planner, survey, traffic, engineering, and landscaping, and comments were provided to the applicant on November 2, 2021. He noted the applicant was informed at that time that the proposed development did not meet the height requirements as outlined in Section 12-142, and the applicant submitted an application for a variance on November 8, 2021. He reviewed the applicable Code sections, including those which set forth the instances of hardship necessary and the development criteria for the zoning district. He discussed how the LAPC was addressed within the Comprehensive Plan.

Mr. Hickey reviewed analysis of other heights in the community and staff recommendations. He stated the parcel contains a large conservation area which makes this site unique and does present a hardship in maximizing the development of this site. He stated the applicant's request for additional height would assist in providing sufficient use of the land, however, the proposed development would increase the height by 135 feet and increase the number of stories five (5) times beyond the allowable height of three (3) stories. He reviewed four (4) conditions recommended by staff if the application were to be approved, including:

1. Proposed site plan must meet the number of stories and height approved by the Board;
2. Applicant must receive approval by Broward County for any alteration and improvement of the conservation area;
3. 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;
4. Site plan shall include access for Town vehicles and their contractors for beach renourishment and/or emergency purposes.

Debbie Orshefsky, Esq., attorney with Holland & Knight, presented on behalf of the applicant. She introduced the developers, design team, and engineers. She asked that all materials submitted to the Town Clerk and included in the backup materials, as well as her presentation, be included within the public record for the meeting. She shared a video outlining the vision for the project.

Ms. Orshefsky provided a background on the evolution of the design on the site, discussing the practical difficulties realized upon beginning the site plan process. She reviewed a *PowerPoint* presentation which discussed density, heights, and the conservation area. She noted parcel B loses approximately 33 percent of its developable area due to the conservation area and asserted this was the essence of the unusual and practical difficulties. Continuing, Ms. Orshefsky reviewed the overall proposed project, focusing on the setbacks and landscaping proposed. She shared a series of images and

noted the additional setbacks and dune protection shown in comparison to neighboring developments.

Ms. Orshefsky stated part of the reason for requesting the variance was to allow for greater distance between the buildings, extensive landscaping, and better air and light. She discussed the footprint and setbacks and reviewed the allowances within the Code and Comprehensive Plan which allow for variances to innovate in development projects.

John McWilliams, Kimley Horn, discussed the traffic impact study and traffic generation comparison. He stated CG&A had reviewed the methodology and the results, and no congestion issues were expected.

Ms. Orshefsky discussed the public benefits of the proposed project, including beach access and renourishment easement, sea turtle compliance, 125,310 square feet of safeguarded and enhanced coastal dune, landscaping on A1A, open space, and iconic architecture. Continuing, Ms. Orshefsky addressed concerns regarding construction impact. She stated the west site could be used for staging and supply, and discussed surveys, vibration monitoring, and other methods of mitigating impact on the neighborhood. She discussed outreach by the developers, including a virtual meeting, in-person meeting, email and in-person follow up.

Mayor Tarrant called for a recess at 10:22 a.m.
Mayor Tarrant called the meeting to order at 10:30 a.m.

Mayor Tarrant opened a public hearing on the item.

Laura Matasko, 1187 Hillsboro Mile, discussed what was important was the quality of life for the families of Hillsboro Beach and stated there was no hardship. She asserted if the plan was accepted, it would be devastating to the residents of Virginia Kaye.

Cindy Patel, 1160 Hillsboro Mile, stated the old-world charm of Hillsboro Beach was what brought people to the area. She noted they had chosen not to purchase in Miami or Fort Lauderdale, which is where this huge building looked as though it belonged. She discussed traffic concerns and stated the developer should have known the limitations, and the project should be denied.

John Kennelly, Jr., property owner at 1187 Hillsboro Mile, stated his father had owned the land and sold it to the developers. He explained during meetings prior to the purchase, he had personally explained the limitations to the developers. He asserted the presentation was misleading, including the setbacks of the garage, the argued hardship, and the Coastal Construction Control Line (CCCL).

Charles Doherty, 1194 Hillsboro Mile, spoke in opposition to the variance. He noted he appreciated the public benefit outlined, but there were not grounds for a hardship.

Andy Dandell, 1194 Hillsboro Mile, stated he had lived in Hillsboro Mile for 43 years. He explained he loves the Town, but the project takes away from everything it stands for.

Javier Garcia, 1203 Hillsboro Mile, stated the reality was that the Town must evolve, or it will be left behind. He asserted this was a well-known developer who was proposing to build something very different on the one-of-a-kind parcel, and the value provided to the tax base was incredible. He encouraged an open mind.

Al Shore, 1147 Hillsboro Mile, stated the new owner of the property bought knowing it was only zoned for three (3) stories. He discussed the value of the project and the potential profit and stated the tax benefit was a false argument. He asserted approving the variance would set a precedent and asked that it be denied.

Chris Black, 1173 Hillsboro Mile, echoed previous comments that there was not a true hardship. He stated the Town did not owe the developers the opportunity to maximize their profit and asserted they either did not do their due diligence or planned to roll over the Commission of a small town. He asked that the Commissioners listen to the residents and turn down the application.

Mark Raphael, 1172 Hillsboro Mile and owner at 1189 Hillsboro Mile, spoke in opposition to the proposal. He noted the neighboring properties are three (3) story buildings and asserted the height restriction was instituted to maintain the aesthetics on Hillsboro Mile. He stated the project would be obtrusive and stick out like a sore thumb.

Carol Weber, 1187 Hillsboro Mile, stated she and her husband bought in the community because they love the style and did not want to be a part of high rises which cast a shadow on the beach and impede the view of neighbors. She noted the builder would put up something high class and first rate, but asserted the height was not necessary.

Bill Hauer, 1161 Hillsboro Mile, shared a story of calling the property the "fox's house" because of the wildlife habitat. He commented on traffic concerns and stated he did not want Hillsboro Beach to end up looking like Boca Raton but also did not want to stop someone developing their land if it could be documented there would not be impacts.

Dr. Garry Condon, representing the Walsh Family of 1187 Hillsboro Mile, spoke in opposition to the variance. He stated the height was five (5) times the limit and reflective glass construction did not meet the "homey" feel of the community. He asserted it was self-centered on the developer's part and would have negative impacts. He stated granting the variance would be inconsistent and inappropriate.

Danielle DiNapoli, 1169 Hillsboro Mile, stated she was initially opposed to the 15-story project, until she was educated regarding the benefits to the Town. She asserted the Landmark should not be a comparison. She stated she was in support of a building greater than three (3) stories, but less than 15-stories.

George Zikratov, 1194 Hillsboro Mile, stated he would like the Board to consider the length of the project. He asserted in his experience tall buildings with underground parking take much longer and the community will suffer for years while it is constructed.

Christine Maxx, 1170 Hillsboro Mile, shared her experience living in Hillsboro Beach and in a beachside community in Maine. She stated the traffic study was skewed because it was conducted in July and addressed previous discussion regarding reducing density on Hillsboro Mile. She asserted she could not understand the hardship or the practical difficulties of the site.

Rich Croscoe, 1194 Hillsboro Mile, stated he is a new resident, and the thing that has stuck with him was the legacy of the Board and past denials of similar applications. He asserted the Board has a tremendous responsibility, and stated he hopes they weigh the consequences of their actions.

Beth Vogl, 1170 Hillsboro Mile, stated she had been a resident for 50 years and explained she thought the argument was trying to have both the LAPC as a 33 percent hardship on the parcel and also spread the units over two (2) parcels. She stated she believed the LAPC should have been clear to the developers all along but understood that would be a continued argument. She asked the Board to consider the fudging of numbers going on with the application.

Donna Scheurer-Purre, 1173 Hillsboro Mile, there were a lot of misleading statements going on and stated no amount of linguistic gymnastics would change the fact that having a building five (5) times the height allowable by law would be detrimental to the residents. She asserted the variance should not be granted because the property could be used without and purchasing a restricted property did not constitute a hardship.

Jim Lambert, 981 Hillsboro Mile, stated it seemed to him every opposition to the project were from residents within a stone's throw of the building. He asserted the Board's job was to think of not just those residents, but the entire Town. He stated the land had been vacant for years, and anyone moving to the community had to expect it would be developed eventually. He commented on the financial benefit of the tax revenue to the Town.

Celinda Sawtelle, 1052 Hillsboro Mile, stated not only is the developer asking for a huge variance, but he also planned to put swimming pools, garages, and recreation in the side yards to drive the neighbors crazy.

Nicole Geisser, 1203 Hillsboro Mile, stated the project has a lot of good potential for the Town, and obviously some not great things. She noted the Board needed to consider the future of Hillsboro Beach. She stated while the height is not advantageous, the project could be part of making the entire Town more landscaped and beautiful.

Manny Peñate, 1170 Hillsboro Mile, stated he did not want to be on the wrong end of the equation, but he moved to Hillsboro Beach fully knowing the property had to be developed sooner or later. He asserted anyone who was reasonable in moving to the community became familiar with the Codes, the history of their property, and the rules.

Gail Wiser, 1160 Hillsboro Mile, stated she spoke at the October public meeting, and her comments were all about the height of the building. She explained the developer had reached out to her following the meeting to address her concerns, but she continued to believe this variance shifts the hardship from the developers to the residents of the Town.

Mayor Tarrant closed the public hearing and invited Ms. Orshefsky to respond to questions asked.

Ms. Orshefsky addressed the comments, including heights of other properties, distance from the project to other properties, the zoning district, and clarifying that the proposed building area is entirely landward of the CCCL. She stated the only CCCL comment was in reference to the dune crossovers. Continuing, Ms. Orshefsky discussed the setbacks of the podium, explaining the required setback was 15 feet and 25 feet were provided for within the proposal. She noted the condominium documents for the property would specifically prohibit any type of Airbnb rental, and the minimum rental would be one (1) year. She asked John McWilliams, Kimley Horn, to explain how the traffic impact study submitted in July reflects an annual basis.

Mr. McWilliams explained the Florida Department of Transportation (FDOT) makes peak season adjustment factors for every week of the year. He stated in addition to being adjusted for peak season, the study was adjusted for potential anomalies related to COVID-19 and for future growth in traffic. He noted the study and methodologies were reviewed and approved by the Town's consultant and FDOT.

Ms. Orshefsky reviewed the comments regarding the length of the construction period. She stated because there is an east and west parcel, the entire project could be built at the same time using the area between the villas and A1A as a laydown area for materials. She

explained the typical construction time for this type of project would be 24 months. Continuing, Ms. Orshefsky stated a three (3) story structure would have almost double the construction period.

Ms. Orshefsky clarified pointes on the LAPC and how it translates into hardship for the project. She noted the property is not deed restricted to any particular use. She explained it was approved and platted for 11 single-family homes 30 years ago, but that project had been unsuccessful. She noted the developers will work with the Town to advance public policies in any way necessary to support development but any kind of private compensation is inappropriate.

Continuing, Ms. Orshefsky addressed the distinction between calculation of density and developable area. She discussed comments regarding case law and hardship and stated the Town's Code is very clear on the matter. She stated the staff report and appeal document outline the standards specifically, and asserted the developer believes all of the circumstances meet both the hardship and particular difficulty standards.

Mayor Tarrant called for Commission discussion. She noted for the public that due to Florida Sunshine Laws, this was the first time the Commissioners were able to speak to one another on the matter.

Mr. Doody explained approval of the variance would require a 4/5 vote.

Mayor Tarrant stated in her opinion, a 15-story building is too much for the Town of Hillsboro Beach to work into its existing fabric. She noted height is only one (1) element to worry about and does not exist in a vacuum. She referenced a letter being circulated in the community focusing on height and the developer's profit, while not dealing with any of the other issues related to the project. Mayor Tarrant stated the challenge is to look at the whole package and come up with something that works. She clarified misconceptions and assumptions stemming in part from the letter, explaining an increase in traffic, a need for additional police officers, strain on infrastructure, or construction equipment and noise, or impact to the stability of neighboring properties were not reasonable objections, because that could be said for any development on the site.

Continuing, Mayor Tarrant stated the Town's Comprehensive Plan, zoning, and Code provide for 188 units on the property. She noted the developer's proposal for 121 units is less than 2/3 what the zoning allows and pointed out the options are not between the proposed project and no development. She stated if the concern is increased traffic and more people on the beach, the proposed project provides far fewer new residents. Mayor Tarrant addressed impact of construction on the stability of neighboring structures and explained if residents feel their building may not be stable, they need to deal with that regardless of how many stories this project has. She noted the greater the footprint of the

project, the more pilings, and the less distance from neighboring properties.

Mayor Tarrant stated it was a misconception that whatever decision is made will set a precedent and start Hillsboro Beach down a path of high-rise development. She noted this parcel is 600 feet on each side of the road and is one (1) of a kind. She explained she had asked the Town Attorney to prepare an Ordinance establishing a maximum lot size of 300 feet to control assemblage of lots and noted it would not impact existing parcels.

Mayor Tarrant addressed the comments that this property does not present a hardship, and the developer's desire for more profit was what the variance request was all about. She stated the property most definitely has a hardship under the definition. She asserted the mandatory conservation area covers 1/3 of the east lot, and while the developer knew this when making the purchase, that does not matter according to case law.

Continuing, Mayor Tarrant addressed misconceptions that the developer sought to plunder the community. She asserted they are not threatening to build something ugly or undesirable but are running a business. She stated there are a lot of successful businesspeople in town, and no one goes into business to lose money. She explained the Code contributes to an undesirable end product, because it was not written for a 600-foot parcel. She explained the question is, if the Code did not anticipate the issue currently faced, what is the best alternative for the Town.

Mayor Tarrant recapped her points and stated the Board needs to understand the Code and what it allows before evaluating the proposal. She stated a 565 foot long, three (3) story building could be built on each side of the road and asserted a single structure would be the most cost-effective way to build. Continuing, Mayor Tarrant stated in some circumstances, the revenue generated by an apartment rental complex is more attractive than what could be generated by single unit ownership. She noted the Code could not prohibit this and asserted it should also be a consideration.

Mayor Tarrant stated as height comes down, density goes up, and front and side setbacks get smaller. She noted the developer was proposing larger setbacks than required with this project on the west side. She asserted this deeper setback was the way to avoid the concrete canyon affect seen in other communities. Mayor Tarrant pointed to the aerial view in the presentation and stated the idea that Hillsboro Beach is all low-rise is false. She discussed how the proposal would marry with the properties beside it, and how awful it would be to have a continuous three (3) story building in the same area.

Mayor Tarrant stated if they could figure out the right balance, there were three (3) important benefits the project could bring to the Town. First, she noted the Town still needs a beach access point - pointing out the 30-year agreement with Deerfield Beach will eventually end, and the small group of people who derailed the purchase of 1205 &

1206 Hillsboro Mile which would have provided beach access for future nourishment projects. She stated the developer is offering a 25-foot easement to the Town, which would become extremely important to future generations in Hillsboro Beach. She asserted if the developer builds to the Town's Code, that access point would be lost.

Second, Mayor Tarrant stated if they could come to an agreement on this parcel, Hillsboro Beach residents would not have to be assessed for beach nourishments as far as she can see into the future. She noted for some people, a $400 per year beach assessment is tough. She stated the tax revenue from a new development could contribute to a beach reserve, and acknowledged that for 50 years, the Town had not been able to find a dependable developer and a project that works. She asserted the longer the property sits empty, the greater the burden on current residents.

Third, Mayor Tarrant explained for the past few years before the pandemic, property values in Hillsboro Beach were lagging relative to the rest of Broward County. She stated in her opinion, one (1) of the reasons is the aesthetics of concrete poles and powerlines. She noted the developer had offered to contribute to the capital expense of burying the powerlines for the entire Town. Mayor Tarrant asserted the developer was required to bury the powerlines for their parcel only, not to contribute to the cost for the entire Town. She stated getting rid of the poles would have a tremendous positive impact for every taxpayer and every property in Town, in addition to making the barrier island safer.

Mayor Tarrant stated the Related Group is well respected, part of a large and stable conglomerate that would not leave the Town with fly-by-night situations as faced in the past. She noted this is a large parcel, and there are not a lot of developers who can handle it without risk to the Town. Mayor Tarrant asserted not every developer who brings a project forward is someone you want to do business with, and said the Town is fortunate the Related Group is interested in this parcel as they know what they are doing and do it well. She stated the developer had asked for input from residents and had offered to work with a taskforce of individuals. She noted they had agreed to remove the 100-foot boat slip from their plan at the request of neighboring residents. She stated the group was trying to be responsive, and asserted most residents wanted to see an agreement on an end product that benefits the Town, and that the Town can be proud of.

Mayor Tarrant acknowledged this was a very complicated situation with a lot at stake, and a lot more aspects to consider than just height. She shared her disappointment with the number of people jumping on the rumor mill and taking aim at the Commission by spreading false information. She noted the Commissioners had not attended the public meeting due to Sunshine Law and based on the advice of legal counsel.

Vice Mayor Kirdahy reiterated the comments regarding Sunshine Law, noting the Commissioners cannot discuss an issue in any way, shape, or form prior to the meeting.

She thanked Mayor Tarrant for saying everything as well as she did. She stated she understood the comments people had made about why they are nervous about the project. Vice Mayor Kirdahy asked the developer for clarification on the height of the Landmark Condominiums. She noted they had referred to the building as 15 stories, but she is next door, and it is not.

Ms. Orshefsky referenced the online resources and stated those were used to determine the heights of all buildings presented. She stated according to Emporis, which tracks heights nationally, it is counted as a 15-story, 182-foot-tall building. She noted she did not know if that included the parking levels.

Vice Mayor Kirdahy stated she spent the weekend reading through the materials and asked for clarification on the height of the garage as well as the disposition of the geotechnical report. She explained she would like to see the report because of the load bearing considerations of the sand.

Ms. Orshefsky responded that geotechnical analysis had been done for the developer's purposes, and the submitted as part of the building permit process as is required. She pointed to the *PowerPoint* slide showing the parking and explained the portion underground, reiterating that the zero measure is the average dune height.

Vice Mayor Kirdahy stated she would like to see the geotechnical report to review the specific numbers related to a building of height on the sand. She noted she appreciated that so many constituents wrote to the Board regarding the issue, but she did not think anyone who volunteers for the Town should be threatened.

Commissioner Baldasarre thanked Mayor Tarrant for the summary she had put together. She stated she lives in a 10-story condominium and does not see anything negative about being in a condo, though sometimes she thinks that is the expression in the community. She noted she can appreciate that looking up from a two (2) or three (3) story can leave you feeling dwarfed, but she did not get that feeling when looking at the developer's images.

Commissioner Baldasarre agreed 15 stories is very high in terms of the Town, and stated they needed to consider that, and noted she also dreads the thought of seeing a canyon of concrete. She stated she believes they need to come to resolution on the matter and added that while she appreciates the concerns of the neighbors, they need to think about the whole Town. Commissioner Baldasarre stated living in a condominium gives people an opportunity to live in a place where they could not afford a larger single-family house.

Commissioner Reiser thanked Mayor Tarrant for her comments and stated the entire Board knew what it was like to receive difficult letters. She stated she also experienced

being spoken to face-to-face by someone who stated the Mayor and Commission had sold the Town down the river, and thanked Town Manager Serda for being present and explaining the situation to the constituent.

Commissioner Reiser thanked the developers, noting the architecture was beautiful and would enhance the Town in addition to being a welcome addition from a financial standpoint. She stated regardless of what is built on the parcel, there would be additional traffic and ongoing construction. She asserted everyone knows the property is not going to stay vacant forever.

Continuing, Commissioner Reiser stated this is not Boca Raton or another area with many tall buildings, and what probably upsets most people in Town is that it is 15 stories. She noted judging by the letters and comments made, that was too high. She stated the Town is charming and would like to retain that charm. She added that only five (5) people had spoken in support of the project, and it says something that public opinion was so heavily weighted against a high building, but they need to be careful what they wish for. Commissioner Reiser stated she believed that if they could come to a compromise on the height, it would satisfy more people and benefit everybody.

Commissioner Feaman stated she agreed with the comments of the other Commissioners. She asserted she was not in favor of 15 stories but was also not a fan of three (3) stories. She stated she knows because of how good the developer is, they can come to a beautiful compromise somewhere in between.

Mayor Tarrant asked the developer to share their thoughts after hearing from the constituency and the Commission.

Ms. Orshefsky stated they appreciated the consideration and had tried to put forth a big picture, because the site is unique and important. She noted an alternative 12-story concept included within the submitted plan. She stated while adjustments would be made to the setbacks, the two (2) story amenity building would be no closer than 100 feet from the center line of A1A and the west parcel setback would be approximately 150 feet. She pointed out this was almost double the required setback.

Mr. Doody asked whether the applicant was proposing an amendment to the variance application. Ms. Orshefsky responded in the affirmative, explaining they would reduce the height of the proposed structure to 12 stories and 140 feet in height, with north and south setbacks at half the height on the east parcel, no change to the podium and landscaped area. She stated the villas on the west parcel would likely be modified from villas to three (3) story condominiums with front setbacks that exceed the requirements.

Mayor Tarrant stated she thought 12 stories was too much and suggested 10 or 11 stories would be what fits. She asked that the applicant come back with plans that show the Board with a plan that fits the community. She stated she was not comfortable granting an open-ended variance with no control over what happens on the west side.

Commissioner Feaman asked that the developer consider 10 stories.

Ms. Orshefksy stated the developer are unable to make changes on the fly and noted it would be helpful if there was a consensus on the number of stories so that they can return with a proposal that is consistent. She asserted no variances would be requested on the west parcel.

Mayor Tarrant clarified that if units had to be moved from the east side to the west side, the villas would go away, and it would become a single footprint building. Ms. Orshefsky stated that was correct.

Mayor Tarrant asked whether that would mean the parking garage on the east side would be smaller and the podium reduced as a result, because residents on the west side would not park on the east side. Ms. Orshefsky explained each side has parking of its own. She noted they would evaluate the podium setback.

Eric Fordin, Managing Director of Related Group, stated they had no problem working with the lower height. He stated the issue with the podium was that they were trying to meet an amenity level where they could place pools. He explained in order to face the pools looking at something other than the conservation area, they needed it to be 10 feet above the grade. Mayor Tarrant stated that brought up something she had not thought of, in that not only does the conservation area take away footprint possibilities, it reduces the value of the first floor in terms of residences.

Mr. Fordin stated in most buildings, pool areas are seaward or east of the tower, but they cannot do that here because of the conservation area. He referenced earlier comments regarding the CCCL.

Mayor Tarrant noted for clarification, more than half of the properties in Town were built with the CCCL running through the middle of them. She asked whether the pool could be put on the roof. Mr. Fordin explained they had planned rooftop pools for the penthouses and to study whether a sunset pool could be placed on the roof. He stated everyone wants to be at beach level for the pool.

Mr. Doody stated he would respectfully prefer that the Commission not provide a consensus at this time, in order to maintain the integrity of the record regarding the application. He noted the applicant could request the application be tabled to allow time

to submit an amended application for variance.

Ms. Orshefsky stated she would like to request deferral of the item to modify the application consistent with the remarks heard from the Board and bring it back in January.

Discussion ensued as to how best to continue the application.

Ms. Orshefsky asked on behalf of her client whether a 10-story configuration with the same podium configuration could be moved forward at this meeting, or if tabling was the only option available.

Mr. Doody asked whether the applicant was orally making an amendment to the application for height variance to 10 stories. Ms. Orshefsky stated that was correct, with an overall height of 130 feet, setbacks half the height of the building, and the same podium configuration.

Commissioner Reiser asked for clarification on the second variance application for the roof. Mr. Doody explained that was not before the Board until the next agenda item. He asked that the Board entertain a motion to table and allow for a submission of documentation related to the variance.

Town Clerk Sherry Henderson asked whether public comment would remain closed if the item was continued to January 11. Mr. Doody stated the public comment could be reopened.

Mr. Serda asked if the continuance would be time certain to January 11. Mr. Doody explained it could be continued again.

Motion made by Commissioner Baldasarre, seconded by Vice Mayor Kirdahy, to continue the Quasi-Judicial hearing of the variance for 1174-1185 Hillsboro Mile to the January 11, 2022 meeting to provide an opportunity to amend the application. In a roll call vote, the **motion** passed unanimously. (5-0)

C. Eric Fordin, with the Related Group, authorized agent for the 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 heigh limitations in Section 12-142.

Mr. Doody swore in all those giving testimony at the hearing.

Ms. Orshefsky requested that the item be tabled to January 11, 2022.

Motion made by Commissioner Reiser, seconded by Vice Mayor Kirdahy, to continue the Quasi-Judicial hearing of the variance for 1174-1185 Hillsboro Mile to the January 11 meeting to provide an opportunity to amend the application. In a roll call vote, the **motion** passed unanimously. (5-0)

II. ADJOURNMENT

Motion made by Commissioner Feaman, seconded by Commissioner Baldasarre, to adjourn the meeting. In a roll call vote, the **motion** passed unanimously. (5-0)

There being no further business before the Board of Zoning and Appeals, the meeting was adjourned at 12:37 p.m.

ADOPTED THIS 11TH DAY OF JANUARY, 2022

By: Deborah L. Tarrant
Deborah L. Tarrant, Mayor

ATTEST:

Sherry D. Henderson
Sherry D. Henderson, CMC, Town Clerk

WRITTEN PUBLIC COMMENTS

Public Comments emailed to the Town Clerk –Were Read aloud at Meeting and Entered into the Record

DECEMBER 7, 2021

Board of Zoning & Appeals
Quasi-Judicial Public Hearing

Town of Hillsboro Beach
1210 Hillsboro Mile
Hillsboro Beach, FL 33062
TownofHillsboroBeach.com
954-427-4011

From: Ivan Eland <gazelle_czar@yahoo.com>
Sent: Wednesday, December 1, 2021 8:30 AM
To: dtarrant@townofhillsborobeach.com
Cc: townclerk@townofhillsborobeach.com
Subject: New Development at 1185 Hillsboro Mile

Mayor Tarrant,

Thank you for inviting comments on the proposed new development at 1185 Hillsboro Mile.

Spurring my current comments was my attendance at the developer's pitch meeting at the Embassy Suites Hotel in Deerfield Beach last night (November 30). The developer pitched to an overflow crowd, indicating a great public interest in the project. When it came time for questions, it was obvious that the audience was overwhelmingly skeptical of the current plan by developer. No one in the crowd, including me, expressed opposition to developing these parcels of land, but instead the vociferous criticism centered mainly on the 15-story height of the proposed condo building on the ocean side of the property.

I largely concurred with the sentiments of the crowd: Whole-heartedly supporting development of the property but being concerned that that the three-story ordinance seems likely to be waived for no compelling reason. After all, the development is in the northern part of Hillsboro, which is almost all low-rise housing that appears to comply with the three-story limit. There is low-rise housing on either side of the proposed development, making the proposed high-rise ocean condo building stick out like a sore thumb.

For me, however, the question goes deeper into a "rule of law" issue. Height exceptions to the ordinance should be given out only under exceptional circumstances. Otherwise, why have height limits in the first place? Also, I think some of the crowd seemed motivated by the bad precedent that this might set for the future. That is, if variances to the three-story rule are handed out liberally, especially in sections of town that currently are mainly low-rise housing, this might signal to future developers that they can just buy up older (or really any) low-rise housing, likely get a variance from Hillsboro Beach, and then put up a skyscraper. Therefore, I and others at the meeting, worried that someday Hillsboro Beach will look similar to Pompano Beach, which has many prominent high-rise buildings.

In this case, no compelling reason seems to exist to override the height ordinance and the low-rise vibe of the northern section of Hillsboro Beach to make way for this skyscraper. Is this the tip of the iceberg for beachside "urban renewal?"

At minimum, the town's decision for the variance on the project seems rushed. The white signs on the road (hard to read because they are strangely parallel to A1A instead of the normal perpendicular to traffic), which announce the project and the December 7 meeting, just went up last Sunday November 28 for a decision to be made on December 7. Also, the 9 am start time of the meeting ensures much less attendance than would a meeting at 6 or 7 pm at night.

Sincerely,.

I.R. Eland

From: stengelkc8@bellsouth.net <stengelkc8@bellsouth.net>
Sent: Thursday, December 2, 2021 7:57 AM
To: TownClerk@TownofHillsboroBeach.com
Subject: Zone changes

I do not want zoning changes to occur. Thank you.

Marianne Stengel 1169 Hillsboro Mile #505

-----Original Message-----
From: Tj Black <tjblack02@aol.com>
Sent: Friday, December 3, 2021 12:57 PM
To: TownClerk@townofhillsborobeach.com
Cc: Tom Black <tjblack02@aol.com>
Subject: Request for 1174-1185 variance

Town Clerk,
Regarding the requested Variance on the old Kanalee property, I am writing to object to this height exception which would put this development far higher than any of it's neighbors. Not only would it visually dominate the north end of our town, but would detrimentally block the views for all its neighbors to view the skyline.

I recommend that it be in total, no higher than its neighbors like the Island House or Opal Towers and hopefully somewhat lower for adjacent properties.

Tom and Judy Black
1149 Hillsboro Mile, PH-1N
Hillsboro Beach, FL

Sent from my iPhone

-----Original Message-----
From: XP D <c.dogas@yahoo.com>
Sent: Friday, December 3, 2021 3:51 PM
To: TownClerk@townofhillsborobeach.com
Subject: Dezer/Related Group proposal for development of 1174 – 1185 Hillsboro Mile

I am a property owner at **1167 Hillsboro Mile (overlook)** and I am AGAINST granting the developer a variance to build a 15 story building! We have a code that should be followed, it will create lots of traffic and more importantly we should learn the lesson from the recent Miami Surfside incident where it is believed that the construction may have contributed to the building collapse!

As elected officials, I hope the zoning board will decide for the benefit of the taxpayers/residents of Hillsboro mile and NOT for the developer - the variance to build 15 story building should NOT be granted.

Respectfully,
Chris Dogas | 862-210-4961
Sent from my iPhone

-----Original Message-----
From: Robin Dogas <rdogas12@gmail.com>
Sent: Friday, December 3, 2021 3:57 PM
To: TownClerk@townofhillsborobeach.com
Subject: Dezer/Related Group Plan/Variance

As an owner at **1167 Hillsboro Mile (The Overlook) I** strongly disapprove of granting a height variance for a building that will loom horribly over our entire little town. They also complain about dealing with the sea grapes; there are too many large condos and not enough sea grapes. They should not be able to develop on the area of the parcel with sea grapes. Period. Why are we feeling so compelled to give them whatever they ask for? They agree to fewer condos for height-no! How about they play by the existing rules and are not allowed to build their ridiculous huge building!
Let's stand up for our community!
Robin Dogas
Overlook Condo

Sent from my iPhone
Please make note of my new email address rdogas12@gmail.com 610-390-3206

-----Original Message-----
From: jgail.wagner@gmail.com <jgail.wagner@gmail.com>
Sent: Saturday, December 4, 2021 6:57 PM
To: TownClerk@Townofhillsborobeach.com
Cc: Foote Shirley <bestfootefwd@aol.com>; Jane Sabbagh <IntracoastalLife@gmail.com>; Lorie Berrick <lorie.berrick@gmail.com>; irenegiordano@gmail.com; Robert Sablich <bobsablich@gmail.com>; Ralph Amato <coolrelic@msn.com>
Subject: Request for Height Variance

Dear Commissioners,

I understand that a request for a height variance will be discussed at your meeting on December 7, 2021 at 9 am. I am out of town that day and cannot attend, but I would like to state my concerns.

I have resided in Hillsboro Beach and Yacht Villas for 14 years and I love our little town. We simply don't fit in with the development as proposed. It would change the character of our neighborhood in a very negative way. We aren't and don't aspire to be Miami Beach. We lead a quieter and more laidback life in Hillsboro Beach and 15 story high rise residences will create traffic issues with gated guarded entrances. Why can't we continue to support our 3 story limit in our neighborhood? The traffic study was conducted in July which doesn't represent our much heavier winter season traffic.

According to the Shade study my villa and the other villas on the south of HBYV will be in shade in the winter mornings. I enjoy sitting on my front patio getting morning sun on cooler winter mornings and such a change in height variance to 15 stories will adversely affect me and many other residents of our wonderful town.

What possible benefit will the residents of Hillsboro Beach gain by this proposal? Why are there zoning rules if we can just make exceptions to them?

Respectfully,

Johnnie Wagner

Sent from my iPhone

From: RONALD DELFINI <rhdelfini@yahoo.com>
Sent: Sunday, December 5, 2021 12:42 PM
To: TownClerk@TownofHillsboroBeach.com
Subject: 1174-1185 Hillsboro Mile

I am a 25 year resident at **1194 Hillsboro Mile unit 61** I wish to express my strong opposition to the height variance request at 1174-1185 Hillsboro Mile. This property is very close to me and the size of this request will change the whole character of the town. I am concerned with the amount of traffic backups on A!A with the three gated guard entrance.

Interesting that their traffic study was done in July rather than the height of the season.

The proposed height of the building will also affect the sunlight on adjacent properties including mine.
We don't want to be sitting by the pool in the shade all day. I am in Connecticut and will not be present for the hearing, but I would like my strong opposition recorded

Ronald H Delfini | 203-415-6373

From: Dmlackner <dmlackner@aol.com>
Sent: Sunday, December 5, 2021 1:11 PM
To: townclerk@townofhillsborobeach.com
Subject: Variance Request for 1174-1185 Hillsboro Mile

Dear Hillsboro Beach Commissioners,
I would like to first thank you for your service. You all dedicate a lot of your time to the Town of Hillsboro Beach for what I understand is not very much compensation and not a lot of people are willing to make that sacrifice. So, for that, I truly thank you all.

You are all currently confronted with a request from Related/Dezer Group to give them a variance that exceeds our current building height and setback restrictions by over 140 feet. At first, one might think this is a difficult decision you have been confronted with but in reality, it is quite easy. Until the laws of our town are formally changed to allow such a structure the answer should very quickly be to not approve this request. The fact that we have laws that very clearly define what is allowed makes your jobs extremely easy. There may be temptations by the commission to approve this project that are not yet clear to the rest of the town, but I know for certain more tax revenue, more traffic, and higher demand on our already maxed out utilities does not make Hillsboro Beach a better place to live.

If it is not clear in the previous two paragraphs, please let it be known that my request is for the currently elected commissioners of Hillsboro Beach to only approve projects that fit within our building and construction laws. If the commission feels that the laws are out of date or don't currently represent the greater mindset of the town, put the changes on a ballot for all in town to vote.
Kindest regards,
Drew M. Lackner 1194 Hillsboro Beach

From: neilpoc@aol.com <neilpoc@aol.com>
Sent: Sunday, December 5, 2021 2:37 PM
To: TownClerk@TownofHillsboroBeach.com
Subject: Hearing re. 1175-1185 Hillsboro Mile Plan Approval

Ms. Henderson, CMC Town Clerk.

Dear Madam,

As a longtime resident of **1194 Hillsboro Beach** I wish to inform you that I am opposed to the request of a height variance for the development proposed at 1174-1185.

The Town of Hillsboro Beach has had a well established reasonable and effective height plan limitation that has maintained the unique and pleasing character of this island for several years.

Granting the proposed variance will not only itself change the character and aspect of the nearby residences but will introduce a precedent that might, within a few years, replace this last remnant of a South Florida coastal community that once existed. A slippery slope of ever higher and intrusive towers.

That part of the proposed development on the west side of A1A which conforms more closely to the existing height requirements would appear to pose no problem to neighbors or add much to the overall traffic impact, water and sewer needs or overlook. However the proposed tower on the east side of A1A does change all of those things in a negative direction.

I am therefore opposed to allowing any changes to the current height restrictions currently in place.

Thank you.

Sincerely, **Neil Pocock.**

From: J GALLAGHER <jgall56@bellsouth.net>
Sent: Sunday, December 5, 2021 2:57 PM
To: townclerk@townofhillsborobeach.com
Subject: 2 Empty Lots Variance

I am writing to say that I object to the Request for Variance on the proposed 15 story development north of us on the grounds that it will be by far the most out of place structure in our town dominating the skyline, and blocking our views north by great measure. The town should limit their height to 7 floors per our town requirement or lower for their immediate neighbors. It will just stick out like a sore thumb. Just like the Association in Highland Beach that was allowed to build higher than the rest of the town. Please say no to the developers. **Joan Gallagher**

From: Laura Fish <fishonthemile@gmail.com>
Date: December 5, 2021 at 7:59:09 PM EST
To: Deb Tarrant <dtarrant@townofhillsborobeach.com>
Cc: mserda@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Height Variance for 1174-1185

Dear Mayor Deb and All. I hope the email finds you (all) well.
Please note I would like my comments to be recorded for public record.

The reason for my email is to let you know clearly and without a doubt I am against the town approving the height variance that is being requested by the owners of 1174-1185.

The new owners were well aware of the height laws and the conservation of the dune areas when they purchased this property out of bankruptcy. In fact these are the same 2 reasons I purchased here over 21 years ago. This is what assured me that the small town feel that I moved here for would be preserved. If I wanted a big slick city feel of glass and pomp, I would not have bought my forever home at the Windsor in Hillsboro Beach. There are many other locations on a beach that would have fulfilled that type of living. I bought on The MIle and invested my savings in a home and community that promised- based on the laws a 3 story height limit.

*I find it quite insulting that these builders would think that not being able to build on our dunes is a 'hardship' which should be a reason they need to go higher than the law permits.
*I find it quite insulting that these builders believe their status allows them to push us around and insist they are beautifying our already gorgeous neighborhood with a 180 foot tall monstrosity. 3 stories is our municipal restriction. That is what they purchased and this should be what they present to the commission.
*I find it quite insulting that these builders would think that the neighbor's rights are less important than their own. Again- they came into this investment knowing the laws.

Ms. Mayor:
What happens when the Kennelly family (or other former applicants for height variances) sues the town if this height variance is approved since their previous requests for variances were denied? Who pays for the lawsuit(s)? I don't know anyone here who would want their taxes raised to fight something in the courts that should have been avoided by respecting the existing laws.

Can you and the commission be personally sued since the majority of the owners in Hillsboro Beach and in the direct building adjacencies do not want this variance to pass? Isn't it the job of our elected officials to carry out the wishes of their constituents?

Is this (likely lawsuit) something that has already been included in the new owners budget?
Based on the Surfside tragedy, I am very concerned for the safety and stability of the Hillsboro Windsor and other adjacent buildings. How can I be certain that the pilings that need to hold such an extraordinary amount of weight not effect the safety of my building?

(continues next page →)

I am not against the lots being built on, Ms Mayor- I am against the loss of our community because of greed. The Hillsboro Beach community was never about conspicuous wealth, it's about living the lifestyle away from that.

I implore you to vote NO to this egregious height request so we can continue living our lives in a peaceful and healthy environment.

Sincerely, Laura Fish Apt 703 Hillsboro Windsor

-----Original Message-----
From: jan cody <jancody27@gmail.com>
Sent: Friday, December 3, 2021 5:04 PM
To: dtarrant@townofhillsborobeach.com
Cc: ikirdahy@townofhillsborobeach.com; vfeaman@townofhillsborobeach.com; bbaldesarre@townofhillsborobeach.com; jreiser@townofhillsborobeach.com; jancody27@gmail.com
Subject: Construction Variance,

As a resident of Hillsboro Beach for the past 20 years I am currently extremely concerned about the discussion of a requested variance for a high rise development at 1174-1185 Hillsboro Mile. The first concern I had when purchasing my condo at the Hillsboro Windsor was whether I would lose my ocean view due to future construction on what was then the Kenneally lot.

I was told that the town had a moratorium on construction above 3 1/2 stories. Indeed, the permit later granted for The Enclave on that space would have seemed a very good fit. This application, however, seems outrageous on so many levels. I do trust our commissioners to act responsibly and to act on behalf of the residents in this matter.

To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, I object to a variance as to change the height. I request that this be included as public record.

Thank you for all you do on our behalf,
Jan Cody
Sent from my iPad

From: Pat Marmousez <marmousezpat@gmail.com>
Date: December 5, 2021 at 5:37:22 PM EST
To: dtarrant@townofhillsborobeach.com
Cc: ikidahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: 1174-1185 Hillsboro Mile

Please
As a resident and owner in Hillsboro Mile, I beg you to vote No to the current project of 1174-1185.
Patricia Marmousez, 1199 Hillsboro Mile.

From: George Wilcox <george@umn.edu>
Date: December 5, 2021 at 5:34:50 PM EST
To: jreiser@townofhillsborobeach.com
Subject: Development at 1174-1185 Hillsboro Mile

George & Leni Wilcox
Hillsboro Windsor Condominiums #507

Dear Commissioner Reiser
Please see attached PDF and have it entered into the public record for the Tuesday, December 7th, 2021 meeting.

December 5, 2021

Dear Mayor Deb Tarrant, Vice Mayor Irene Kirdahy, Commissioners Barbara Baldasarre and Jane Reisner

As owners of the Hillsboro Windsor Condominiums (Apt. 507), we would like this communication entered in the public record for the December 7th, 2021 meeting concerning the development plans and request for variance for the property at 1174-1185 by Related Group and Dezer Developers.

Although we appreciate the proposed setbacks and other amenities that the proposal could provide, we are deeply concerned that the 15-story twin tower design would negatively impact the stability of the fragile beachfront, obscure views, threaten the structural integrity of neighboring buildings, and increase noise and traffic on Hillsboro Mile.

The longstanding three story limit for that property was wisely established to protect neighbors and quality of life for our community. We therefore cannot support a variance to that limit. Indeed, the developer purchased the property knowing full well that the three-story restriction was in code.

We thank our commissioners, Mayor, and Vice Mayor for their service to our community, and we ask them to support the community of Hillsboro Beach by voting NO to the variance requested by Related Group and Dezer Developers.

Sincerely,

George and Leni Wilcox

From: Pat Engle <pjengle@aol.com>
Date: December 5, 2021 at 2:11:44 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: 1174-1175 proposed project
Reply-To: Pat Engle <pjengle@aol.com>

Dear Commissioners.

When I purchased my condo I did so knowing the the empty lot at 1174-1185 was only subject to a three story limit and I was comfortable with that. I am resident of the Windsor which is very close to this proposed development. If we had wanted our community to build higher rise buildings as a norm, I would have chosen to live in those places. Hillsboro Mile was not that kind of place and I wish it to remain as such.

To be clear I OBJECT to a variance as to a change in height. A much lower height would be preferred. PLEASE DO NOT GRANT THIS HEIGHT VARIANCE TO THIS DEVELOPER.

Pat Engle

From: Richard Maggiore <richardmaggiore524@gmail.com>
Date: December 4, 2021 at 2:38:26 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Variance for 1174-1185 Hillsboro Mile

Please include this letter as public record - Dear Mayor, Vice-Mayor & Commissioners:

The reason I moved to Hillsboro Beach is to get away from high rise development. Hillsboro Beach is not Pompano Beach or Fort Lauderdale.

When the developers purchased this property they knew full well what the zoning was. However, they have decided to attempt to make the most of their investment at the expense of all the residents of our town.

Hillsboro Beach is not Pompano Beach or Fort Lauderdale. This kind of development will change our entire town and should not even be considered. The previous owner of this property asked for a variance and was denied. In order to grant a variance there needs to be a Hardship. Other then making more money, what is the Hardship?

I realize that this development will bring an increase in Tax Revenue, but what they don't say is the additional cost of adding several new Police Officers and additional fire Rescue personal.

There is really no legitimate Hardship for the developer. However, is this Variance is approved, the only Hardship will be on the people of Hillsboro Beach that have to put up with this!

Respectfully,
Richard J Maggiore,
Past Mayor, Town of Hillsboro Beach

From: kwoody0322@aol.com
Date: December 5, 2021 at 12:22:46 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Vote "NO" to the Variance Request for 1174 - 1185
Reply-To: kwoody0322@aol.com

Dear Hillsboro Beach Commissioner's:

As an owner in the Hillsboro Island House for thirty-two years and someone who grew up in Ft. Lauderdale, this beautiful, charming, special town, has managed, other than for one unfortunate variance given years ago, to maintain its charming character. As you know, that is very difficult to do here in South Florida. Most of what I grew up with has been paved over with concrete stores or high rises. That is just what Hillsboro Beach resident's *do not* want. Hillsboro Beach is not that that kind of town. We want this exceptional town to remain as is. The development of this magnitude will change our beautiful mile *forever*!

That said, these developers have known for years this property was zoned with a three-story height restriction. Other developers who have purchased these parcels in the past with variance requests, were denied by the commission.

They are going to approach this request as an economic disadvantage due to the environmental restrictions. They knew everything about this property prior to purchase. Because their preference of requesting an ordinance change did not look promising, they now are going to approach it as a hardship. Let's be honest, once one variance is given, that will set the stage for a bombardment of height variance requests along the mile. It is all about money. They do not care about the destruction of the character of the town. Developers will be ready to move in on the next property, such as those that have upcoming expiring land leases.

Traffic issues...it doesn't matter what the traffic study shows, when you live and experience it everyday, particularly certain times of the year, talking to the residents is the best traffic study. We know with the influx of people moving into the county, things will only get worse as time goes on. We all know, A1A/Hillsboro Beach is an attraction for drivers.

These developers are doing a sell job when they speak of helping the town pay for underground lines, landscaping, and taxes. We do know the tax amount will not be as large on a development within the CODE, but the underground lines and landscaping are a requirement. As far as, the easement to access the beach for future nourishment, what is wrong with our agreement with Deerfield Beach?

The RESIDENTS are the TOWN. As elected officials by the residents, WE THE RESIDENT'S OF HILLSBORO BEACH DO WANT the parcels developed, but NOT 15 stories, plus the 7ft. elevator, etc.

PLEASE DO NOT let the development of these two monstrosities or future ones, be ***your legacy****!*

Please do NOT GRANT THE HEIGHT VARIANCE request by the developers.

As a resident of Hillsboro Beach, regarding the proposed building project at 1174-1185 Hillsboro Mile, I object to a variance as to a change in height.

We are unique and we like it this way!
**Please include my letter as public record. Thank you.
Karen Olsen | 1160 Hillsboro Mile, #501

From: "Mary E. Vogl" <bvogl@att.net>
Date: December 4, 2021 at 2:35:28 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Cc: Mac Serda <mserda@townofhillsborobeach.com>
Subject: Property Development located at1174-1185 Hillsboro Mile

Dear Mayor Tarrant, Vice-Mayor Kirdahy, Commissioner Feaman, Commissioner Baldasarre, Commissioner Reiser and Mr. Mac Serda, I submit to you as Town Commissioners facing the decision regarding development of the property located at 1174-1185, this letter for the public record. In addition, I trust that this Commission as neighbors, fellow residents, and elected officials, will clearly understand and respect my concerns.

My family first came to Hillsboro Beach in 1970. I was 12 years old at the time…50 years later, we are still here! While my parents have since passed away, both my sister, and I continue to reside happily, here on the Mile. Like so many of our fellow residents, we are "all in". Weddings, engagements and countless other family events, have been tied to this 3 ½ mile stretch of sand. I recall a phone conversation with my mother (It must have been around 1976 – I was in college) explaining what good news it was that a height ordinance had been passed in Hillsboro Beach. She was relieved to know that the awful construction boom that had been progressing up the coast was going to be prevented from taking over her little town. No doubt you might find it interesting that she was a resident of Le Baron!

So here we are, forced once again to stand up to large, unpopular development in our community. To be 100% clear, I am not at all opposed to developing this property. It has been an eyesore (albeit a valuable one) for far too long!

After having listened to the developers' Zoom meeting, I find it impossible to believe that they cannot devise a plan to construct 121 luxury condo units (as they have proposed), on this 11 acre site, without breaking every ordinance we have! Their choice of what to construct on this property is their business. It should not be any of our concern as long as they stick to our rules and regulations. If they choose to "build ugly," so be it. This Commission has no reason to accept this site plan as the only possible solution, which, I believe, is what is being insinuated by requesting a height variance. A choice is not a "hardship". As such, it appears that the developers are leaving the Commission no choice but to deny the request for a height variance. It is my strongly held belief that the persistence with which the Dezer/Related Group is pursuing these 175' high condo towers illustrates that this land was purchased without ever intending to build within our codes. That kind of bully tactic need not be rewarded.

I honestly feel badly that this project is causing such animosity because so much of this proposal is favorable. What's not to like about fewer, but larger units that result in increased

tax revenues, and serve a supply and demand need? But regulating density, for density's sake alone, is a slippery slope. I believe that the developers would like you to green-light this project because they hope you will 'buy in' to the idea that it is better than the zoned alternative. Is this actually true? According to their Zoom meeting, 20% of the 11 + acre site has a LOPC designated area in the area around the beach dunes. (I believe this designation went into effect in 1993 - 28 years after the Zoning ordinances were adopted , so not exactly recent history or a secret!)). Thus the total buildable area is 9+ acres. This site lies within R-16 Zoning, which means from a practical perspective the greatest number of units that might be considered for any developer interested in working within our height restrictions is 144 units (9 acres x 16). So to be clear, how can 23 fewer units justify a 135' over zoned height variance?

On a more conceptual level, as many of our older, smaller condo buildings age, there is no doubt that some may become financially unfeasible, and redevelopment may well become our new normal. The Mile has always had a variety housing options for the wealthiest "masters of the universe" to the little old pensioner. Let's all agree that no one comes to Hillsboro Beach to show off one's wealth or social status. With just one road and no commercial clubs, bars or restaurants, we are rather boring….exactly the way we like it! As newer buildings inevitably replace older ones, and units become larger and glitzier, we may reduce our population and at the same time, loose the less financially fortunate amongst us. I urge you all to find you own moral compasses and realize that supporting density reduction for density's sake threatens to take away the soul of a town.

Once this project is approved, in whatever form that may take, I urge the Commission to create a Redevelopment Ordinance. Timing will be critical, as developers will be circling like sharks around our barrier island. Thank you for you time and commitment to our town.

Beth Vogl - Harborside Condominium

From: Max Heppner <maxbheppner@gmail.com>
Date: December 4, 2021 at 2:20:57 PM EST
To: Deb Tarrant <dtarrant@townofhillsborobeach.com>, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Height variance request

Dear Mayor Deb and Commissioners.

Please include my remarks in the public record as being strongly opposed to having the developer add 50 % more height to the towers they plan to build in Hillsboro Beach. Just step across the border from Deerfield Beach to Boca along the Beach and see the 15-story buildings overshadow everything. Or have a look at Sunny Isles, where the same firm is building and has built high rises. The blockage of views and immense traffic snarls will give you pause.

You have consistently resisted such variances, for good reason, and the reasons haven't changed. The issue is, will we accede to make our town look like Sunny Isles, or will we preserve what we most value here: Neighborliness, quiet, privacy, easy access, and . . . our image as a lovely beach area.

The developers have consistently tried to slither past restrictions. For example, they took a quiet summer afternoon to make and present a traffic flow study to show that our road can handle whatever. Now look at the backup from Hillsboro Blvd. Or look in another week or two. You'll see traffic backed up all the way from the bridge to our border with Deerfield Beach. Then add what all the extra traffic will cause with 15-story towers in our area, and you won't need another single fact to say no.

So keep saying no, even though I'm sure they'll dangle some sort of side benefit in front of your eyes. None of it is worth dealing with the impact of the proposed variance. I am 88 years old and enjoy and have enjoyed living here. I want my children and grandchildren to have the same option. With wild development, which won't stop if these developers get their way the first time, the Hillsboro Beach we know and love will no longer exist.

Please vote no.

Like just two letters: NO

Many thanks,



Max B. Heppner
maxbheppner@gmail.com

1147 Hillsboro Mile, Apt. 415
Hillsboro Beach, FL 33062

From: Freny Deboo <deboofreny@gmail.com>
Date: December 4, 2021 at 1:17:37 AM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Proposed height variance change by the developer at 1174-1185 Hillsboro Mile property.

Dear Commissioners,

As residents of Hillsboro Beach, following are our main concerns regarding proposed height variance change by the developer at 1174-1185 Hillsboro Mile property:

1. When we purchased our property in Hillsboro Beach, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit.
2. As the residents of Hillsboro Beach, we certainly want the parcel of land developed, but not 15 stories plus the 7 ft elevator.
3. The developer bought the property fully knowing what the height limitation was (3 story height) with its easements.
4. To allow a project of this proposed magnitude and its affects on adjacent properties with much lower, older buildings by heavy construction work (according to Developer, at least 150 pilings that run 150 feet deep), all this is of major concern to us.

We therefore, respectfully request that you do not grant the developer's proposed height variance.

We wish you a joyful start to the holiday season!

Sincerely,
Freny Deboo
Hillsboro Beach Residents

Sent from my iPhone

From: Paul Rock <rock.p@att.net>
Date: December 3, 2021 at 11:16:59 PM EST
To: jreiser@townofhillsborobeach.com
Subject: Denial of Variance of Lots 1174-1185

I am very concerned about the development of Lots 1174-1185. I understand that a "big developer" wants to override the height limits of Hillsboro Beach for their personal gain. I love living in Hillsboro Beach and bought here specifically because of the community and how it was developed for a secure, safe and inviting community. I bought here knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and appreciated this for our comfort and security, especially since I live in close proximity to these lots. I specifically did NOT want to live where high rise buildings were the norm! I am very upset that a variance is being considered for this developer. I believe that long-standing residents' concerns should override the profitable desires of big developers, who come into our community and leave us with problems that ensue.

It is my understanding that the developer bought this property knowing exactly what the height limitations were (3 story height) with its easements. They purchased this property under full disclosure of this restriction, but are now trying to manipulate these limitations - and our community - for their own selfish personal gain. if this developer changes our limitations under these circumstances, why would any regulation in Hillsboro Beach be safe? I understand many variance requests have been made for this property as well as other property in Hillsboro Mile and have been denied by the Commission. If this developer is allowed anything above 3 stories, it would seem to us to be a special privilege for this specific developer. A claim of economic disadvantage due to the developer's deciding what he would like to do with the property, is not adequate to establish a hardship entitling him to a variance at our expense.

A project of this size and scope would have harmful and, I believe, damaging affects on lower and older established buildings and the detrimental strain of years of substantial construction - I have heard of at least 150 pilings running as deep as 150 feet on our beach community, would be significant. This would be much more invasive and damaging than construction within our code.

I believe the residents concerns should be the Commissioners' (which the residents elected) priority... not the profit of a big developer! The questionable promises of a big developer cannot hold up to the damage of changing our codes, harm to our community and disregard for the concerns of the residents of Hillsboro Mile. A developer that comes in, buys property knowing the restrictions and then manipulates the situation (with promises and scare tactics) for his own profitable advantage, is not someone who will benefit our community.

Simply put, as a resident of Hillsboro Beach, re the proposed building project at 1174-1185 Hillsboro Mile, I object to a variance as to a change in height. If the Commission denies the variance, the developer will have to present another proposal with a lower height.

If the Commission approves the variance, the potential lawsuits against this project and from future developers in Hillsboro Mile, is very probable, with the resulting costs to residents.

As long-time residents of Hillsboro Mile (over 10 years), I want this parcel of land developed; however, not 15 stories plus the 7-foot elevator, etc. etc. I request that my email be included as public record. Please do NOT GRANT THIS HEIGHT variance for this developer

David Rock 1160 Hillsboro Mile #506

Paul and Myra Rock
1160 Hillsboro Mile #502

From: Kentos Rock <rockbrg@yahoo.com>
Date: December 3, 2021 at 10:58:31 PM EST
To: jreiser@townofhillsborobeach.com
Subject: Request for denial of variance for Lots 1174-1185

We are very concerned about the development of Lots 1174-1185. We understand that a "big developer" wants to override the height limits of Hillsboro Beach for their personal gain. We love living in Hillsboro Beach and bought here specifically because of the community and how it was developed for a secure, safe and inviting community. We bought here knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and appreciated this for our comfort and security, especially since we are in close proximity to these lots. We specifically did NOT want to live where high rise buildings were the norm! We are very upset that a variance is being considered for this developer. We believe that long-standing residents' concerns should override the profitable desires of big developers, who come into our community and leave us with problems that ensue.

It is our understanding that the developer bought this property knowing exactly what the height limitations were (3 story height) with its easements. They purchased this property under full disclosure of this restriction, but are now trying to manipulate these limitations - and our community - for their own selfish personal gain.

If this developer changes our limitations under these circumstances, why would any regulation in Hillsboro Beach be safe? I understand many variance requests have been made for this property as well as other property in Hillsboro Mile and have been denied by the Commission. If this developer is allowed anything above 3 stories, it would seem to us to be a special privilege for this specific developer. A claim of economic disadvantage due to the developer's deciding what he would like to do with the property, is not adequate to establish a hardship entitling him to a variance at our expense.

A project of this size and scope would have harmful and, we believe, damaging affects on lower and older established buildings and the detrimental strain of years of substantial construction - we have heard of at least 150 pilings running as deep as 150 feet on our beach community, would be significant. This would be much more invasive and damaging than construction within our code.

We believe the residents concerns should be the Commissioners' (which the residents elected) priority... not the profit of a big developer!

The questionable promises of a big developer cannot hold up to the damage of changing our codes, harm to our community and disregard for the concerns of the residents of Hillsboro Mile. A developer that comes in, buys property knowing the restrictions and then manipulates the situation (with promises and scare tactics) for his own profitable advantage, is not someone who will benefit our community. Simply put, as a resident of Hillsboro Beach, re the proposed building project at 1174-1185 Hillsboro Mile, I object to a variance as to a change in height. If the Commission denies the variance, the developer will have to present another proposal with a lower height.

If the Commission approves the variance, the potential lawsuits against this project and from future developers in Hillsboro Mile, is very probable, with the resulting costs to residents.

As long-time residents of Hillsboro Mile (over 25 years), we want this parcel of land developed; however, not 15 stories plus the 7-foot elevator, etc. etc.

Please do NOT GRANT THIS HEIGHT variance for this developer
We request that our email be included as public record.
Paul and Myra Rock - 1160 Hillsboro Mile #502

From: Roberta Ross <bertieross@yahoo.com>
Date: December 3, 2021 at 5:33:32 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Height Variance at 1174-1185 empty lot

I wish to have this letter entered into Public Record:
Hello,
When my husband & I purchased 10 1/2 years ago, Hillsboro Beach's beach was calm, quiet, peaceful and still a bit wild.
We would often, before buying here, drive up Hillsboro Mile and enjoy the canopy of trees and the ability to look at the intracoastal and beach side and just enjoy the pleasant drive, so different from all other beach communities.
Now we hear there is to be a height variance on 2 new proposed towers allowing the builder to build up to 15 stories (which likely will go higher with under building parking). This is not the proper building for our quiet piece of paradise.
All the additional traffic this will cause on the A1A will be considerable and extra noise and traffic on the beach as well.
Not to mention the smaller adjacent properties and the environmental impact to the area, not just for the construction years but for all years to come.
We have stayed in properties in Pompano Beach and seen other towns north and south of Hillsboro with their massive buildings. It changes the whole atmosphere of the community and this is not something that Hillsboro Beach needs or wants.
An economic disadvantage due to the developer's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling them to a variance. To allow the development of this parcel of land from 3 stories zoning to anything above without regard to its surrounding designations is a special privilege to this developer. Many variance requests have been made (previous owners of the property are one) over time for this property as well as others along the mile, that were denied by the commission. I fail to see why now this height variance should be granted.
We urge you to vote No to the proposal and have the builder go back to their drawing board to come up with a better plan.
It seems these days that everyone is in a big hurry to make a buck and have everything their way and be damned to all those who don't want what they want. That builder bought the property knowing the height that the property allowed and shouldn't be allowed to just bulldoze their way over all others who were here before them to have their way.
Thank you for your consideration of our opinions and objection to the height variance.
Roberta Ross.

From: Scott Williams <scott@wowadvisors.com>
Date: December 6, 2021 at 9:53:30 AM EST
To: jreiser@townofhillsborobeach.com
Subject: Document1

December 6, 2021
To Commissioner Jane Reiser
Town of Hillsboro Beach

Not being a "political person" I found myself returning home to Hillsboro many months ago and passing town hall on the later part of "election day". Again, not subscribing to a pollical party or agenda, the only reason I stopped to vote for the current administration was for their continued efforts to preserve the beauty and lifestyle that is Hillsboro Mile.
As most who have lived in South Florida for many years and many decades, we have come to have to accept change. But all it takes is for one to drive through Galt Ocean Mile, Hallandale, North Miami and other congested communities to find yourself asking "what were they thinking"? And to answer that question is one thing: money.
If democracy is the will of the people, then capitalism is the will of the dollar. And when the two conflict the will of the dollar finds its way to influence elected officials to bypass the will of the people. I recognize that there is a small minority who want to see the addition of a high rise in our town, expansion of the tax base and the short term "perks" that the developer may offer; but this is contrary to residents' will in establishing a height ordinance in the first place.
We applaud your efforts in enforcing this ordinance with the prior property owner and urge you to continue to abide by this height restriction wisely established many years ago. We have placed our trust in you; please don't let us down.
Sincerely,

Scott & Mary Beth Williams
1170 Hillsboro Mile

From: Pat Marmousez <marmousezpat@gmail.com>
Date: December 5, 2021 at 5:37:22 PM EST
To: dtarrant@townofhillsborobeach.com
Cc: ikidahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: 1174-1185 Hillsboro Mile

Please
As a resident and owner in Hillsboro Mile, I beg you to vote No to the current project of 1174-1185.
Patricia Marmousez, 1199 Hillsboro Mile.

From: PAUL GOLTZ <paulgoltz@cs.com>
Date: December 5, 2021 at 11:29:36 AM EST
To: jreiser@townofhillsborobeach.com
Subject: Fwd: Development at 1174-1185 Hillsboro Mile
Reply-To: PAUL GOLTZ <paulgoltz@cs.com>

Dear Commissioner Reiser,
First, Please make this communication as public record.

I am an owner at the Hillsboro Windsor Condominium (Apt. #607) and am very concerned about the proposed development plans for 1174-1185.

Specifically, I understand that the owner of the property intends to petition the Community to build twin 15 story condominium towers on the property - which is currently not permitted.

Please note that when my wife and I purchased our present unit, we did so knowing that the empty lot (1174-1185) was subject to a 3 story limit, and that was a comfort to us.

I do not feel that the developer should use whatever means to adjust the current zoning regulations for the land - as they bought the property full well knowing that the height limit was three stories with its respective easements.
To allow the development of this parcel of land from 3 story zoning to anything above that (without regard to its surrounding designations) is a *Special Privilege* to this developer. As you well know, many variance requests have been
made over time for this property - that were all denied by the Commission.

I would like to remind you that all of us residents in Hillsboro Beach should have a say in this zoning change proposal and we expect the elected Commissioners to preserve our resident rights.

To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, **I object to a variance as to a change in height of building structures.**

Commissioner Reiser, please do not let us down and **please do not grant this height variance for this developer!**

Thank you for keeping Hillsboro Beach as a beautiful and unique destination and, for your service to our community.

Sincerely,

Paul R. Goltz
1169 Hillsboro Mile #607

From: Laureen Fleck <laureenfleck@yahoo.com>
Date: December 4, 2021 at 5:57:50 PM EST
To: jreiser@townofhillsborobeach.com
Subject: Variance property 1177-1185

Dear Commissioner Reiser,

I would like my opinion heard and recorded with regard to the land development at 1174-1185.

Some points to consider include;

- The developer does not have a right to change the height zoning when it could be deemed as injuring the rights of others, especially adjacent property owners, regardless of the perks they claim the height variance will provide the town.
- The developer is using scare tactics such as the use of words like “ugly” and “monolith” and “rental property” and other negative words when it relates to what could be built on the property, WITHIN CODE and should not be accepted.

To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile,
I object to a variance as to a change in height.

Please DO NOT GRANT THIS HEIGHT variance for this developer!

Sincerely,

Laureen M Fleck
Owner and Resident
1173 Hillsboro Mile
Unit 2-1
Hillsboro Beach, Florida 33062

Laureen M. Fleck, PhD, FNP-BC, CDCES, FAANP
Family Nurse Practitioner

Associate Graduate Faculty
Christine E. Lynn College of Nursing
Florida Atlantic University
Boca Raton, Florida 33431

From: Lori <lori_mailbox@yahoo.com>
Date: December 4, 2021 at 5:24:59 PM EST
To: jreiser@townofhillsborobeach.com
Subject: PLEASE VOTE NO to 1174-1185 Height Variance

Thank you in advance for reading this note and considering resident feedback in this very important deliberation and decision.

As property owners and residents of Hillsboro Beach, we object to a variance as to a change in height structure as it pertains to the proposed building project at 1174-1185 Hillsboro Mile.

We purchased a second home in Hillsboro Beach almost 8 years ago. In 2014, we purchased a condo unit at the Hillsboro Colonnade, thinking we would dip our toe in the water of owning a vacation home, and appreciating the serenity and aesthetic of individual (albeit estate) homes and lower rise buildings in the community. Last year we sold that unit and purchased another at the Overlook, upon deciding that we love the town (it is a hidden gem) and plan to make it our permanent home and retirement residence in the future.

Hearing that a developer is looking to disrupt what residents hold so dear about the community (all for the mighty profit) is very distressing. There will be no material benefits realized by HB residents, that outweigh the detrimental impacts of allowing the development of a 2-tower,15-story (atop a 30ft berm) project. A smaller project, built within the parameters of existing zoning rules, will nicely fill out the vacant land, be consistent with, and preserve the look and feel of the "Mile".

The developer asserts that the project will offer perks in the form of tax revenue, landscaping, underground lines, etc. Those will come anyway with a project that is in line with existing zoning rules and codes.

What is also upsetting is that the developer purchased the property with eyes wide open, knowing what the zoning rules and limitations are. Their primary focus is on maximizing their profit potential, they are not concerned for residents of the community. It's arrogant for them to expect that the town will bend and change as these developers flex their financial muscle and bring in lawyers and experts. Claiming hardship, i.e. that they will be economically disadvantaged by not granting them a variance, is not good enough reason to overturn rules that have served this town well for so long.

Another concern is safety, that is the potential impact that the magnitude of heavy construction (e.g. driving pilings) will have on the surrounding area and buildings. The Overlook is in very close proximity - if this were to go forward, we hope the Commission will compel the developer to obtain engineering reports for our (and other) buildings prior to construction, and then deliver engineering reports again after completion of the project, to assure that the construction activity did not adversely affect surrounding structures. Further, if repairs are needed for surrounding buildings as a result of the construction, the developer should be held accountable (either funds in escrow or insurance coverage) for those repairs. Given the recent tragic events in South Florida, this concern should not be minimized.

We're confident that, if the Commission should reject the height variance request, this re-known and experienced developer will leverage its resources to come up with a plan that will enhance and be additive to our community, while also complying with existing rules and codes.

Please vote "NO" and do not grant the height variance.

Thanks again for your consideration.

Kind regards,
Michael and Lori Sullivan
1167 Hillsboro Mile

NOTE: THIS CORRESPONDENCE MAY BE INCLUDED AS PUBLIC RECORD.

From: digga25@aol.com
Date: December 3, 2021 at 5:00:41 PM EST
To: dtarrant@townofhillsborobeach.com
Cc: bbaldasarre@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: 1174-1185 Hillsboro Mile Development
Reply-To: digga25@aol.com

Madam Mayor

Regarding the proposed development of this property.WE are opposed to the approval of the variance for the building heights.We have been in Hillsboro Beach since 1984 and have stayed here because of the uniqueness of the area. A high rise with many units will strain our newly rebuilt infrastructure, and make an already heavy seasonal traffic flow, much worse. The developer had to know there was a height restriction and should not be granted a variance due to hardship. As a tax payer and home owner on Hillsboro Mile we object to the approval of a height variance. Let the developer come up with a better plan to fit our area and keep it like it is. Thank you.

Sincerely

Fred and Jayne Ramey
1194 Hillsboro Mile
Hillsboro Beach, Florida 33062

From: Celinda Sawtelle <celindasawtelle@gmail.com>
Date: December 3, 2021 at 4:17:59 PM EST
To: jreiser@townofhillsborobeach.com
Subject: Hbm

Celinda Sawtelle

Hello commissioner Reiser,
I know that you're just getting a custom to the Town Commission. I served for over three years and I found it very difficult.

I hope that you hear the voice of the people we have one group that has 160 signatures so far against allowing this variance. They also have a lawyer and they have money pledged to pay that lawyer. I am not a part of that group but I do not want to see two huge skyscraper buildings built on that property. It will open the door for more and more huge buildings on the mile until we just look like Boca. Please hear the voice of the people and when you vote vote for the people not for anything else.

Please make this letter from me a part of public record

Celinda Sawtelle

On 12/3/21, 3:57 PM, "Celinda Sawtelle" <celindasawtelle@gmail.com> wrote:

Dear Mayor
Many residents are against building big high-rises. Granting this variance would be against everything that Hillsboro Mile stands for. It would no longer be the low keyed elegant small town. It would be the start of big business.
I am a real estate agent and have been a specialist on the mile for years. 90% of the time when I sell some thing on Hillsboro mile I tell them that they're buying a lifestyle. I tell them if they are a high-rise type that they probably won't like it here. Many of the very people that I've sold to are now horrified that we may have a huge building on the mile.
Even if you get more revenue from having a huge building you're still gonna have to hire more police you're going to have more traffic more dogs on the beach. More human dramas for our police to deal with our fire department to respond too. Right now the economy is faltering and many people believe there is inflation coming. If this happens while they're building the high-rise felt turn it all into rentals anyway. So it's a threat of them building rentals is scary just think —It's not how high the building in that drives whether it's rental or not It's how fast they can sell them to make a profit.
I hope you make a history for yourself by listening to the Town people cry out to keep our building codes the way they are. I would think that you would like to go down in history as being the voice of the people not the voice of big business.
Please make this letter a part of public record.

Celinda Sawtelle

---------- Forwarded message ---------
From: **Celinda Sawtelle** <celindasawtelle@gmail.com>
Date: Fri, Dec 3, 2021, 4:03 PM
Subject: Hillsboro mile
To: <ikirdahy@townofhillsborobeach.com>

Hello Irene,
You have done some really good things on the commission. Now I'm asking you to be the voice of the people as we cry out to not change the building codes because some multi millionaire wants to make more money.
Drilling a two level garage and then putting another 190 feet on top of it makes my head spin. This is not the kind of structures that Hillsboro mile is known for. Please maintain the quality of our town.

Many of us that moved to Hillsboro mile did so because of the pristine beach and the peace and quiet and the wonderful small town quaint flavor. Allowing a variance for this builder is just going to open the door for more and more tall buildings.
Please make this letter a part of public record. We will all see you on the seventh

Celinda Sawetelle

From: Nancy Robbins <nbdr13@icloud.com>
Date: December 3, 2021 at 3:46:58 PM EST
To: Deb Tarrant <dtarrant@townofhillsborobeach.com>, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Please vote NO

This parcel of land subject to a new ordinance in height being voted on December 7, 2021.

My concerns;

Is decidedly unfair to the residents and neighbors in Hillsboro who built according to zone.

It will open the gate way to further development further damaging the character of Hillsboro Beach.

I along with many other fellow residents chose Hillsboro over Pompano for the very reason of lower building heights.

Even with buildings at 7 stories high there is no sun on our beach by 3 PM this time of year. Imagine 15 stories dwarfing the sun on the beach.

The developer bought in an area knowing the zoning was only three story height.

Developers profit is not our problem. Nor is it yours as our commissioners as only you can be our safety net to protect our community.

The developers will not build anything that is not marketable. The perceived threat of 188 units three stories high dwarfing A1 A is not reasonable nor attractive to the buyers they are seeking.

This the right time to say no!

Thank you for the work you've doing now and in the past to keep Hillsboro Beach as a unique beautiful community.

Respectfully submitted,

Nancy Robbins
HIH

From: Sharon Gardzinski <idodeps@gmail.com>
Date: December 6, 2021 at 11:09:46 AM EST
To: dtarrant@townofhillsborobeach.com, ikirday@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: 1174-1185 Empty Lot Variance Request

Hello, Commissioners:
Please see attached. Thank you for taking the time to listen to my concerns.

Sharon Julian
1160 HIllsboro Mile #102 Hillsboro Beach, FL 33062

On Monday, December 6, 2021, 9:05 AM, boggiethemile <boggiethemile@bellsouth.net> wrote:

Mayor Deb I request this note be recorded for Public record. Thank you in advance.

I know that Laura Fish my Life Partner for 20 years in apartment 703 in the Hillsboro Windsor has also sent a letter to you and the Town Commission stating her main concerns with regards to this proposed variance Nextdoor to our building and I also have an important note to add to Her letter.

When our search for a permanent home after we retire was underway we had to fortunate timing and luck to arrive at apartment 703 at the Windsor which is the only high rise building adjacent to the property in question.
What we've had for this entire time in our home has been Magical and beyond. We are afforded an existence that we literally have to pinch ourselves every morning and afternoon at the Sunrise and Sunsets we have experienced for almost 22 years. Now due to this variance request we are in danger of loosing all of that pure JOY. Physically located on the North side of the Windsor we have a patio that when added to our balcony space is right around 1,400 square feet equaling the square footage inside of our apartment. We use every square foot of both inside and outside every day and with complete privacy in the past which is now in peril. Our Constitution guarantees in amendments 4-5-9 the privacy in your own home and has been backed up in many US Supreme Court challenges. You wish to talk about HARDSHIPS well feeling like a proverbial fish in the fish bowl has to be considered as a #1 HARDSHIP that is oh so real. We will never feel safe inside our own bedrooms again whose window's have a northern exposure and we normally enjoy having our windows and blinds open except in the dead of summer and this we can never do again with two towering buildings full of Occupants right Nextdoor. Forget totally the use of our North facing patio that we have enjoyed and our privacy for 22 years with the knowledge that our privacy was protected by our current Building Codes at three stories with a maximum height of no more than 50' from the elevation of A1A. The invasion of our privacy inside and outside of our home as it was when we purchased it is against the laws of our Country and these privacy's need to be protected and that cannot happen if our building codes were usurped. So PLEASE Mrs. Mayor and our Town's Commissioners protect our Home and the enjoyment we have had every day for the past 22 years. Our HARDSHIP will be materialized and IS REAL if this height varience is extended to this group of Owner's who purchased this land knowing you cannot touch the protected Seagraped dunes, and that our building codes when the deal was done was limited to a (3) stories and maximum height of 50 feet… I'm begging you to please reject this variance request and protect our home and privacy. Sincerely and with respect.
David Boeggeman Hillsboro Windsor, apt. 703.

On 12/5/21, 6:44 PM, "Andy Plennert" <AndyP@weberflavors.com> wrote:

Dear Ms Tarrant,

My family has owned the condo at the Hillsboro Colonnade for at least fifty years and have seen a a number of changes in the area. Regarding the proposed size and nature of the facility being proposed on the two large lots just north of us, will overcrowd the area and drastically increase an already heavy traffic pattern on Hillsboro Ocean Mile. Also, the atmosphere of the mile will be disrupted by an over populated large facility. We enjoy the laid-back beach feeling of our coastal community.

I hope this note finds you and your family in the best of health and spirits especially during this Christmas season.

The best,
Andrew & Sharon Plennert
1161 A-1-A Hillsboro
730 S Seminary
Park Ridge, Illinois 60068

From: Vicky Feaman <vfeaman@townofhillsborobeach.com>
Date: December 5, 2021 at 5:53:13 PM EST
To: chris fleck <cfleck@yahoo.com>
Subject: Re: Variance request for 1174-1185

On Dec 5, 2021, at 1:58 PM, chris fleck <cfleck@yahoo.com> wrote:

Commissioner Feaman,

Please VOTE NO on the developer variance request for the following reasons.

1. The developer will definitely reduce the height significantly if the commission does not approve.

2. The recent community meeting had 60+ residents there that DO NOT WANT a 15 story building (with atonly one exception).

3. There is zero downside to the commission voting No. They said they will negotiate if not approved.

4. The Architect is misrepresenting the setbacks, only showing the building tower not the garage that takes essentially the entire buildable property, the same as a 3 story legal alternative. The Garage is 15 ft above the street Plus a 4 foot wall. Take a look at any neighboring building, 19 feet is the top of the second floor. That is how big the Garage is, 550 feet wide. Landscaping will not hide all of that.

5. The attorney is using the word “peculiar“ to avoid using the word “Hardship” which is what is required to consider a variance. The reality is the developer could still make 10’s of millions in profit with 3 story buildings. They just won’t make the maximum possible. That does NOT CONSTITUTE HARDSHIP. They knew the building restrictions when they invested in the property.

6. The Developer said a 3 story building would require the same 100+ 150 foot deep pilings to build on as the 15 Story. This is Absolutely FALSE.

7. The Developer is stating they will “contribute” to sand re-nourishment. But they are not stating how much funding and zero commitment. Zero contract means Zero funding.

8. The residents are also concerned, as I am, of the precedence this will set for other developers to request a variance, and sue if they don’t get it. The net result is cranes for a decade and Gault mile jr.

9. The town residents want and have a right to see legitimate plans for a legal 3 story development and then consider alternatives.

10. Please do not let the developers steam roll over you and the town residents.

Thank you for listening.

Chris Fleck
1173 Hillsboro Mile.

From: Janice Solis <janicesolis@mac.com>
Date: December 4, 2021 at 3:56:11 AM EST
To: bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: 1174-1185 Hillsboro Mile Request for Height Variance

Commissioners,

I object to the request for height variance for the 11274-1185 Hillsboro Mile property.

I fear:

The construction of a project that size would endanger the stability of the ground upon which the Hillsboro Windsor Building, 1169 Hillsboro Mile, sits. The collapse of my building and the danger to our owners is a real possibility.

The constant traffic of huge construction vehicles and workers would not only be noisy and dirty, but would destroy our new road and possibly our new sewer system, to say nothing of adding to traffic back ups and delays due to our bridges, normal residential traffic, and seasonal visitor traffic.

The proposed 15 story height of the twin towers goes against our zoning laws. I'm sure this was known when the developer purchased the property.

Buildings of that height would also impede views of all surrounding neighbors.

Sincerely,
Janice Solis, Hillsboro Windsor

From: Manny Penate <mpenate@icloud.com>
Date: December 4, 2021 at 10:52:24 AM EST
To: jreiser@townofhillsborobeach.com
Subject: Height variance 1174-1185

Hi Jane,
My name is Manny Peñate. I serve on the Harborside board and strongly oppose the height variance for all the reasons listed below. Hope you'll support the community in this decision.

- When we purchased here, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and that was a comfort to us. If we had wanted our community to build higher rise buildings as a norm, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.

- The developer bought the property fully knowing what the height limitations was (3 story height) with its easements.

- This developer purchased the property with this full disclosure but are now trying to obtain a variance because their proforma doesn't allow as much profit as they would like.

- An economic disadvantage due to the developer's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling them to a variance.

- To allow the development of this parcel of land from 3 stories zoning to anything above without regard to its surrounding designations is a special privilege to this developer. Many variance requests have been made (Previous owners of the property are one) over time for this property as well as others along the mile, that were denied by the commission.

- A project of this proposed magnitude and its effects on adjacent and much lower, older buildings and the strain of years of heavy, heavy construction – Developer said at least 150 pilings that run 150 feet deep is of particular concern! Surfside allegations come to mind. A smaller project in line with the code, would have a much lesser affect.

- The town residents should not suffer because Big Development cannot make money.

- The RESIDENTS are THE CITY and not the commissioners who are their ELECTED officials to preserve residents' rights.

- The perks the developer is offering the town (taxes, landscaping, underground lines, etc.) will come in any case from the development of the property so those used as a basis for the development are disingenuous at best.

- The developer does not have a right to change the height zoning when it could be deemed as injuring the rights of others, especially adjacent property owners, regardless of the perks they claim the height variance will provide the town.

- The developer using scare tactics such as the use of words like “ugly” and “monolith” and “rental property” and other negative words when it relates to what could be built on the property, WITHIN CODE, should not be accepted. This developer is well known for a lot of things (both positive and negative) and I am certain that with the acreage they can make a beautiful rendering with MUCH less height. They simply would not put their name to this project on an ugly structure – won’t happen, never has with them.

- To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, I object to a variance as to a change in height.

WE THE RESIDENTS OF HILLSBORO BEACH DO WANT the parcel developed but not 15 stories plus the 7-foot elevator, etc.

- Please do NOT GRANT THIS HEIGHT variance for this developer

Thank you in advance,
Manny Peñate
Harborside Board

On Dec 3, 2021, at 10:12 AM, Danielle Dinapoli <ddinaps314@aol.com> wrote:
>>
>> Greetings all,
>> I am a resident of Hillsboro mile 1169 and initially was against the 15 story high rise proposed.
>> I attended the embassy suite meeting and was excited to see the beauty’s ii of the natural landscaping and care in minimizing the width of the building.
>> I spoke at the meeting the landmark is not a fair comparison it is 2 miles away, but buildings within our mile radius is a fair comparison and would not stand out as an isolated structure.
>> After the meeting and speaking with other home owners a fair compromise would be to keep the building width footprint but reduce to the height to 10/11 stories. This of course would be without compromising the architectural building design as communicated by the architect.
>> I am looking forward to the meeting next week.
>> **Danielle DiNapoli**

From: Donna Scheurer-Purre <Donnas@FoodforthePoor.com>
Date: Tuesday, November 30, 2021 at 4:16 PM
To: Deborah Tarrant <deborahtarrant@aol.com>
Subject: 1174-1185 Property Variance Proposal

Dear Deb,

I want to thank you and the commission for the years of service to the residents of the Town of Hillsboro Beach and all of the other commissioners who have worked on our behalf. In the past, I always felt that my interests were looked after. Today, as I sit here and go over everything I have read and yes heard from the calls I have been on, I am not so sure.

When we purchased here, we did so knowing that the adjacent property to us was only subject to a 3 story limit and that was a comfort to us, as was the many big developers who came and went trying to change the MILE to a Miami Beach, Surfside, or now Pompano Beach by changing the zoning laws for their own benefit. If we had wanted that, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.

To be clear, as an adjacent neighbor to the proposed building project at 1174-1185 Hillsboro Mile, you should know that I object to a variance as to a change in height (change the zoning from 3-stories to 15 stories plus, plus for elevators, etc.)

I would also like to state that this developer bought the property fully knowing what the height limitations was (3 story height) as I bought my property knowing that the zoning was only for 3-stories directly next door to me. This developer purchased the property with this full disclosure but are now trying to obtain a variance because their proforma doesn't allow as much profit as they would like. We were told by the PR Firm that the developer is preparing a proforma to determine if they can make enough profit with following the law. Not enough profit is surely not a hardship.

I am hoping that the commission will agree that a mere economic disadvantage due to the developer's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling them to a variance. I am hoping that commission will see through his veil and not grant the developers wishes as to height in existence to the current zoning laws of our town.

To allow the development of this parcel of land from 3 stories zoning to anything above without regard to its surrounding designations (and I am sorry) seems like a special privilege to this developer. I am sure you are aware of the many variance requests (Previous owners of the property are one) over time for this property as well as others along the mile, that were denied by the commission. Putting up a huge building of this size, in light of a 3-story limit is unconscionable and against my rights as an adjacent property owner.

The developer does not have a right to change the height zoning when it could be deemed as injuring the rights of others, especially adjacent property owners, regardless of the perks they claim the height variance will provide the town.

Thank you again for all you do, I am hoping that your last huge ruling for the residents of this town, as you end your term, will be in alliance with us as adjacent property owners, all residents of Hillsboro Beach and for our rights and not the rights of a developer with big bucks and words of perks to the town. I hope that you will take to heart the wishes of those property owners on the mile both adjacent, nearby and all along the mile to the proposed tower(s) as we will clearly be harmed if a large 15 story condominium building is erected. Thank you.

Sincerely,

Donna Purre
1173 Hillsboro Mile Hillsboro Beach, FL 33062

From: Donna Scheurer-Purre <Donnas@FoodforthePoor.com>
Date: Thursday, December 2, 2021 at 7:55 AM
To: Deborah Tarrant <dtarrant@townofhillsborobeach.com>
Subject: 1174-1185 Property Variance Proposal

Thanks Deb for your reply.

I did attend the meeting last night and as I am sure you already know, there was plenty of opposition to the height variance for many valid reasons. There was no misinformation as it came directly from the sources.

I am sure many will look now more closely at the variance request and reasons for preference to change the zoning on these parcels. To me, and I am no expert (yet ☺) again, they went into the purchase with eyes wide open as to the conservation easement, height restrictions, previous requests for variances, etc. (Eric-Developer, mentioned he has been trying to purchase this property for years, and even from the previous owner – so he was well aware) but now they are crying they cannot make the financials work for them. The town should not suffer because Big Development cannot make money. They mentioned the city looked at this and the city that and approved it – as you know, the RESIDENTS are THE CITY and not the commissioners who are their elects (not sure I said that right) to preserve their rights. I would also add that the perks they are offering the town (taxes, landscaping, underground lines, etc.) will come in any case from the development of the property so those used are disingenuous at best, in my and others humble opinion.

I know you do NOT scare easily, so when they use words like "ugly" and "monolith" and "rental property" and other negative words when it relates to what could be built on the property, WITHIN CODE, you won't be swayed! This developer is well known for a lot of things (both positive and negative) and I am certain that with the acreage they can make a beautiful rendering with MUCH less height. They simply would not put their name to this project on an ugly structure – won't happen, never has with them. They do, however bully commissioners and make promises – kept or not. Also, and a disturbing, that from what we all heard, it seemed that they thought they have already won the commission over and will get what they want on December 7. This is very disturbing, and hard to believe, especially knowing you!

Deb, I am confident you will listen to the residents and as your last great thing you will do for the residents of Hillsboro Beach before you retire as mayor, WILL NOT GRANT THIS HEIGHT variance for this developer, as you have for many other's wanting unreasonable height. Please finally, understand WE THE RESIDENTS OF HILLSBORO BEACH DO WANT the parcel developed but not 15 stories plus the 7-foot elevator, etc. I am requesting, because I don't know if it happens, that this and my other email become a part of the public record on this issue. Have a great day and see you soon!

Donna

Donna Purre
1173 Hillsboro Mile
(ADJACENT TO SUBJECT PROPERTY)

-----Original Message-----
From: Deb Tarrant <dtarrant@townofhillsborobeach.com>
Sent: Saturday, December 4, 2021 3:35 PM
To: Sherry D. Henderson <shenderson@townofhillsborobeach.com>
Cc: Mac Serda <mserda@townofhillsborobeach.com>; deabiraphaelraphael@me.com
Subject: FW: New building

I am forwarding you the message below, although it does not request to be included in the public record for Tuesday's meeting.

Thank you,

Deb Tarrant, Mayor
Town of Hillsboro Beach

On 12/4/21, 1:48 PM, "Deb Raphal" <deabiraphaelraphael@me.com> wrote:

10 tops 7 or 8 better . We are not Boca!! It's our Sanctuary

Deb Raphael
Sent from my iPhone

From: Pattanee Sricharoenchit Forst <pattanee_9@hotmail.com>
Date: Saturday, December 4, 2021 at 1:06 PM
To: Deborah Tarrant <dtarrant@townofhillsborobeach.com>
Subject: The building at empty lot 1174-1185

To whom it may concern,

When we purchased here, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and that was a comfort to us. If we had wanted our community to build higher rise buildings as a norm, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.

Best Regards,

Pattanee Forst
1173 Hillsboro Mile. Apt 1-2
Hillsboro Beach, FL 33962

From: FROM <povweezielou7@aol.com>
Reply-To: FROM <povweezielou7@aol.com>
Date: Saturday, December 4, 2021 at 12:00 PM
To: Deborah Tarrant <dtarrant@townofhillsborobeach.com>
Subject: Re: Dec. 7 Zoning Board of Appeals Meeting

I live at **1169 Hillsboro mile** I am against rezoning or variances changing at 1174-1185.

Thanking you in advance. **Louise Povinelli**

-----Original Message-----
From: Deb Tarrant <dtarrant@townofhillsborobeach.com>
Sent: Monday, December 6, 2021 6:38 PM
To: Sherry D. Henderson <shenderson@townofhillsborobeach.com>
Cc: Patricia Hall <patriciahishon@aol.com>; Mac Serda <mserda@townofhillsborobeach.com>; paulechelard@me.com
Subject: Re: Variance for Hillsboro Residences

Madam Clerk, please include this correspondence in the public record for tomorrow's meeting.

Thank you,
Deb Tarrant, Mayor
Town of Hillsboro Beach

On 12/6/21, 9:41 AM, "Paul Echelard" <paulechelard@me.com> wrote:

Hi Deb
I am sending this email to express my opposition to granting this variance. I have lived in Hillsboro Beach for over 30 years at Overlook. I have served on the Board of Directors at Overlook and was President for over 25 years. I also am a friend of DJ Doody and worked with him on many legal situations.

I agree they should build on the land but do not want to see a 15 story building on the site. I was at the recent presentation at the Embassy Suites and was surprised no Commissioners were there nor any one from the town to hear the concerns of the residents. This was very disappointing as it is hard to understand how you are getting feedback from the people who elected you.

I can tell you 100% of the residents at the meeting were opposed to the variance being granted. There were numerous reasons for the opposition which the town representatives and commissioners should have heard. Hopefully you have received the unfiltered feedback from your constituents.

The team doing the presentation was extremely arrogant and did nothing to reassure the residents present. In fact the meeting turned into a free for all with most getting the feeling that their feedback really did not matter as according to them them town has already given their approval. They stated they had enough money to get the variance done. Interestingly there is also a "rumor" going around that one of the commissioners was getting the building she lives is in painted and a new sea wall in exchange for their approval. Hopefully there is a fair process occurring.

If you are interested in discussing my opinions/observations, please feel free to call me at 561-350-1858. Also, please feel free to ask DJ about me as I think he will tell you I am an honest, caring and objective person who really wants what is best for the community I have lived in for over 30 years.

Thanks for your time.

Paul Echelard – Hillsboro Overlook

From: Carla Palmore <cppalmore@gmail.com>
Date: Monday, December 6, 2021 at 11:17 AM
To: Deborah Tarrant <dtarrant@townofhillsborobeach.com>, <ikirdahy@townofhillsborobeach.com>, <bbaldasarre@townofhillsborobeach.com>, <vfeaman@townofhillsborobeach.com>, <jreiser@townofhillsborobeach.com>
Subject: Development at 1174-1185

Dear Hillsboro Beach Mayor and Commissioners:

We are writing to let you know how much we are against Dezer Development building a 15-story two condo structure at 1174-1185 Hillsboro Mile. Though they said the building would be consistent with the character of Hillsboro Beach, nothing could seem further from the truth. When the three-story height limit was imposed, there were good reasons. We should not allow a variance for a 15-story structure under any circumstances. As our elected officials, we hope that you will not grant the height variance that has been requested. Dezer Development should come up with actual architectural plans and designs for three-story condo buildings which it does not seem they have ever done for this site.

Sincerely,

Carla and Mark Palmore

1057 Hillsboro Mile

Hillsboro Beach, FL

Sherry D. Henderson

From: Maureen Cassidy Osgood <mcassidyosgood@gmail.com> on behalf of Maureen Cassidy Osgood
Sent: Monday, December 6, 2021 4:50 PM
To: Hillsboro City Hall SHERRY
Cc: Richard Dick Osgood
Subject: Sherry, our comments

We are
THE OSGOODS
from Virginia Kaye Unit 1E commenting on the proposed project contiguous to our property.
We believe the town ordinances have served our community well for many years. These ordinances were well thought out and well intentioned.
We are in favor of any project that is in compliance with these town codes and ordinances.

This project is an extreme reach from allowable codes and as abuters to this property, we are vehemently opposed to the requested variances that would allow a 15 story skyscraper in our little town. These variences would ultimately be a huge pull on all of the town resources from every level in addition to years and years of construction noise going on ajacent to our bedroom windows.

Richard & Maureen Osgood

RECEIVED
DEC 0 6 2021

December 6, 2021

To the Town Commission of Hillsboro Beach,

We wish this letter to become part of the PERMANENT RECORD.

Pursuant to any decision made about the vacant lots 1174 to 1185.

We, as citizens of HB for 32 years have been confident that our elected Commissions would continue to represent the BEST interests of this town while in office. These interests DO NOT include VARIANCES for high rise structures. Our town is just that....a town .....it is NOT Miami Beach!

We are hoping that YOU will maintain that standard also. The former commissions have been able to maintain that standard ....We would have to ask what makes YOU different if you cannot?

What EXACTLY makes this proposition irresistible?

John Kennelly's plans were nowhere near this greedy and overwhelming and he was refused.

PLEASE KEEP the TOWN'S INTEREST FIRST.

MAKE DEZER – RELATED GROUP COMPLY WITH WHAT THEY ALREADY KNEW WERE EXISTING LIMITATIONS WHEN LAND WAS PURCHASED!!!

Kris Smith, Frank Williams

Harborside Condominium

1170 Hillsboro Mile

From: Sharon Gardzinski <idodeps@gmail.com>
Date: December 6, 2021 at 11:09:46 AM EST
To: dtarrant@townofhillsborobeach.com, ikirday@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: 1174-1185 Empty Lot Variance Request

December 6, 2021

Town of Hillsboro Beach Commissioners
Re: 1174-1185 Hillsboro Mile Proposed Development

Dear Commissioners:

I am in opposition of a height variance being granted for the proposed development at the above-referenced property. Granting the variance that is requested will do our town and its residence an injustice. This developer should go down to the south of us and develop in the midst of the concrete jungle in Ft. Lauderdale. This doesn't belong in our town.

Just as I knew what a quaint town this was when I bought 30 years ago, so did the developer know what the height and land restrictions were on this property when it was purchased.

Our residents should not have to tolerate this monstrosity being built and ruining the architecture of our town just because the developer wants to make money or thinks he is up against a hardship by our town's height restrictions.

When the land just south of the Hillsboro Island House was developed, the builder complied with the height requirements.

Once you grant a variance of this magnitude, it is an invitation for more developers to move in and forever change our town, and not for the better.

The developer hasn't been granted the variance and has already pushed the envelope requesting more height to accommodate a pool on the rooftop.

I strongly urge the commission to listen to the people of this town and preserve the lifestyle we all bought into. I request my letter be made are part of the public record.

Sharon Julian
1160 Hillsboro Mile, #102
Hillsboro Beach, FL 33062

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Monday, December 6, 2021 10:36 AM
To: Town Clerk
Subject: Fwd: Height Variance for 1174-1185

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Laura Fish <fishonthemile@gmail.com>
Date: December 5, 2021 at 7:59:09 PM EST
To: Deb Tarrant <dtarrant@townofhillsborobeach.com>
Cc: mserda@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Height Variance for 1174-1185

Dear Mayor Deb and All. I hope the email finds you (all) well.

Please note I would like my comments to be recorded for public record.

The reason for my email is to let you know clearly and without a doubt I am against the town approving the height variance that is being requested by the owners of 1174-1185.

The new owners were well aware of the height laws and the conservation of the dune areas when they purchased this property out of bankruptcy. In fact these are the same 2 reasons I purchased here over 21 years ago. This is what assured me that the small town feel that I moved here for would be preserved. If I wanted a big slick city feel of glass and pomp, I would not have bought my forever home at the Windsor in Hillsboro Beach. There are many other locations on a beach that would have fulfilled that type of living. I bought on The Mile and invested my savings in a home and community that promised- based on the laws a 3 story height limit.

***I find it quite insulting that these builders would think that not being able to build on our dunes is a 'hardship' which should be a reason they need to go higher than the law permits.**

***I find it quite insulting that these builders believe their status allows them to push us around and insist they are beautifying our already gorgeous neighborhood with a 180**

Town Clerk

From: gim722@comcast.net
Sent: Monday, December 6, 2021 10:47 AM
To: TownClerk@townofhillsborobeach.com
Subject: Variance

I am opposed to allowing a 15 story condo at the location in question.

First let me say that I moved to Hillsboro Beach because it didn't have towering condos like the Gault mile.

Furthermore, the traffic in the town has gotten worse since I moved here eleven years ago and this will just add to the problem.

If the variance is granted, what comes next ? A thirty story condominium.

I strongly oppose the town granting the variance and believe the current regulations should be enforced.

Thank you, Ray Gimmler
1167 Hillsboro Mile Unit 604
Sent from my iPhone

Town Clerk

From: Sue <randswilson@comcast.net>
Sent: Monday, December 6, 2021 11:04 AM
To: townclerk@townofhillsborobeach.com
Subject: Tomorrow's meeting

Hello,

My husband and I have a condominium in The Hillsboro Windsor and have had it since 1998. We have always enjoyed the small town feel of Our beautiful Hillsboro Mile. It will be lost if a 15 story building, on either or both sides of A1A,is (are) erected.

I really don't understand how we got this far. We have height restrictions on building construction - with very good reason. So why is this big city deep pockets group allowed to thwart them so readily? Isn't this in contradiction to our characteristics.
We didnt move to Fort Lauderdale or Miami for these reasons.

Increased traffic, pollution, impact on our most fragile beaches - we hardily disagree! Keep Hillsboro the small town it is please!

Exquisite single family homes and low rise condos please.

Best regards

Ray and Sue Wilson
Unit 409

Sent from my iPhone

Town Clerk

From: Jim Rauh <jrauh@neo.rr.com>
Sent: Monday, December 6, 2021 1:21 PM
To: townclerk@townofhillsborobeach.com
Subject: 1174-1185 variance

Our comments are directed to the Board of Zoning Appeals, all Town Commissions and Town Boards:

Let it be documented that we are not in favor of the height variance sought for the new construction at 1174-1185 Hillsboro Mile.

Due to the negative impacts of the proposed construction height over current zoning, we are asking that the variance is not granted. Many of our neighbors agree with our request.

Sincerely,
James and Valorie Rauh
Owners
1169 Hillsboro Mile
Condo 603
Hillsboro Beach, FL 33062

Sent from Mail for Windows

Town Clerk

From: betscole@optonline.net
Sent: Monday, December 6, 2021 2:17 PM
To: townclerk@townofhillsborobeach.com
Subject: Height Variance 1174-1185 Hillsboro Mile

Good afternoon, Ms. Henderson:

Please see and forward my comments below regarding the request for a height variance at 1174-1185 Hillsboro Mile. If this is not the right time for public comment, please let me know if public comment period dates have been scheduled.

Dear Commission,

This email is to provide comment on the request for a height variance for 1174-1185 Hillsboro Mile. My family owns a unit at 1169 Hillsboro Mile and is concerned about the adverse impacts this construction project would have on surrounding residents. It is understood that this property is prime real estate that is likely to be developed. However, the construction of a condominium that is significantly higher than all the structures in Hillsboro Beach will have a significantly longer construction period. During this extended period, nearby residents will be impacted long-term by construction noise, dust, vibration, and diesel trucks/equipment. Please prioritize the health and mental health of your current residents during your decision-making processes.

Thank you,
The McDonald Coleman Family

Sent from my iPhone

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Monday, December 6, 2021 2:51 PM
To: Town Clerk
Subject: Fwd: Proposed Development 1174-1185 HILLSBORO MILE

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: michael weinberg <yanks4@gmail.com>
Date: December 6, 2021 at 1:09:12 PM EST
To: Deb Tarrant <dtarrant@townofhillsborobeach.com>, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Cc: yanks4@gmailcom, Penny Weinberg <artypenny@gmail.com>
Subject: Proposed Development 1174-1185 HILLSBORO MILE

Dear Commission & Mayor Tarrant,

My wife and I would like to respectfully object to a variance to change the height requirements established by the Town of Hillsboro Beach. The project being proposed is a gross distortion to both the landscape and the overall culture of the north end of Hillsboro Beach.

We are a narrow barrier island as you approach Deerfield Beach with an overload of traffic as it is right now, especially for a good 6-7 months, November-Jun, of each year.

Since we moved into the Town some 15 years ago, Hillsboro Beach was always subject to a 3 story limit. We purchased and stayed along with hundreds of other residents because we felt safe and protected by these laws and regulations. We adapted to the unpretentiousness of our Town and enjoyed that it wasn't Ft. Lauderdale or Miami Beach, we didn't have the room for that nor the desire for such an eyesore.

Many developers in the past have attempted to challenge the rules, but were denied for a reason(s), this project should be no different. Not to mention that those developers previously denied would have recourse to come back at us.

We are not questioning the desire to develop the property, however, not in this way with 2-15 story skyscrapers dominating the surrounding landscape.

If the developers are crying economic hardship because they can't get what they want, well they knew the rules going in. They should not be able to profit at the expense of the long term, tax paying residents that have supported the Town of Hillsboro Beach for many many years.
The size and scope of this project is simply overkill, a money maker for the investors, to make $100,000,000 at everyone else's expense. Their lack of caring for the surrounding residents is appalling.

They offered to change their design to better suit the neighborhood and they should, not just getting a free pass on this. Once developed in a more conducive fashion, the Town will still benefit from increased taxes, landscaping and

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Monday, December 6, 2021 2:52 PM
To: Town Clerk
Subject: Fwd: Development at 1174-1185

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Carla Palmore <cppalmore@gmail.com>
Date: December 6, 2021 at 11:18:10 AM EST
To: "Deb Tarrant, Mayor" <dtarrant@townofhillsborobeach.com>, ikirdahy@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Development at 1174-1185

Dear Hillsboro Beach Mayor and Commissioners:

We are writing to let you know how much we are against Dezer Development building a 15-story two condo structure at 1174-1185 Hillsboro Mile. Though they said the building would be consistent with the character of Hillsboro Beach, nothing could seem further from the truth. When the three-story height limit was imposed, there were good reasons. We should not allow a variance for a 15-story structure under any circumstances. As our elected officials, we hope that you will not grant the height variance that has been requested. Dezer Development should come up with actual architectural plans and designs for three-story condo buildings which it does not seem they have ever done for this site.

Sincerely,

Carla and Mark Palmore

1057 Hillsboro Mile

Hillsboro Beach, FL

Town Clerk

From: Michael Boyna <likkrish@sbcglobal.net>

Sent: Monday, December 6, 2021 4:21 PM
To: townclerk@townofhillsborobeach.com
Subject: Comment submission: Height variance proposal 1174-1185 Hillsboro Mile

Good afternoon, Commissioners:

I am writing to voice opposition to granting the proposed height variances at the above-stated location and would like this communication to be made part of the public record.

As a family that has been among the longest-term residents at 1187 Hillsboro Mile, there are several components to our opposition, namely:

- A main attraction to this property has always been its homey feel, compared to more industrial high-rise and hotel structures. Erecting a building that is roughly 5 times the current height restriction, and with a reflective glass construction, hardly says "homey".
- The current height limits should not have come as a surprise to the developer; while it is reasonable that they need to build to a certain height/capacity for optimum profitability, there are certainly myriad other locations that would fit their needs without necessitating unwanted changes in/variances to existing building codes.
- Destroying the ambiance of this section of The Mile seems a bit self-centered on the developer's part, not to mention the disruption to the lifestyle of current residents, and adverse effects on the Local Area of Particular Concern (LAPC) and negative effects on the Intercoastal seawall (seen in the past due to construction that was on a much smaller scale than what is being proposed).
- Since previous requests for variances have been denied by the commission and given that the Commissioners are elected in part to protect the rights of Hillsboro Beach residents, it would seem inconsistent and inappropriate to grant a special variance privilege to this developer.
- It is my understanding that the developer has, understandably, tried to bolster the perceived benefits of their project by describing possible alternative developments in negative terms, i.e.: the kind(s) of less desirable thing(s) that *could* be developed on the property. While a valid marketing strategy, it also makes the faulty assumption that installing something the neighbors don't want is the best possible development option.

We urge the commission NOT to grant the proposed height variance.

I plan to attend the meeting tomorrow via Zoom

Sincerely

Michael R Boyna
(for the Walsh family @ 1187 Hillsboro Mile #6W)
630.470.1086

Town Clerk

From: Cynthia Hiland <chilandnpb@yahoo.com>
Sent: Monday, December 6, 2021 4:29 PM
To: townclerk@townofhillsborobeach.com
Subject: Variance

Some rumors are flying regarding a city council member who lives adjacent to the property in question regarding a height variance. Rumors are regarding favor in terms of tennis courts and other upgrades to the adjacent residence building as well . If this is the case or the member has other association with the development she should recuse herself from voting. Thank you for your consideration. Cynthia Hiland 1167 Hillsboro Mile HB 33062

Sent from my iPhone

Town Clerk

From: Charles Doherty <cd@rebartonage.com>
Sent: Monday, December 6, 2021 5:36 PM
To: townclerk@townofhillsborobeach.com
Subject: Fwd: 1174-1185 Hillsboro Mile Variance

From:
Charles Doherty
1194 Hillsboro Mile #27
Hillsboro Beach, Fl 33026
516.241.9122

I am writing as a Hillsboro Beach property owner to object to the granting of a variance for the property at 1174-1185 Hillsboro Beach.

In this case, property owners were aware, or should have been aware, of the zoning restrictions and the conservation easement on the subject property at the time of purchase in December 2020.

Developers have no legal grounds for claiming a hardship, other than maximizing the economic return on the property.

The so called "hardship" claimed by the developers is clearly "self-created" and contrary to settled Florida law.

Granting the variance will also change the nature and character of the community, and is also a violation of Florida Law.

For all of the reasons listed below, the Town of Hillsboro Beach may not lawfully grant the variance request.

Criteria for Granting Variances - Generally

Both before and after 1985, the courts have followed long-established Florida law that a variance cannot be granted for self-created actions – and this requirement is codified in most city and county codes in Florida. Even after 1985, the courts have been very strict in their review of the hardship required to obtain a variance.

Generally, a variance is authorized if due to circumstances unique to the applicant's property itself and not shared by other property in the area, there exists an undue and unnecessary hardship created by the zoning regulations

1. The hardship cannot have been self-created.

The hardship criteria found in variance provisions has a long line of cases and has been strictly construed by the courts. Josephson v. Autrey, 96 So.2d 784 (Fla. 1957).

The criteria has been interpreted to mean three things:

a. A mere economic disadvantage due to the owner's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. Burger King v. Metropolitan Dade

County, 349 So.2d 210 (3 DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981); Nance, supra; Crossroads Lounge v. City of Miami, 195 So.2d 232 (DCA 1967). If, however, the only allowable uses are economically impossible, then a variance would be allowed. Nance II.

b. Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959).

c. If a purchaser buys land with a condition creating a hardship upon it, the owner is only entitled to such variance as his predecessor in title was entitled. Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The requirement that a variance hardship cannot be self-created is required by most codes and Florida case law. In Re Kellogg, 197 F. 3rd 1116, 1121 (11th Cir. 1999). Josephson v. Autrey, 96 So.2d 784 (Fla. 1957) (superceded by statute on other grounds in Grace v. Town of Palm Beach 656 So.2d 945 (Fla. DCA 1995); Town of Ponce Inlet v Rancourt, 627 So.2d 586, 588 (Fla. DCA 1993).

Case law, as well as the Land Development Regulations control the degree of showing needed to support the approval of a variance from the express requirements of local regulations. The days of the "weeping variance" have been replaced by strict interpretation of what is required to show entitlement to a variance from local Code provisions under the case law. Town of Indialantic v. Nance, 400 So.2d 37 (5 DCA 1981), affd. 419 So.2d 1041; appealed again at 485 So.2d 1318 (5 DCA 1986), rev. den. 494 So.2d 1152.

Post 1985, the First District Court of Appeals in City of Jacksonville v. Taylor, 721 So.2d 1212 (Fla. 1st DCA 1998) Bernard v. Town Council of Palm Beach, 569 So.2d 853 (Fla. 4th DCA, 1990); Metropolitan Dade County v. Betancourt, 559 So. 2d 1237; Town of Indiatlantic v. Nance, 485 So.2d 1318 (Fla. 5th DCA 1986), and Town of Indiatlantic v. Nance ("Nance I"), 400 So.2d 2137 (Fla. 5th DCA 1981); Maturo v. City of Coral Gables, 619 So.2d 455 (Fla. 3rd DCA 1993); Herrara v. City of Miami, 600 So.2d 561 (Fla 3rd DCA 1992) rev. denied 613 So.2d 2 (Fla. 3rd DCA 1992). In Re Kellogg, 197 F. 3d 1116, 1121 (11th Cir. 1999).

Pre 1985 cases had similar holdings and include Blount v. City of Coral Gables, 312 So. 2d 208 (Fla. 3rd DCA 1975) ("Nor are the Blounts entitled to a variance from the above zoning ordinance...as the hardship was self-created because they knew of the restricted zoning ordinance.")(citing other Florida cases on this issue); Clarke v. Morgan, 327 So.2d 769 (Fla. 1975); Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959); Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The purchase of property with zoning restrictions on the property will normally not constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959). Namon v. DER 558 So. 2d 504 (Fla 3rd DCA 1990) and the cases cited therein address cases where property is purchased AFTER adoption of prohibitory regulations. The court in Namon recognized such pre-existing notice as applied to takings analysis in Florida cases, as follows:

"Appellants are deemed to purchase the property with constructive knowledge of the applicable land use regulations. Appellants bought unimproved property. A subjective expectation that the land could be developed is no more than an expectancy and does not translate into a vested right to develop the subject property. See Graham v. Estuary Properties, Inc., 399 So.2d 1374, 1382, 1383 (Fla.), cert. denied sub nom. Taylor v. Graham, 454 U.S. 1083, 102 S. Ct. 640, 70 L. Ed. 2d 618 (1981)

'...[a]n owner of land has no absolute and unlimited right to change the essential natural character of his land so as to use it for a purpose for which it was unsuited in its natural state and which [injures] the rights of others." Namon at 505, (original citation omitted) see also Ruckelshaus v. Monsanto Co., 467 U.S. 986, 1005, 104 S. Ct. 2862, 2874, 81 L.E.2d 815, 834 (1984).

"A 'reasonable investment-backed expectation' must be more than a 'unilateral expectation or an abstract need'"; Namon citing Claridge v. New Hampshire Wetlands Board, 125 N.H. 745, 485 A.2d 287, 291 (1984)

"A person who purchases land with notice of statutory impediments to the right to develop that land can justify few, if any, legitimate investment-backed expectations of development rights which rise to the level of constitutionally protected property rights"; cf. Elwyn v. City of Miami, 113 So.2d 849, 852 (Fla. 3d DCA) **"One who purchases property while it is in a certain known zoning classification, ordinarily will not be heard to claim as a hardship a factor or factors which existed at the time he acquired the property."**, cert. denied, 116 849 (Fla. 1959).

Case law also indicates that a mere economic "disadvantage" or the owner's mere preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. Burger King v. Metropolitan Dade County, 349 So.2d 210 (3 DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981); Crossroads Lounge v. City of Miami, 195 So.2d 232 (DCA 1967).

Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959).

If the owner participated in an affirmative act which created the hardship (such as by purchasing a substandard size lot), then the hardship should be ruled self-created. Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

2. Consistency with neighborhood and scheme of regulations.

Granting the variance must not adversely affect the zoning scheme as a whole. **Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations."** Troup v. Bird, 53 So.2d 717 (Fla. 1951).

"A variance should not be granted where the use to be authorized thereby will alter the essential character of the locality, or interfere with the zoning plan for the area and with rights of owners of other property."

Elwyn v. Cityof Miami, 113 So.2d 849 (Fla. 3rd DCA 1959).

It is the land, and not the nature of the project, which must be unique and create a hardship. Nance, supra; Ft. Lauderdale v. Nash, 425 So.2d 578 (4 DCA 1982) (many other common violations in the neighborhood do not constitute a hardship); City of Miami v. Franklin Leslie, 179 So.2d 622 (3 DCA 1965).

3. Other Code criteria. Various codes may also include the following criteria (See, e.g., prior F.S. 163.170(8), repealed 1985):

a. The granting of the variance will not accord applicant any special privileges;

b. The variance is the minimum one for the reasonable use of the applicant's land;

c. The grant of the variance will be harmonious and noninjurious to the surrounding land; and

d. The variance will not be contrary to the public interest.

Most court cases have focused on the hardship (whether it is the result of unique physical characteristics of the land in question or whether it is really an inpermissible self-created hardship). However, all variance standards must be met. The standards themselves must be definite, City of Miami v. Save Brickell Ave., 426 So.2d 1100 (3 DCA 1983), and the criteria must be mandatory, and not permissive (i.e., "shall consider criteria" means "must comply with criteria"), id.; Drexel v. City of Miami Beach, 64 So.2d 317 (Fla. 1953).

Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." Troup v. Bird, 53 So.2d 717 (Fla. 1951). All development orders, including variances, must be consistent with duly adopted Comprehensive Plan policies, objectives and goals under Florida Statutes 163.3215 (which also establishes procedures to challenge variances on the grounds of consistency with comprehensive plan policies). Machado v. Musgrove, 519 So. 629 (Fla. 3rd DCA 1987). And the remedy awarded by courts if a development order is found to be inconsistent with a comprehensive plan policy can include demolition of offending structures. Pinecrest Lakes v Shidel, 795 So. 2d 191 (Fla. 4th DCA).

. **Burden of Proof. The burden to prove the existence of the required hardship and unique conditions is always on the applicant**. Gomez v. City of St. Petersburg, 550 So.2d 7 (2 DCA 1989). **Therefore, if the owner presents no evidence that the property cannot be used without the variance, there must be a denial.** Herrera v. Miami, 600 So.2d 561 (3DCA 1992).

As per the above, I respectfully request that the Hillsboro Beach Board of Zoning and Appeals follow settled Florida law and deny the request for variance.

Sincerely,

Charles Doherty
1194 Hillsboro Beach #27
Hillsboro Beach, FL 33062

--
Thank you,
cd

--
Thank you,
cd

Town Clerk

From: KAREN GUZIK <karenguzik@aol.com>
Sent: Monday, December 6, 2021 6:46 PM
To: TownClerk@townofhillsborobeach.com
Subject: Variance request for 1174-1185 Hillsboro Mile

We oppose this variance request because we feel it does not reflect the character or appeal of our town. Hillsboro Beach needs to preserve its current height requirements for any new buildings.

Many of us chose to live in Hillsboro Beach because unlike Pompano, Galt Ocean Mile, and Fort Lauderdale Beach, it is not a high rise concrete jungle.

Extremely high buildings not only block our sunshine, but also the beautiful blue skyline views that we currently enjoy.

Thank you,
Tom and Karen Guzik
1167 Hillsboro Mile #706

Sent from my iPhone

Sherry D. Henderson

From: Maureen Cassidy Osgood <mcassidyosgood@gmail.com> on behalf of Maureen Cassidy Osgood
Sent: Monday, December 6, 2021 4:50 PM
To: Hillsboro City Hall SHERRY
Cc: Richard Dick Osgood
Subject: Sherry, our comments

We are
THE OSGOODS
from Virginia Kaye Unit 1E commenting on the proposed project contiguous to our property.
We believe the town ordinances have served our community well for many years. These ordinances were well thought out and well intentioned.
We are in favor of any project that is in compliance with these town codes and ordinances.

This project is an extreme reach from allowable codes and as abuters to this property, we are vehemently opposed to the requested variances that would allow a 15 story skyscraper in our little town. These variences would ultimately be a huge pull on all of the town resources from every level in addition to years and years of construction noise going on ajacent to our bedroom windows.

Richard & Maureen Osgood

RECEIVED
DEC 0 6 2021

December 6, 2021

To the Town Commission of Hillsboro Beach,

We wish this letter to become part of the PERMANENT RECORD.

Pursuant to any decision made about the vacant lots 1174 to 1185.

We, as citizens of HB for 32 years have been confident that our elected Commissions would continue to represent the BEST interests of this town while in office. These interests DO NOT include VARIANCES for high rise structures. Our town is just that....a town .....it is NOT Miami Beach!

We are hoping that YOU will maintain that standard also. The former commissions have been able to maintain that standard ....We would have to ask what makes YOU different if you cannot?

What EXACTLY makes this proposition irresistible?

John Kennelly's plans were nowhere near this greedy and overwhelming and he was refused.

PLEASE KEEP the TOWN'S INTEREST FIRST.

MAKE DEZER – RELATED GROUP COMPLY WITH WHAT THEY ALREADY KNEW WERE EXISTING LIMITATIONS WHEN LAND WAS PURCHASED!!!

Kris Smith, Frank Williams

Harborside Condominium

1170 Hillsboro Mile

From: Sharon Gardzinski <idodeps@gmail.com>
Date: December 6, 2021 at 11:09:46 AM EST
To: dtarrant@townofhillsborobeach.com, ikirday@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: 1174-1185 Empty Lot Variance Request

December 6, 2021

Town of Hillsboro Beach Commissioners
Re: 1174-1185 Hillsboro Mile Proposed Development

Dear Commissioners:

I am in opposition of a height variance being granted for the proposed development at the above-referenced property. Granting the variance that is requested will do our town and its residence an injustice. This developer should go down to the south of us and develop in the midst of the concrete jungle in Ft. Lauderdale. This doesn't belong in our town.

Just as I knew what a quaint town this was when I bought 30 years ago, so did the developer know what the height and land restrictions were on this property when it was purchased.

Our residents should not have to tolerate this monstrosity being built and ruining the architecture of our town just because the developer wants to make money or thinks he is up against a hardship by our town's height restrictions.

When the land just south of the Hillsboro Island House was developed, the builder complied with the height requirements.

Once you grant a variance of this magnitude, it is an invitation for more developers to move in and forever change our town, and not for the better.

The developer hasn't been granted the variance and has already pushed the envelope requesting more height to accommodate a pool on the rooftop.

I strongly urge the commission to listen to the people of this town and preserve the lifestyle we all bought into. I request my letter be made are part of the public record.

Sharon Julian
1160 Hillsboro Mile, #102
Hillsboro Beach, FL 33062

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Monday, December 6, 2021 10:36 AM
To: Town Clerk
Subject: Fwd: Height Variance for 1174-1185

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Laura Fish <fishonthemile@gmail.com>
Date: December 5, 2021 at 7:59:09 PM EST
To: Deb Tarrant <dtarrant@townofhillsborobeach.com>
Cc: mserda@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Height Variance for 1174-1185

Dear Mayor Deb and All. I hope the email finds you (all) well.

Please note I would like my comments to be recorded for public record.

The reason for my email is to let you know clearly and without a doubt I am against the town approving the height variance that is being requested by the owners of 1174-1185.

The new owners were well aware of the height laws and the conservation of the dune areas when they purchased this property out of bankruptcy. In fact these are the same 2 reasons I purchased here over 21 years ago. This is what assured me that the small town feel that I moved here for would be preserved. If I wanted a big slick city feel of glass and pomp, I would not have bought my forever home at the Windsor in Hillsboro Beach. There are many other locations on a beach that would have fulfilled that type of living. I bought on The Mile and invested my savings in a home and community that promised- based on the laws a 3 story height limit.

***I find it quite insulting that these builders would think that not being able to build on our dunes is a 'hardship' which should be a reason they need to go higher than the law permits.**

***I find it quite insulting that these builders believe their status allows them to push us around and insist they are beautifying our already gorgeous neighborhood with a 180**

foot tall monstrosity. 3 stories is our municipal restriction. That is what they purchased and this should be what they present to the commission.

***I find it quite insulting that these builders would think that the neighbor's rights are less important than their own. Again- they came into this investment knowing the laws.**

Ms. Mayor:

What happens when the Kennelly family (or other former applicants for height variances) sues the town if this height variance is approved since their previous requests for variances were denied? Who pays for the lawsuit(s)? I don't know anyone here who would want their taxes raised to fight something in the courts that should have been avoided by respecting the existing laws.

Can you and the commission be personally sued since the majority of the owners in Hillsboro Beach and in the direct building adjacencies do not want this variance to pass? Isn't it the job of our elected officials to carry out the wishes of their constituents?

Is this (likely lawsuit) something that has already been included in the new owners budget?

Based on the Surfside tragedy, I am very concerned for the safety and stability of the Hillsboro Windsor and other adjacent buildings. How can I be certain that the pilings that need to hold such an extraordinary amount of weight not effect the safety of my building?

I am not against the lots being built on, Ms Mayor- I am against the loss of our community because of greed. The Hillsboro Beach community was never about conspicuous wealth, it's about living the lifestyle away from that.

I implore you to vote NO to this egregious height request so we can continue living our lives in a peaceful and healthy environment.

Sincerely, Laura Fish Apt 703 Hillsboro Windsor

Town Clerk

From: gim722@comcast.net
Sent: Monday, December 6, 2021 10:47 AM
To: TownClerk@townofhillsborobeach.com
Subject: Variance

I am opposed to allowing a 15 story condo at the location in question.

First let me say that I moved to Hillsboro Beach because it didn't have towering condos like the Gault mile.

Furthermore, the traffic in the town has gotten worse since I moved here eleven years ago and this will just add to the problem.

If the variance is granted, what comes next ? A thirty story condominium.

I strongly oppose the town granting the variance and believe the current regulations should be enforced.

Thank you, Ray Gimmler
1167 Hillsboro Mile Unit 604
Sent from my iPhone

Town Clerk

From: Sue <randswilson@comcast.net>
Sent: Monday, December 6, 2021 11:04 AM
To: townclerk@townofhillsborobeach.com
Subject: Tomorrow's meeting

Hello,

My husband and I have a condominium in The Hillsboro Windsor and have had it since 1998. We have always enjoyed the small town feel of Our beautiful Hillsboro Mile. It will be lost if a 15 story building, on either or both sides of A1A,is (are) erected.

I really don't understand how we got this far. We have height restrictions on building construction - with very good reason. So why is this big city deep pockets group allowed to thwart them so readily? Isn't this in contradiction to our characteristics.
We didnt move to Fort Lauderdale or Miami for these reasons.

Increased traffic, pollution, impact on our most fragile beaches - we hardily disagree! Keep Hillsboro the small town it is please!

Exquisite single family homes and low rise condos please.

Best regards

Ray and Sue Wilson
Unit 409

Sent from my iPhone

Town Clerk

From: Jim Rauh <jrauh@neo.rr.com>
Sent: Monday, December 6, 2021 1:21 PM
To: townclerk@townofhillsborobeach.com
Subject: 1174-1185 variance

Our comments are directed to the Board of Zoning Appeals, all Town Commissions and Town Boards:

Let it be documented that we are not in favor of the height variance sought for the new construction at 1174-1185 Hillsboro Mile.

Due to the negative impacts of the proposed construction height over current zoning, we are asking that the variance is not granted. Many of our neighbors agree with our request.

Sincerely,
James and Valorie Rauh
Owners
1169 Hillsboro Mile
Condo 603
Hillsboro Beach, FL 33062

Sent from Mail for Windows

Town Clerk

From: betscole@optonline.net
Sent: Monday, December 6, 2021 2:17 PM
To: townclerk@townofhillsborobeach.com
Subject: Height Variance 1174-1185 Hillsboro Mile

Good afternoon, Ms. Henderson:

Please see and forward my comments below regarding the request for a height variance at 1174-1185 Hillsboro Mile. If this is not the right time for public comment, please let me know if public comment period dates have been scheduled.

Dear Commission,

This email is to provide comment on the request for a height variance for 1174-1185 Hillsboro Mile. My family owns a unit at 1169 Hillsboro Mile and is concerned about the adverse impacts this construction project would have on surrounding residents. It is understood that this property is prime real estate that is likely to be developed. However, the construction of a condominium that is significantly higher than all the structures in Hillsboro Beach will have a significantly longer construction period. During this extended period, nearby residents will be impacted long-term by construction noise, dust, vibration, and diesel trucks/equipment. Please prioritize the health and mental health of your current residents during your decision-making processes.

Thank you,
The McDonald Coleman Family

Sent from my iPhone

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Monday, December 6, 2021 2:51 PM
To: Town Clerk
Subject: Fwd: Proposed Development 1174-1185 HILLSBORO MILE

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: michael weinberg <yanks4@gmail.com>
Date: December 6, 2021 at 1:09:12 PM EST
To: Deb Tarrant <dtarrant@townofhillsborobeach.com>, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Cc: yanks4@gmailcom, Penny Weinberg <artypenny@gmail.com>
Subject: Proposed Development 1174-1185 HILLSBORO MILE

Dear Commission & Mayor Tarrant,

My wife and I would like to respectfully object to a variance to change the height requirements established by the Town of Hillsboro Beach. The project being proposed is a gross distortion to both the landscape and the overall culture of the north end of Hillsboro Beach.

We are a narrow barrier island as you approach Deerfield Beach with an overload of traffic as it is right now, especially for a good 6-7 months, November-Jun, of each year.

Since we moved into the Town some 15 years ago, Hillsboro Beach was always subject to a 3 story limit. We purchased and stayed along with hundreds of other residents because we felt safe and protected by these laws and regulations. We adapted to the unpretentiousness of our Town and enjoyed that it wasn't Ft. Lauderdale or Miami Beach, we didn't have the room for that nor the desire for such an eyesore.

Many developers in the past have attempted to challenge the rules, but were denied for a reason(s), this project should be no different. Not to mention that those developers previously denied would have recourse to come back at us.

We are not questioning the desire to develop the property, however, not in this way with 2-15 story skyscrapers dominating the surrounding landscape.

If the developers are crying economic hardship because they can't get what they want, well they knew the rules going in. They should not be able to profit at the expense of the long term, tax paying residents that have supported the Town of Hillsboro Beach for many many years.
The size and scope of this project is simply overkill, a money maker for the investors, to make $100,000,000 at everyone else's expense. Their lack of caring for the surrounding residents is appalling.

They offered to change their design to better suit the neighborhood and they should, not just getting a free pass on this. Once developed in a more conducive fashion, the Town will still benefit from increased taxes, landscaping and

utility modernization.

When questioned about traffic impact on an already exhausted 2 lane road, their answer was that they reduced the density from 175 to 120 units. This does not come close to answering the question. An independent study should be done by our Town and compared to the one done by the developer, at the developers expense. This study should be made public to the residents, long before undertaking any kind of vote on the matter.
Any planned urban development worth anything, and this magnitude is on that scope, has a comprehensive traffic study attached to it.

Of grave concern, especially in these times of building collapse and the danger of more, would be the level of construction required to complete this massive project. Hundreds upon hundreds of new pylons going hundreds of feet deep along the ocean cannot help but have a seismic impact on the surrounding older buildings, including the closest and only other building near it of any comparable size although half the size, the Hillsboro Windsor.
The Windsor is undertaking over $250,000 of concrete repairs now, how much of that would be compromised. Shouldn't we find out and have the developers guarantee the findings?

For these and many reasons, we respectfully request that the variance to erect 15 story towers on the 1174-1185 property be denied. This is not about money, but quality of life.

Michael Weinberg

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Monday, December 6, 2021 2:52 PM
To: Town Clerk
Subject: Fwd: Development at 1174-1185

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Carla Palmore <cppalmore@gmail.com>
Date: December 6, 2021 at 11:18:10 AM EST
To: "Deb Tarrant, Mayor" <dtarrant@townofhillsborobeach.com>, ikirdahy@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Development at 1174-1185

Dear Hillsboro Beach Mayor and Commissioners:

We are writing to let you know how much we are against Dezer Development building a 15-story two condo structure at 1174-1185 Hillsboro Mile. Though they said the building would be consistent with the character of Hillsboro Beach, nothing could seem further from the truth. When the three-story height limit was imposed, there were good reasons. We should not allow a variance for a 15-story structure under any circumstances. As our elected officials, we hope that you will not grant the height variance that has been requested. Dezer Development should come up with actual architectural plans and designs for three-story condo buildings which it does not seem they have ever done for this site.

Sincerely,

Carla and Mark Palmore

1057 Hillsboro Mile

Hillsboro Beach, FL

Town Clerk

From: Michael Boyna <likkrish@sbcglobal.net>
Sent: Monday, December 6, 2021 4:21 PM
To: townclerk@townofhillsborobeach.com
Subject: Comment submission: Height variance proposal 1174-1185 Hillsboro Mile

Good afternoon, Commissioners:

I am writing to voice opposition to granting the proposed height variances at the above-stated location and would like this communication to be made part of the public record.

As a family that has been among the longest-term residents at 1187 Hillsboro Mile, there are several components to our opposition, namely:

- A main attraction to this property has always been its homey feel, compared to more industrial high-rise and hotel structures. Erecting a building that is roughly 5 times the current height restriction, and with a reflective glass construction, hardly says "homey".
- The current height limits should not have come as a surprise to the developer; while it is reasonable that they need to build to a certain height/capacity for optimum profitability, there are certainly myriad other locations that would fit their needs without necessitating unwanted changes in/variances to existing building codes.
- Destroying the ambiance of this section of The Mile seems a bit self-centered on the developer's part, not to mention the disruption to the lifestyle of current residents, and adverse effects on the Local Area of Particular Concern (LAPC) and negative effects on the Intercoastal seawall (seen in the past due to construction that was on a much smaller scale than what is being proposed).
- Since previous requests for variances have been denied by the commission and given that the Commissioners are elected in part to protect the rights of Hillsboro Beach residents, it would seem inconsistent and inappropriate to grant a special variance privilege to this developer.
- It is my understanding that the developer has, understandably, tried to bolster the perceived benefits of their project by describing possible alternative developments in negative terms, i.e.: the kind(s) of less desirable thing(s) that *could* be developed on the property. While a valid marketing strategy, it also makes the faulty assumption that installing something the neighbors don't want is the best possible development option.

We urge the commission NOT to grant the proposed height variance.

I plan to attend the meeting tomorrow via Zoom

Sincerely
Michael R Boyna
(for the Walsh family @ 1187 Hillsboro Mile #6W)
630.470.1086

Town Clerk

From: Cynthia Hiland <chilandnpb@yahoo.com>
Sent: Monday, December 6, 2021 4:29 PM
To: townclerk@townofhillsborobeach.com
Subject: Variance

Some rumors are flying regarding a city council member who lives adjacent to the property in question regarding a height variance. Rumors are regarding favor in terms of tennis courts and other upgrades to the adjacent residence building as well . If this is the case or the member has other association with the development she should recuse herself from voting. Thank you for your consideration. Cynthia Hiland 1167 Hillsboro Mile HB 33062

Sent from my iPhone

Town Clerk

From: Charles Doherty <cd@rebartonage.com>
Sent: Monday, December 6, 2021 5:36 PM
To: townclerk@townofhillsborobeach.com
Subject: Fwd: 1174-1185 Hillsboro Mile Variance

From:
Charles Doherty
1194 Hillsboro Mile #27
Hillsboro Beach, Fl 33026
516.241.9122

I am writing as a Hillsboro Beach property owner to object to the granting of a variance for the property at 1174-1185 Hillsboro Beach.

In this case, property owners were aware, or should have been aware, of the zoning restrictions and the conservation easement on the subject property at the time of purchase in December 2020.

Developers have no legal grounds for claiming a hardship, other than maximizing the economic return on the property.

The so called "hardship" claimed by the developers is clearly "self-created" and contrary to settled Florida law.

Granting the variance will also change the nature and character of the community, and is also a violation of Florida Law.

For all of the reasons listed below, the Town of Hillsboro Beach may not lawfully grant the variance request.

Criteria for Granting Variances - Generally

Both before and after 1985, the courts have followed long-established Florida law that a variance cannot be granted for self-created actions – and this requirement is codified in most city and county codes in Florida. Even after 1985, the courts have been very strict in their review of the hardship required to obtain a variance.

Generally, a variance is authorized if due to circumstances unique to the applicant's property itself and not shared by other property in the area, there exists an undue and unnecessary hardship created by the zoning regulations

1. The hardship cannot have been self-created.

The hardship criteria found in variance provisions has a long line of cases and has been strictly construed by the courts. Josephson v. Autrey, 96 So.2d 784 (Fla. 1957).

The criteria has been interpreted to mean three things:

a. A mere economic disadvantage due to the owner's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. Burger King v. Metropolitan Dade

County, 349 So.2d 210 (3 DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981); Nance, supra; Crossroads Lounge v. City of Miami, 195 So.2d 232 (DCA 1967). If, however, the only allowable uses are economically impossible, then a variance would be allowed. Nance II.

b. Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959).

c. If a purchaser buys land with a condition creating a hardship upon it, the owner is only entitled to such variance as his predecessor in title was entitled. Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The requirement that a variance hardship cannot be self-created is required by most codes and Florida case law. In Re Kellogg, 197 F. 3rd 1116, 1121 (11th Cir. 1999). Josephson v. Autrey, 96 So.2d 784 (Fla. 1957) (superceded by statute on other grounds in Grace v. Town of Palm Beach 656 So.2d 945 (Fla. DCA 1995); Town of Ponce Inlet v Rancourt, 627 So.2d 586, 588 (Fla. DCA 1993).

Case law, as well as the Land Development Regulations control the degree of showing needed to support the approval of a variance from the express requirements of local regulations. The days of the "weeping variance" have been replaced by strict interpretation of what is required to show entitlement to a variance from local Code provisions under the case law. Town of Indialantic v. Nance, 400 So.2d 37 (5 DCA 1981), affd. 419 So.2d 1041; appealed again at 485 So.2d 1318 (5 DCA 1986), rev. den. 494 So.2d 1152.

Post 1985, the First District Court of Appeals in City of Jacksonville v. Taylor, 721 So.2d 1212 (Fla. 1st DCA 1998) Bernard v. Town Council of Palm Beach, 569 So.2d 853 (Fla. 4th DCA, 1990); Metropolitan Dade County v. Betancourt, 559 So. 2d 1237; Town of Indiatlantic v. Nance, 485 So.2d 1318 (Fla. 5th DCA 1986), and Town of Indiatlantic v. Nance ("Nance I"), 400 So.2d 2137 (Fla. 5th DCA 1981); Maturo v. City of Coral Gables, 619 So.2d 455 (Fla. 3rd DCA 1993); Herrara v. City of Miami, 600 So.2d 561 (Fla 3rd DCA 1992) rev. denied 613 So.2d 2 (Fla. 3rd DCA 1992). In Re Kellogg, 197 F. 3d 1116, 1121 (11th Cir. 1999).

Pre 1985 cases had similar holdings and include Blount v. City of Coral Gables, 312 So. 2d 208 (Fla. 3rd DCA 1975) ("Nor are the Blounts entitled to a variance from the above zoning ordinance...as the hardship was self-created because they knew of the restricted zoning ordinance.")(citing other Florida cases on this issue); Clarke v. Morgan, 327 So.2d 769 (Fla. 1975); Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959); Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The purchase of property with zoning restrictions on the property will normally not constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959). Namon v. DER 558 So. 2d 504 (Fla 3rd DCA 1990) and the cases cited therein address cases where property is purchased AFTER adoption of prohibitory regulations. The court in Namon recognized such pre-existing notice as applied to takings analysis in Florida cases, as follows:

"Appellants are deemed to purchase the property with constructive knowledge of the applicable land use regulations. Appellants bought unimproved property. A subjective expectation that the land could be developed is no more than an expectancy and does not translate into a vested right to develop the subject property. See Graham v. Estuary Properties, Inc., 399 So.2d 1374, 1382, 1383 (Fla.), cert. denied sub nom. Taylor v. Graham, 454 U.S. 1083, 102 S. Ct. 640, 70 L. Ed. 2d 618 (1981)

'...[a]n owner of land has no absolute and unlimited right to change the essential natural character of his land so as to use it for a purpose for which it was unsuited in its natural state and which [injures] the rights of others." Namon at 505, (original citation omitted) see also Ruckelshaus v. Monsanto Co., 467 U.S. 986, 1005, 104 S. Ct. 2862, 2874, 81 L.E.2d 815, 834 (1984).

"A 'reasonable investment-backed expectation' must be more than a 'unilateral expectation or an abstract need'"; Namon citing Claridge v. New Hampshire Wetlands Board, 125 N.H. 745, 485 A.2d 287, 291 (1984)

"A person who purchases land with notice of statutory impediments to the right to develop that land can justify few, if any, legitimate investment-backed expectations of development rights which rise to the level of constitutionally protected property rights"; cf. Elwyn v. City of Miami, 113 So.2d 849, 852 (Fla. 3d DCA) **"One who purchases property while it is in a certain known zoning classification, ordinarily will not be heard to claim as a hardship a factor or factors which existed at the time he acquired the property."**, cert. denied, 116 849 (Fla. 1959).

Case law also indicates that a mere economic "disadvantage" or the owner's mere preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. Burger King v. Metropolitan Dade County, 349 So.2d 210 (3 DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981); Crossroads Lounge v. City of Miami, 195 So.2d 232 (DCA 1967).

Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959).

If the owner participated in an affirmative act which created the hardship (such as by purchasing a substandard size lot), then the hardship should be ruled self-created. Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

2. Consistency with neighborhood and scheme of regulations.

Granting the variance must not adversely affect the zoning scheme as a whole. **Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations."** Troup v. Bird, 53 So.2d 717 (Fla. 1951).

"**A variance should not be granted where the use to be authorized thereby will alter the essential character of the locality, or interfere with the zoning plan for the area and with rights of owners of other property."**

Elwyn v. Cityof Miami, 113 So.2d 849 (Fla. 3rd DCA 1959).

It is the land, and not the nature of the project, which must be unique and create a hardship. Nance, supra; Ft. Lauderdale v. Nash, 425 So.2d 578 (4 DCA 1982) (many other common violations in the neighborhood do not constitute a hardship); City of Miami v. Franklin Leslie, 179 So.2d 622 (3 DCA 1965).

3. Other Code criteria. Various codes may also include the following criteria (See, e.g., prior F.S. 163.170(8), repealed 1985):

a. The granting of the variance will not accord applicant any special privileges;

b. The variance is the minimum one for the reasonable use of the applicant's land;

c. The grant of the variance will be harmonious and noninjurious to the surrounding land; and

d. The variance will not be contrary to the public interest.

Most court cases have focused on the hardship (whether it is the result of unique physical characteristics of the land in question or whether it is really an inpermissible self-created hardship). However, all variance standards must be met. The standards themselves must be definite, City of Miami v. Save Brickell Ave., 426 So.2d 1100 (3 DCA 1983), and the criteria must be mandatory, and not permissive (i.e., "shall consider criteria" means "must comply with criteria"), id.; Drexel v. City of Miami Beach, 64 So.2d 317 (Fla. 1953).

Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." Troup v. Bird, 53 So.2d 717 (Fla. 1951). All development orders, including variances, must be consistent with duly adopted Comprehensive Plan policies, objectives and goals under Florida Statutes 163.3215 (which also establishes procedures to challenge variances on the grounds of consistency with comprehensive plan policies). Machado v. Musgrove, 519 So. 629 (Fla. 3rd DCA 1987). And the remedy awarded by courts if a development order is found to be inconsistent with a comprehensive plan policy can include demolition of offending structures. Pinecrest Lakes v Shidel, 795 So. 2d 191 (Fla. 4th DCA).

. **Burden of Proof. The burden to prove the existence of the required hardship and unique conditions is always on the applicant**. Gomez v. City of St. Petersburg, 550 So.2d 7 (2 DCA 1989). **Therefore, if the owner presents no evidence that the property cannot be used without the variance, there must be a denial.** Herrera v. Miami, 600 So.2d 561 (3DCA 1992).

As per the above, I respectfully request that the Hillsboro Beach Board of Zoning and Appeals follow settled Florida law and deny the request for variance.

Sincerely,

Charles Doherty
1194 Hillsboro Beach #27
Hillsboro Beach, FL 33062

--
Thank you,
cd

--
Thank you,
cd

Sherry D. Henderson

From: Deb Tarrant <dtarrant@townofhillsborobeach.com> on behalf of Deb Tarrant
Sent: Monday, December 6, 2021 7:24 PM
To: Sherry D. Henderson
Cc: Mac Serda; yanks4@gmail.com
Subject: FW: Proposed Development 1174-1185 HILLSBORO MILE

Madam Clerk, please include this communication in the public record for tomorrow's meeting.

Thank you,

Deb Tarrant, Mayor
Town of Hillsboro Beach

On 12/6/21, 1:09 PM, "michael weinberg" <yanks4@gmail.com> wrote:

Dear Commission & Mayor Tarrant,

My wife and I would like to respectfully object to a variance to change the height requirements established by the Town of Hillsboro Beach. The project being proposed is a gross distortion to both the landscape and the overall culture of the north end of Hillsboro Beach.

We are a narrow barrier island as you approach Deerfield Beach with an overload of traffic as it is right now, especially for a good 6-7 months, November-Jun, of each year.

Since we moved into the Town some 15 years ago, Hillsboro Beach was always subject to a 3 story limit. We purchased and stayed along with hundreds of other residents because we felt safe and protected by these laws and regulations. We adapted to the unpretentiousness of our Town and enjoyed that it wasn't Ft. Lauderdale or Miami Beach, we didn't have the room for that nor the desire for such an eyesore.

Many developers in the past have attempted to challenge the rules, but were denied for a reason(s), this project should be no different. Not to mention that those developers previously denied would have recourse to come back at us.

We are not questioning the desire to develop the property, however, not in this way with 2-15 story skyscrapers dominating the surrounding landscape.

If the developers are crying economic hardship because they can't get what they want, well they knew the rules going in. They should not be able to profit at the expense of the long term, tax paying residents that have supported the Town of Hillsboro Beach for many many years.

The size and scope of this project is simply overkill, a money maker for the investors, to make $100,000,000 at everyone else's expense. Their lack of caring for the surrounding residents is appalling.

They offered to change their design to better suit the neighborhood and they should, not just getting a free pass on this. Once developed in a more conducive fashion, the Town will still benefit from increased taxes, landscaping and utility modernization.

When questioned about traffic impact on an already exhausted 2 lane road, their answer was that they reduced the density from 175 to 120 units. This does not come close to answering the question. An independent study should be done by our Town and compared to the one done by the developer, at the developers expense. This study should be made public to the residents, long before undertaking any kind of vote on the matter.

Any planned urban development worth anything, and this magnitude is on that scope, has a comprehensive traffic study attached to it.

Of grave concern, especially in these times of building collapse and the danger of more, would be the level of construction required to complete this massive project. Hundreds upon hundreds of new pylons going hundreds of feet deep along the ocean cannot help but have a seismic impact on the surrounding older buildings, including the closest and only other building near it of any comparable size although half the size, the Hillsboro Windsor.

The Windsor is undertaking over $250,000 of concrete repairs now, how much of that would be compromised.

Shouldn't we find out and have the developers guarantee the findings?

For these and many reasons, we respectfully request that the variance to erect 15 story towers on the 1174-1185 property be denied. This is not about money, but quality of life.

Michael Weinberg

Sherry D. Henderson

From: Deb Tarrant <dtarrant@townofhillsborobeach.com> on behalf of Deb Tarrant
Sent: Monday, December 6, 2021 7:39 PM
To: Sherry D. Henderson
Cc: Wendy Walsh; ev; Timothy Walsh; Randy Nazette; caroluweber@yahoo.com; likkrish@sbchlobal.net; Mac Serda
Subject: Re: Height variance proposal for 1174-1185 Hillsboro Mile

Madam Clerk, please include the correspondence below in the public record for tomorrow's meeting.

Thank you,

Deb

Deb Tarrant, Mayor
Town of Hillsboro Beach

From: Michael Boyna <likkrish@sbcglobal.net>
Date: Monday, December 6, 2021 at 3:59 PM
To: Deborah Tarrant <dtarrant@townofhillsborobeach.com>, "ikirdahy@townofhillsborobeach.com" <ikirdahy@townofhillsborobeach.com>, "jreiser@townofhillsborobeach.com" <jreiser@townofhillsborobeach.com>
Cc: Wendy Walsh <wendyw1@mac.com>, ev <evelynw.ht@gmail.com>, Timothy Walsh <twalsh@amerlic.com>, Randy Nazette <rnazette@nazettelaw.com>, "caroluweber@yahoo.com" <caroluweber@yahoo.com>
Subject: Height variance proposal for 1174-1185 Hillsboro Mile

Good afternoon, Commissioners:

I am writing to voice opposition to granting the proposed height variances at the above-stated location and would like this communication to be made part of the public record.

As a family that has been among the longest-term residents at 1187 Hillsboro Mile, there are several components to our opposition, namely:

- A main attraction to this property has always been its homey feel, compared to more industrial high-rise and hotel structures. Erecting a building that is roughly 5 times the current height restriction, and with a reflective glass construction, hardly says "homey".
- The current height limits should not have come as a surprise to the developer; while it is reasonable that they need to build to a certain height/capacity for optimum profitability, there are certainly myriad

other locations that would fit their needs without necessitating unwanted changes in/variances to existing building codes.
- Destroying the ambiance of this section of The Mile seems a bit self-centered on the developer's part, not to mention the disruption to the lifestyle of current residents, and adverse effects on the Local Area of Particular Concern (LAPC) and negative effects on the Intercoastal seawall (seen in the past due to construction that was on a much smaller scale than what is being proposed).
- Since previous requests for variances have been denied by the commission and given that the Commissioners are elected in part to protect the rights of Hillsboro Beach residents, it would seem inconsistent and inappropriate to grant a special variance privilege to this developer.
- It is my understanding that the developer has, understandably, tried to bolster the perceived benefits of their project by describing possible alternative developments in negative terms, i.e.: the kind(s) of less desirable thing(s) that *could* be developed on the property. While a valid marketing strategy, it also makes the faulty assumption that installing something the neighbors don't want is the best possible development option.

We urge the commission NOT to grant the proposed height variance.

I plan to attend the meeting tomorrow via Zoom

Sincerely
Michael R Boyna
(for the Walsh family @ 1187 Hillsboro Mile #6W)
630.470.1086

Sherry D. Henderson

From: Deb Tarrant <dtarrant@townofhillsborobeach.com> on behalf of Deb Tarrant
Sent: Monday, December 6, 2021 7:45 PM
To: Sherry D. Henderson
Cc: Sabino Tollis; Mac Serda
Subject: FW: 1174-1185 VARIANCE CHANGE

Madam Clerk, please include this in public comments for tomorrow's meeting.

Thank you,

Deb

Deb Tarrant, Mayor
Town of Hillsboro Beach

From: Sabino Tollis <stollis47@comcast.net>
Date: Monday, December 6, 2021 at 5:55 PM
To: Deborah Tarrant <dtarrant@townofhillsborobeach.com>, <ikirdahy@townofhillsborobeach.com>, <vfeam@townofhillsborobeach.com>, <bbaldasarre@townofhillsborobeach.com>, <jreiser@townofhillsborobeach.com>
Subject: 1174-1185 VARIANCE CHANGE

Dear Hillsboro Beach Commissioner's:

It is with great concern I write to you regarding a variance request by the developers of the two parcels on the north end of town. The parcels I am referring to are 1174-1185.

When my wife and I purchased our condo at 1160 Hillsboro Mile, Hillsboro Island House, never did it cross our minds that a part of this exceptional community could be at risk of becoming a Sunny Isles, Boca Raton, or Pompano Beach. We did not purchase our home in either one of those beach communities for that reason.

These developers have known about these parcels since the early 2000's. They knew when they purchased the two properties, what they would be up against with the strict State environmental and turtle restrictions along the beach.

They are attempting to buy your approval with their offerings of the easement to the beach for future beach nourishment and helping financially with the underground utilities.

We the residents can not be bought. I hope the same for you Commissioner's who represent the residents.

The residents do want the parcels developed, but NOT with two 15 story high rises. There is nothing wrong with the charm and character of Hillsboro Beach. We are the envy of many people of other towns/cities.

The developers are planning to make this a hardship due to the environmental restrictions and loss of land they can build on.

PLEASE DO NOT GRANT THE HEIGHT VARIANCE REQUEST BY THE DEVELOPERS!

I object to a variance change as to the height. Have them stay within the town CODE. THERE WAS A REASON THE FOUNDING FATHER'S IMPLEMENTED THESE CODES!

Please include my letter as public record.

Best,

Sabino Tollis
1160 Unit 303

Sherry D. Henderson

From: Deb Tarrant <dtarrant@townofhillsborobeach.com> on behalf of Deb Tarrant
Sent: Wednesday, December 8, 2021 8:20 PM
To: Sherry D. Henderson
Cc: Mac Serda; cdrimarc@gmail.com; kristen@cdrinternational.net
Subject: FW: Correction Re: Please include this letter as public record

Madam Clerk, please include the email thread below in the written public record for yesterday's meeting.

Thank you,

Deb

Deb Tarrant, Mayor
Town of Hillsboro Beach

From: "Kristen@cdrinternational.net" <kristen@cdrinternational.net>
Date: Tuesday, December 7, 2021 at 8:25 AM
To: Deborah Tarrant <dtarrant@townofhillsborobeach.com>, <ikirdahy@townofhillsborobeach.com>, <vfeaman@townofhillsborobeach.com>, <bbaldasarre@townofhillsborobeach.com>, <jreiser@townofhillsborobeach.com>
Cc: Marc Gabrielle <cdrimarc@gmail.com>
Subject: Correction Re: Please include this letter as public record

One quick correction to our original letter to be entered as public record…

The deed restriction referenced in the original letter below contains a detail which needs corrected. I had meant to type that the current deed restriction is for 12, not 6, single family dwellings.

Thank you,
Kristen Maxx

> On Dec 6, 2021, at 9:39 PM, kristen@cdrinternational.net wrote:
>
> **Please include this letter as public record**
>
> To Our Town of Hillsboro Beach Elected Representatives,

This letter is to express concerns for the proposed development project of the 1174-1185 Hillsboro Mile property. We all can agree that this is a very rare and valuable property. As a resident residing at Harborside (1170 Hillsboro Mile), both my husband and I imagined that, of course, one day this property would be developed. We agree with responsible and reasonable development of this very unique property. We do have concerns over various parts of this development proposal. Our concerns for the December 7th town meeting rest primarily with the developer's proposed height variance request for the two 15-story towers to be erected on the Eastern part of this property. We feel this is not a reasonable development, see that it does not fit into current town law, nor does it comply with the property's current deed restrictions.

We ask our commissioners to uphold our town's current height restriction of 35 feet. There is a current deed restriction for this property giving very specific limitation to the development of this land. As such, the deed restriction provides for up to 6 single family homes to be built, and in accordance with the current height limit of 35 feet. The developers knew our current building and zoning laws and the limitations of this property when they purchased it. One of the many reasons we love Hillsboro Beach is the unique character it has as you drive down A1A and particularly how our beautiful stretch of beach looks from the ocean. It is special, in that, our island does not look like Pompano Beach, or Boca Raton, or many of the other stretches of development along our neighboring Atlantic coastline. We see this as important to keep this feel in our town. This is why we moved here, and what we enjoy about our Mile.

The current height variance request with the developer's proposal is grossly over current height limitation. The argument that there is an "economic disadvantage" because of the 35 foot limitation is laughable given that the developers purchased this property for a fraction of its' value. My husband and I are business owners and understand the desire to maximize profits. Yet, it seems this group of developers is not only wanting to maximize profits, but in the process, change the rules completely in order to get the most profit out. As a resident, we hope that our commissioners would vote againstsuch a request, and instead stick to what our current limits allow for. There is still plenty of profit to be had. Many variance requests for this same property have been presented in the past and denied over time by the commission. Why would this developer get special privileges granted? Town residents should not suffer, just because big development cannot make the amount of profits they want. It sets the stage for more of this to become expectation for the future.

To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, **We object to a height variance to be granted for this development.**

Thank you for your service to our town and representation as our elected officials.

Very Sincerely,
Kristen Maxx and Mark Gabrielle
1170 Hillsboro Mile, #304
Hillsboro Beach, FL 33062

Sent from my iPhone

Sherry D. Henderson

From: Mark Raphael <MRaphael@riverrealty.com> on behalf of Mark Raphael
Sent: Tuesday, December 7, 2021 8:22 PM
To: Deb Tarrant
Cc: Deb Raphal; Sherry D. Henderson; Mac Serda
Subject: Re: The Residences at Hillsboro Mile

Thanks, Deb, for your timely response.

Mark L. Raphael
Associate Broker
River Realty Services
845-656-2226
mraphael@riverrealty.com

From: Deb Tarrant <dtarrant@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 5:57 PM
To: Mark Raphael <MRaphael@riverrealty.com>
Cc: Deb Raphal <deabiraphaelraphael@me.com>; Sherry D. Henderson <shenderson@townofhillsborobeach.com>; Mac Serda <mserda@townofhillsborobeach.com>
Subject: Re: The Residences at Hillsboro Mile

Thank you for your comments below Mark, and also for your comments today at the meeting. I received this too late to forward on before the meeting, but the Town Clerk is copied here and your written comments will be included with the minutes of the meeting.

With regard to the shade study, it was published along with the other documents presented as back-up for today's meeting and can be found on the Town's website as part of the agenda package for today's meeting.

Regards,

Deb

Deb Tarrant, Mayor
Town of Hillsboro Beach

From: Mark Raphael <MRaphael@riverrealty.com>
Date: Monday, December 6, 2021 at 9:32 PM
To: Deborah Tarrant <dtarrant@townofhillsborobeach.com>, "ikirdahy@townofhillsborobeach.com" <ikirdahy@townofhillsborobeach.com>, "bbaldasarre@townofhillsborobeach.com" <bbaldasarre@townofhillsborobeach.com>
Cc: Deb Raphal <deabiraphaelraphael@me.com>
Subject: Fw: The Residences at Hillsboro Mile

Dear Mayor and Commissioners:

It is with dismay that I write this email to you regarding the proposal for the vacant lot at 1174-1185 Hillsboro Mile. I own several condominiums adjacent to this property and do not support this proposal; specifically constructing a 15 + story building of 175 ft where the mandatory height is 3 stories (35 ft) in conformity with other buildings adjacent to this property. Note that for 3/4 miles from 1172-73 Hillsboro Mile (directly to the South of this property) and north to the Embassy Suites, all buildings conform to this height.

I imagine that this height restriction of three stories was instituted for a reason; that is, to maintain the aesthetics and feel of the area of limited height buildings and multi-million-dollar single family homes to the South of this property. The only multi-unit building that was constructed since 2004 when I became an owner on the Mile, is the one at 1200 Hillsboro Mile which is 3 stories and in conformity with its neighboring properties.

From the renderings that I have seen from the developers showing neighboring buildings against the backdrop of this proposed building on the East side of A1A, the only thing I can think of is that this building "sticks out like a sore thumb"--its obtrusive and totally incompatible with its neighboring properties.

This is not the only thing that is concerning. Being next door to this property, my family will have to endure several years of the noise, dust and disturbance to traffic by the construction crews for this massive building. If there was a more modest building constructed, there would be considerably less environmental disturbance in the area.

I also don't agree with the rationale that a building of this size, with the massive amount of space in the units needs to be built on this site so that the developers can make a maximum profit while destroying the ambience of our community.

In my zoom meeting in the summer with the developers and their representatives, I expressed concern that this tall building would negatively affect the amount of sun on the beach for this stretch of land. I was promised that a shade study was done and it addressed this concern. To date, I have not received or seen this study. I can only judge this from other properties with 1/2 the height to my south that have very little sun on their beach all afternoon particularly in the late fall and winter months.

It also seems to me that the developers are trying to buy their way into the hearts and votes of our town officials through promise of a higher tax base, beach access to the town for renourishment, underground utilities and pictures of lush landscaping along A1A. I would imagine that these perks would be included in any case with a smaller scale development.

I urge the Mayor and Commissioners to vote no to a variance to construct a 15+ story building on the East side of A1A, and only consider a plan that is more in keeping with the current height requirements.

Very truly yours,

Mark Raphael
owner of 1172 Hillsboro Mile Bldg 4 unit 2 and 1189 Hillsboro Mile #3, #6, #12 and #16
845-656-2226
mraphael@riverrealty.com

Sherry D. Henderson

From: Deb Tarrant <dtarrant@townofhillsborobeach.com> on behalf of Deb Tarrant
Sent: Tuesday, December 7, 2021 5:49 PM
To: Gary Ecoff
Cc: Sherry D. Henderson; Mac Serda
Subject: Re: Dezer/Related Project

Thank you, Gary, for your ability to see the big picture. I received this message too late to forward for the meeting today, but I have copied the Town Clerk and Town Manager here to be sure your comments are included in the public record.

Best regards,

Deb

Deb Tarrant, Mayor
Town of Hillsboro Beach

From: Gary Ecoff <ge@bambrellausa.com>
Date: Monday, December 6, 2021 at 8:42 PM
To: Deborah Tarrant <dtarrant@townofhillsborobeach.com>
Cc: "bbaldasarre@townofhillsborobeach.com" <bbaldasarre@townofhillsborobeach.com>, "vfeaman@townofhillsborobeach.com" <vfeaman@townofhillsborobeach.com>, "ikirdahy@townofhillsborobeach.com" <ikirdahy@townofhillsborobeach.com>, "jreiser@townofhillsborobeach.com" <jreiser@townofhillsborobeach.com>
Subject: Dezer/Related Project

Dear Mayor Tarrant and Hillsboro Beach Commissioners,

Please know that while not as vocal of a group, there are many residents on the Mile that are supportive of the proposed project.

The lower density per acre, tax roll enhancement , and future access to the beach for renourishment projects are all positive for the community.

Let's figure out how to encourage world class development while still respecting the current communities needs and concerns. Development is inevitable and Hillsboro Beach can continue to be the gem it already is with projects of this stature in our town.

Regards,
Gary Ecoff
1223 Hillsboro Mile

Gary Ecoff
President
BambrellaUSA, Inc.
www.BambrellaUSA.com



Sherry D. Henderson

From: Vicky Feaman <vfeaman@townofhillsborobeach.com> on behalf of Vicky Feaman
Sent: Tuesday, December 7, 2021 1:25 AM
To: Dana
Cc: shenderson@townofhillsborobeach.com
Subject: Re: Dear Vicky

I will forward to the town clerk to be recorded into the meeting minutes.
Thank you for your email.
Vicky

Sent from my iPad

On Dec 6, 2021, at 5:34 PM, Dana <fanadink@gmail.com> wrote:

- When we purchased here, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and that was a comfort to us. If we had wanted our community to build higher rise buildings as a norm, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.
- The developer bought the property fully knowing what the height limitations were (3 story height) with its easements.
- This developer purchased the property with this full disclosure but are now trying to obtain a variance because their proforma doesn't allow as much profit as they would like.
- An economic disadvantage due to the developer's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling them to a variance.
- To allow the development of this parcel of land from 3 stories zoning to anything above without regard to its surrounding designations is a special privilege to this developer. Many variance requests have been made (Previous owners of the property are one) over time for this property as well as others along the mile, that were denied by the commission.
- A project of this proposed magnitude and its effects on adjacent and much lower, older buildings and the strain of years of heavy, heavy construction – Developer said at least 150 pilings that run 150 feet deep is of particular concern! Surfside allegations come to mind. A smaller project in line with the code, would have a much lesser affect.
- The town residents should not suffer because Big Development cannot make money.
- The RESIDENTS are THE CITY and not the commissioners who are their ELECTED officials to preserve residents' rights.
- The perks the developer is offering the town (taxes, landscaping, underground lines, etc.) will come in any case from the development of the property so those used as a basis for the development are disingenuous at best.

- The developer does not have a right to change the height zoning when it could be deemed as injuring the rights of others, especially adjacent property owners, regardless of the perks they claim the height variance will provide the town.
- The developer is using scare tactics such as the use of words like "ugly" and "monolith" and "rental property" and other negative words when it relates to what could be built on the property, WITHIN CODE, should not be accepted. This developer is well known for a lot of things (both positive and negative) and I am certain that with the acreage they can make a beautiful rendering with MUCH less height. They simply would not put their name to this project on an ugly structure – won't happen, never has with them.
- To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, I object to a variance as to a change in height.
- If the commission votes no... the developer will have to go off and come up with another proposal. Which is what the developers said they are willing to do. A lower height would be preferred.
- If the commissioners vote to approve .. There will be potential lawsuits to fight this project plus lawsuits from future developers asking for their own variance up and down the mile.
- WE THE RESIDENTS OF HILLSBORO BEACH DO WANT the parcel developed but not 15 stories plus the 7-foot elevator, etc.
- Please do NOT GRANT THIS HEIGHT variance for this developer

--

Thanks much
Dana Topper
201-638-0663

Sherry D. Henderson

From: Vicky Feaman <vfeaman@townofhillsborobeach.com> on behalf of Vicky Feaman
Sent: Tuesday, December 7, 2021 1:22 AM
To: Michael Topper
Cc: shenderson@townofhillsborobeach.com
Subject: Re: Save Hillsboro Public Record requested

I will forward to the town clerk to be recorded into minutes of the meeting.
Thank you for your email.
Vicky

Sent from my iPad

On Dec 6, 2021, at 5:50 PM, Michael Topper <michaelatopper@gmail.com> wrote:

Vicky

- When we purchased here, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and that was a comfort to us. If we had wanted our community to build higher rise buildings as a norm, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.
- The developer bought the property fully knowing what the height limitations were (3 story height) with its easements.
- This developer purchased the property with this full disclosure but are now trying to obtain a variance because their proforma doesn't allow as much profit as they would like.
- An economic disadvantage due to the developer's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling them to a variance.
- To allow the development of this parcel of land from 3 stories zoning to anything above without regard to its surrounding designations is a special privilege to this developer. Many variance requests have been made (Previous owners of the property are one) over time for this property as well as others along the mile, that were denied by the commission.
- A project of this proposed magnitude and its effects on adjacent and much lower, older buildings and the strain of years of heavy, heavy construction – Developer said at least 150 pilings that run 150 feet deep is of particular concern! Surfside allegations come to mind. A smaller project in line with the code, would have a much lesser affect.
- The town residents should not suffer because Big Development cannot make money.
- The RESIDENTS are THE CITY and not the commissioners who are their ELECTED officials to preserve residents' rights.
- The perks the developer is offering the town (taxes, landscaping, underground lines, etc.) will come in any case from the development of the property so those used as a basis for the development are disingenuous at best.

- The developer does not have a right to change the height zoning when it could be deemed as injuring the rights of others, especially adjacent property owners, regardless of the perks they claim the height variance will provide the town.
- The developer is using scare tactics such as the use of words like "ugly" and "monolith" and "rental property" and other negative words when it relates to what could be built on the property, WITHIN CODE, should not be accepted. This developer is well known for a lot of things (both positive and negative) and I am certain that with the acreage they can make a beautiful rendering with MUCH less height. They simply would not put their name to this project on an ugly structure – won't happen, never has with them.
- To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, I object to a variance as to a change in height.
- If the commission votes no... the developer will have to go off and come up with another proposal. Which is what the developers said they are willing to do. A lower height would be preferred.
- If the commissioners vote to approve .. There will be potential lawsuits to fight this project plus lawsuits from future developers asking for their own variance up and down the mile.
- WE THE RESIDENTS OF HILLSBORO BEACH DO WANT the parcel developed but not 15 stories plus the 7-foot elevator, etc.
- Please do NOT GRANT THIS HEIGHT variance for this developer

Sincerely
Michael Topper
Hillsboro Windsor Resident

Sherry D. Henderson

From: Vicky Feaman <vfeaman@townofhillsborobeach.com> on behalf of Vicky Feaman
Sent: Tuesday, December 7, 2021 1:16 AM
To: Sabino Tollis
Cc: shenderson@townofhillsborobeach.com
Subject: Re: 1174-1185 VARIANCE CHANGE

I will forward to the town clerk to be recorded into the minutes
Of the meeting.
Thank you for your email
Vicky

Sent from my iPad

On Dec 6, 2021, at 8:00 PM, Sabino Tollis <stollis47@comcast.net> wrote:

Begin forwarded message:

From: Sabino Tollis <stollis47@comcast.net>
Subject: 1174-1185 VARIANCE CHANGE
Date: December 6, 2021 at 5:55:23 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeam@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com

Dear Hillsboro Beach Commissioner's:

It is with great concern I write to you regarding a variance request by the developers of the two parcels on the north end of town. The parcels I am referring to are 1174-1185.

When my wife and I purchased our condo at 1160 Hillsboro Mile, Hillsboro Island House, never did it cross our minds that a part of this exceptional community could be at risk of becoming a Sunny Isles, Boca Raton, or Pompano Beach. We did not purchase our home in either one of those beach communities for that reason.

These developers have known about these parcels since the early 2000's. They knew when they purchased the two properties, what they would be up against with the strict State environmental and turtle restrictions along the beach.

They are attempting to buy your approval with their offerings of the easement to the beach for future beach nourishment and helping financially with the underground utilities.

We the residents can not be bought. I hope the same for you Commissioner's who represent the residents.

The residents do want the parcels developed, but NOT with two 15 story high rises. There is nothing wrong with the charm and character of Hillsboro Beach. We are the envy of many people of other towns/cities.

The developers are planning to make this a hardship due to the environmental restrictions and loss of land they can build on.

PLEASE DO NOT GRANT THE HEIGHT VARIANCE REQUEST BY THE DEVELOPERS!

I object to a variance change as to the height. Have them stay within the town CODE. THERE WAS A REASON THE FOUNDING FATHER'S IMPLEMENTED THESE CODES!

Please include my letter as public record.

Best,

Sabino Tollis
1160 Unit 303

Town Clerk

From: Nina Hellfritz <n.hellfritz@aliseo.de>
Sent: Wednesday, December 8, 2021 8:26 AM
To: townclerk@townofhillsborobeach.com
Subject: 1174-1185 Hillsboro Mile Variance

Dear Sirs

I am writing as a Hillsboro Beach property owner to object to the granting of a variance for the property at 1174-1185 Hillsboro Beach.

In this case, property owners were aware, or should have been aware, of the zoning restrictions and the conservation easement on the subject property at the time of purchase in December 2020.

Developers have no legal grounds for claiming a hardship, other than maximizing the economic return on the property.

The so called "hardship" claimed by the developers is clearly "self-created" and contrary to settled Florida law.

Granting the variance will also change the nature and character of the community, and is also a violation of Florida Law.

For all of the reasons listed below, the Town of Hillsboro Beach may not lawfully grant the variance request.

Criteria for Granting Variances - Generally

Both before and after 1985, the courts have followed long-established Florida law that a variance cannot be granted for self-created actions – and this requirement is codified in most city and county codes in Florida. Even after 1985, the courts have been very strict in their review of the hardship required to obtain a variance.

Generally, a variance is authorized if due to circumstances unique to the applicant's property itself and not shared by other property in the area, there exists an undue and unnecessary hardship created by the zoning regulations

1. The hardship cannot have been self-created.

The hardship criteria found in variance provisions has a long line of cases and has been strictly construed by the courts. Josephson v. Autrey, 96 So.2d 784 (Fla. 1957).

The criteria has been interpreted to mean three things:

a. A mere economic disadvantage due to the owner's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. Burger King v. Metropolitan Dade County, 349 So.2d 210 (3 DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981); Nance, supra; Crossroads Lounge v. City of Miami, 195 So.2d 232 (DCA 1967). If, however, the only allowable uses are economically impossible, then a variance would be allowed. Nance II.

b. Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959).

c. If a purchaser buys land with a condition creating a hardship upon it, the owner is only entitled to such variance as his predecessor in title was entitled. Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The requirement that a variance hardship cannot be self-created is required by most codes and Florida case law. In Re Kellogg, 197 F. 3rd 1116, 1121 (11th Cir. 1999). Josephson v. Autrey, 96 So.2d 784 (Fla. 1957) (superceded by statute on other grounds in Grace v. Town of Palm Beach 656 So.2d 945 (Fla. DCA 1995); Town of Ponce Inlet v Rancourt, 627 So.2d 586, 588 (Fla. DCA 1993).

Case law, as well as the Land Development Regulations control the degree of showing needed to support the approval of a variance from the express requirements of local regulations. The days of the "weeping variance" have been replaced by strict interpretation of what is required to show entitlement to a variance from local Code provisions under the case law. Town of Indialantic v. Nance, 400 So.2d 37 (5 DCA 1981), affd. 419 So.2d 1041; appealed again at 485 So.2d 1318 (5 DCA 1986), rev. den. 494 So.2d 1152.

Post 1985, the First District Court of Appeals in City of Jacksonville v. Taylor, 721 So.2d 1212 (Fla. 1st DCA 1998) Bernard v. Town Council of Palm Beach, 569 So.2d 853 (Fla. 4th DCA, 1990); Metropolitan Dade County v. Betancourt, 559 So. 2d 1237; Town of Indiatlantic v. Nance, 485 So.2d 1318 (Fla. 5th DCA 1986), and Town of Indiatlantic v. Nance ("Nance I"), 400 So.2d 2137 (Fla. 5th DCA 1981); Maturo v. City of Coral Gables, 619 So.2d 455 (Fla. 3rd DCA 1993); Herrara v. City of Miami, 600 So.2d 561 (Fla 3rd DCA 1992) rev. denied 613 So.2d 2 (Fla. 3rd DCA 1992). In Re Kellogg, 197 F. 3d 1116, 1121 (11th Cir. 1999).

Pre 1985 cases had similar holdings and include Blount v. City of Coral Gables, 312 So. 2d 208 (Fla. 3rd DCA 1975) ("Nor are the Blounts entitled to a variance from the above zoning ordinance...as the hardship was self-created because they knew of the restricted zoning ordinance.")(citing other Florida cases on this issue); Clarke v. Morgan, 327 So.2d 769 (Fla. 1975); Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959); Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The purchase of property with zoning restrictions on the property will normally not constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959). Namon v. DER 558 So. 2d 504 (Fla 3rd DCA 1990) and the cases cited therein address cases where property is purchased AFTER adoption of prohibitory regulations. The court in Namon recognized such pre-existing notice as applied to takings analysis in Florida cases, as follows:

"Appellants are deemed to purchase the property with constructive knowledge of the applicable land use regulations. Appellants bought unimproved property. A subjective expectation that the land could be developed is no more than an expectancy and does not translate into a vested right to develop the subject property. See Graham v. Estuary Properties, Inc., 399 So.2d 1374, 1382, 1383 (Fla.), cert. denied sub nom. Taylor v. Graham, 454 U.S. 1083, 102 S. Ct. 640, 70 L. Ed. 2d 618 (1981)

'...[a]n owner of land has no absolute and unlimited right to change the essential natural character of his land so as to use it for a purpose for which it was unsuited in its natural state and which [injures] the rights of others." Namon at 505, (original citation omitted) see also Ruckelshaus v. Monsanto Co., 467 U.S. 986, 1005, 104 S. Ct. 2862, 2874, 81 L.E.2d 815, 834 (1984).

"A 'reasonable investment-backed expectation' must be more than a 'unilateral expectation or an abstract need'"; Namon citing Claridge v. New Hampshire Wetlands Board, 125 N.H. 745, 485 A.2d 287, 291 (1984)

"A person who purchases land with notice of statutory impediments to the right to develop that land can justify few, if any, legitimate investment-backed expectations of development rights which rise to the level of constitutionally

protected property rights"; cf. Elwyn v. City of Miami, 113 So.2d 849, 852 (Fla. 3d DCA) "One who purchases property while it is in a certain known zoning classification, ordinarily will not be heard to claim as a hardship a factor or factors which existed at the time he acquired the property.", cert. denied, 116 849 (Fla. 1959).

Case law also indicates that a mere economic "disadvantage" or the owner's mere preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. Burger King v. Metropolitan Dade County, 349 So.2d 210 (3 DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981); Crossroads Lounge v. City of Miami, 195 So.2d 232 (DCA 1967).

Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959).

If the owner participated in an affirmative act which created the hardship (such as by purchasing a substandard size lot), then the hardship should be ruled self-created. Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

2. Consistency with neighborhood and scheme of regulations.

Granting the variance must not adversely affect the zoning scheme as a whole. Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." Troup v. Bird, 53 So.2d 717 (Fla. 1951).

"A variance should not be granted where
the use to be authorized thereby will
alter the essential character of the
locality, or interfere with the zoning
plan for the area and with rights of
owners of other property."

Elwyn v. Cityof Miami, 113 So.2d 849 (Fla. 3rd DCA 1959).

It is the land, and not the nature of the project, which must be unique and create a hardship. Nance, supra; Ft. Lauderdale v. Nash, 425 So.2d 578 (4 DCA 1982) (many other common violations in the neighborhood do not constitute a hardship); City of Miami v. Franklin Leslie, 179 So.2d 622 (3 DCA 1965).

3. Other Code criteria. Various codes may also include the following criteria (See, e.g., prior F.S. 163.170(8), repealed 1985):

a. The granting of the variance will not accord applicant any special privileges;

b. The variance is the minimum one for the reasonable use of the applicant's land;

c. The grant of the variance will be harmonious and noninjurious to the surrounding land; and

d. The variance will not be contrary to the public interest.

Most court cases have focused on the hardship (whether it is the result of unique physical characteristics of the land in question or whether it is really an inpermissible self-created hardship). However, all variance standards must be met. The standards themselves must be definite, City of Miami v. Save Brickell Ave., 426 So.2d 1100 (3 DCA 1983), and the criteria must be mandatory, and not permissive (i.e., "shall consider criteria" means "must comply with criteria"), id.; Drexel v. City of Miami Beach, 64 So.2d 317 (Fla. 1953).

Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." Troup v. Bird, 53 So.2d 717 (Fla. 1951). All development orders, including variances, must be consistent with duly adopted Comprehensive Plan policies, objectives and goals under Florida Statutes 163.3215 (which also establishes procedures to challenge variances on the grounds of consistency with comprehensive plan policies). Machado v. Musgrove, 519 So. 629 (Fla. 3rd DCA 1987). And the remedy awarded by courts if a development order is found to be inconsistent with a comprehensive plan policy can include demolition of offending structures. Pinecrest Lakes v Shidel, 795 So. 2d 191 (Fla. 4th DCA).

. Burden of Proof. The burden to prove the existence of the required hardship and unique conditions is always on the applicant. Gomez v. City of St. Petersburg, 550 So.2d 7 (2 DCA 1989). Therefore, if the owner presents no evidence that the property cannot be used without the variance, there must be a denial. Herrera v. Miami, 600 So.2d 561 (3DCA 1992).

As per the above, I respectfully request that the Hillsboro Beach Board of Zoning and Appeals follow settled Florida law and deny the request for variance.

Sincerely,

Nina Hellfritz
Owner 1194 Hillsboromile unit 41
Hillsboro Beach, FL 33062

Mit freundlichen Grüßen / Best regards / Cordialement / Un cordial saludo / Cordiali saluti

Nina Hellfritz-Lange
Managing Partner Global Sales

Aliseo GmbH
Leutkirchstr. 63
77723 Gengenbach
Germany
Tel: +49 7803 60279 10
Fax:+49 7803 60279 51 22
Mobile: +4917611834333
Email: N.hellfritz@aliseo.de
Web: http://www.aliseo.de



Geschäftsführer:

Dipl.-Kfm. Dipl.-Volkswirt Claus Michael Hellfritz
Dipl.-Betriebswirt (FH) Jan Hellfritz

Unternehmenssitz: Gengenbach
Amtsgericht: Freiburg HRB 680263

Diese Email-Nachricht ist streng vertraulich und ausschließlich für den benannten Empfänger bestimmt. Sollten Sie nicht der bestimmte Empfänger sein, bitten wir Sie, den Absender zu informieren. In diesem Fall löschen Sie bitte außerdem diese Nachricht. Sie dürfen eine nicht für Sie bestimmte Nachricht oder Anhang weder speichern noch an Dritte weiterleiten. Für die Vollständigkeit oder Richtigkeit dieser Nachricht können wir keine Haftung übernehmen [Datenschutzerklärung]

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Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 4:11 PM
To: Mac Serda
Cc: Town Clerk
Subject: Fwd: Today's meeting on Proposed height variance change by the developer at 1174-1185 Hillsboro Mile property.

Hi Mac,

This was sent to all of the commissioners, but I don't want to assume that someone else will forward it to you.

Since this resident is asking questions that I am not qualified to answer, I felt it was best to forward this to you.

Thanks for all of your help preparing for today's meeting.

Regards,
Jane

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Freny Deboo <deboofreny@gmail.com>
Date: December 7, 2021 at 1:45:26 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Today's meeting on Proposed height variance change by the developer at 1174-1185 Hillsboro Mile property.

Dear Commissioners:

Thank you for today's meeting regarding the above stated height variance proposal by the developer. We now understand the next meeting on developer's proposal will be on January 11, 2022.

As neighboring residents to 1174-1185 Hillsboro Mile property, we are greatly concerned as to who is the final authority looking into developers' meeting of the structural and environmental codes? Would it be the local, state and/or federal? And for peace of our mind, as neighboring residents, who will be certifying in writing that all of the building codes will be met by the developers moving forward ?

Bearing in mind, the surfside condo collapse, this is our major concern with a 10 to 11 floors building next to us. Just the thought of a tall building collapse, is terrifying to us retirees with limited income and resources in case of unfortunate incidents.

While granting the height variance, do consider all of the above.

Once again, thank you for your services and for all you do for the Hillsboro Beach residents.

Best wishes for the holiday season,

Sincerely,
Hillsboro Beach Residents

Sent from my iPhone

Begin forwarded message:

> **From:** Freny Deboo <deboofreny@gmail.com>
> **Date:** December 4, 2021 at 1:17:35 AM EST
> **To:** dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
> **Subject: Proposed height variance change by the developer at 1174-1185 Hillsboro Mile property.**

Town Clerk

From: Norma <njleary227@aol.com>
Sent: Tuesday, December 7, 2021 10:17 AM
To: Charles Doherty; townclerk@townofhillsborobeach.com
Subject: Re: Fwd: 1174-1185 Hillsboro Mile Variance

I agree with Charles!!
Norma Leary

Sent from the all new AOL app for iOS

On Monday, December 6, 2021, 5:35 PM, Charles Doherty <cd@rebartonage.com> wrote:

From:
Charles Doherty
1194 Hillsboro Mile #27
Hillsboro Beach, Fl 33026
516.241.9122

I am writing as a Hillsboro Beach property owner to object to the granting of a variance for the property at 1174-1185 Hillsboro Beach.

In this case, property owners were aware, or should have been aware, of the zoning restrictions and the conservation easement on the subject property at the time of purchase in December 2020.

Developers have no legal grounds for claiming a hardship, other than maximizing the economic return on the property.

The so called "hardship" claimed by the developers is clearly "self-created" and contrary to settled Florida law.

Granting the variance will also change the nature and character of the community, and is also a violation of Florida Law.

For all of the reasons listed below, the Town of Hillsboro Beach may not lawfully grant the variance request.

Criteria for Granting Variances - Generally

Both before and after 1985, the courts have followed long-established Florida law that a variance cannot be granted for self-created actions – and this requirement is codified in most city and county

codes in Florida. Even after 1985, the courts have been very strict in their review of the hardship required to obtain a variance.

Generally, a variance is authorized if due to circumstances unique to the applicant's property itself and not shared by other property in the area, there exists an undue and unnecessary hardship created by the zoning regulations

1. The hardship cannot have been self-created.

The hardship criteria found in variance provisions has a long line of cases and has been strictly construed by the courts. Josephson v. Autrey, 96 So.2d 784 (Fla. 1957).

The criteria has been interpreted to mean three things:

a. A mere economic disadvantage due to the owner's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. Burger King v. Metropolitan Dade County, 349 So.2d 210 (3 DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981); Nance, supra; Crossroads Lounge v. City of Miami, 195 So.2d 232 (DCA 1967). If, however, the only allowable uses are economically impossible, then a variance would be allowed. Nance II.

b. Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959).

c. If a purchaser buys land with a condition creating a hardship upon it, the owner is only entitled to such variance as his predecessor in title was entitled. Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The requirement that a variance hardship cannot be self-created is required by most codes and Florida case law. In Re Kellogg, 197 F. 3rd 1116, 1121 (11th Cir. 1999). Josephson v. Autrey, 96 So.2d 784 (Fla. 1957) (superceded by statute on other grounds in Grace v. Town of Palm Beach 656 So.2d 945 (Fla. DCA 1995); Town of Ponce Inlet v Rancourt, 627 So.2d 586, 588 (Fla. DCA 1993).

Case law, as well as the Land Development Regulations control the degree of showing needed to support the approval of a variance from the express requirements of local regulations. The days of the "weeping variance" have been replaced by strict interpretation of what is required to show entitlement to a variance from local Code provisions under the case law. Town of Indialantic v. Nance, 400 So.2d 37 (5 DCA 1981), affd. 419 So.2d 1041; appealed again at 485 So.2d 1318 (5 DCA 1986), rev. den. 494 So.2d 1152.

Post 1985, the First District Court of Appeals in City of Jacksonville v. Taylor, 721 So.2d 1212 (Fla. 1st DCA 1998) Bernard v. Town Council of Palm Beach, 569 So.2d 853 (Fla. 4th DCA, 1990); Metropolitan Dade County v. Betancourt, 559 So. 2d 1237; Town of Indiatlantic v. Nance, 485 So.2d 1318 (Fla. 5th DCA 1986), and Town of Indiatlantic v. Nance ("Nance I"), 400 So.2d 2137 (Fla. 5th DCA 1981); Maturo v. City of Coral Gables, 619 So.2d 455 (Fla. 3rd DCA 1993); Herrara v. City of Miami, 600 So.2d 561 (Fla 3rd DCA 1992) rev. denied 613 So.2d 2 (Fla. 3rd DCA 1992). In Re Kellogg, 197 F. 3d 1116, 1121 (11th Cir. 1999).

Pre 1985 cases had similar holdings and include Blount v. City of Coral Gables, 312 So. 2d 208 (Fla. 3rd DCA 1975) ("Nor are the Blounts entitled to a variance from the above zoning ordinance...as the hardship was self-created because they knew of the restricted zoning ordinance.")(citing other Florida

cases on this issue); Clarke v. Morgan, 327 So.2d 769 (Fla. 1975); Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959); Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The purchase of property with zoning restrictions on the property will normally not constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959). Namon v. DER 558 So. 2d 504 (Fla 3rd DCA 1990) and the cases cited therein address cases where property is purchased AFTER adoption of prohibitory regulations. The court in Namon recognized such pre-existing notice as applied to takings analysis in Florida cases, as follows:

"Appellants are deemed to purchase the property with constructive knowledge of the applicable land use regulations. Appellants bought unimproved property. A subjective expectation that the land could be developed is no more than an expectancy and does not translate into a vested right to develop the subject property. See Graham v. Estuary Properties, Inc., 399 So.2d 1374, 1382, 1383 (Fla.), cert. denied sub nom. Taylor v. Graham, 454 U.S. 1083, 102 S. Ct. 640, 70 L. Ed. 2d 618 (1981)

'...[a]n owner of land has no absolute and unlimited right to change the essential natural character of his land so as to use it for a purpose for which it was unsuited in its natural state and which [injures] the rights of others." Namon at 505, (original citation omitted) see also Ruckelshaus v. Monsanto Co., 467 U.S. 986, 1005, 104 S. Ct. 2862, 2874, 81 L.E.2d 815, 834 (1984).

"A 'reasonable investment-backed expectation' must be more than a 'unilateral expectation or an abstract need'"; Namon citing Claridge v. New Hampshire Wetlands Board, 125 N.H. 745, 485 A.2d 287, 291 (1984)

"A person who purchases land with notice of statutory impediments to the right to develop that land can justify few, if any, legitimate investment-backed expectations of development rights which rise to the level of constitutionally protected property rights"; cf. Elwyn v. City of Miami, 113 So.2d 849, 852 (Fla. 3d DCA) **"One who purchases property while it is in a certain known zoning classification, ordinarily will not be heard to claim as a hardship a factor or factors which existed at the time he acquired the property."**, cert. denied, 116 849 (Fla. 1959).

Case law also indicates that a mere economic "disadvantage" or the owner's mere preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. Burger King v. Metropolitan Dade County, 349 So.2d 210 (3 DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981); Crossroads Lounge v. City of Miami, 195 So.2d 232 (DCA 1967).

Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959).

If the owner participated in an affirmative act which created the hardship (such as by purchasing a substandard size lot), then the hardship should be ruled self-created. Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

2. Consistency with neighborhood and scheme of regulations.

Granting the variance must not adversely affect the zoning scheme as a whole. **Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is**

not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." Troup v. Bird, 53 So.2d 717 (Fla. 1951).

"**A variance should not be granted where the use to be authorized thereby will alter the essential character of the locality, or interfere with the zoning plan for the area and with rights of owners of other property."**

Elwyn v. Cityof Miami, 113 So.2d 849 (Fla. 3rd DCA 1959).

It is the land, and not the nature of the project, which must be unique and create a hardship. Nance, supra; Ft. Lauderdale v. Nash, 425 So.2d 578 (4 DCA 1982) (many other common violations in the neighborhood do not constitute a hardship); City of Miami v. Franklin Leslie, 179 So.2d 622 (3 DCA 1965).

3. Other Code criteria. Various codes may also include the following criteria (See, e.g., prior F.S. 163.170(8), repealed 1985):

a. The granting of the variance will not accord applicant any special privileges;

b. The variance is the minimum one for the reasonable use of the applicant's land;

c. The grant of the variance will be harmonious and noninjurious to the surrounding land; and

d. The variance will not be contrary to the public interest.

Most court cases have focused on the hardship (whether it is the result of unique physical characteristics of the land in question or whether it is really an inpermissible self-created hardship). However, all variance standards must be met. The standards themselves must be definite, City of Miami v. Save Brickell Ave., 426 So.2d 1100 (3 DCA 1983), and the criteria must be mandatory, and not permissive (i.e., "shall consider criteria" means "must comply with criteria"), id.; Drexel v. City of Miami Beach, 64 So.2d 317 (Fla. 1953).

Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." Troup v. Bird, 53 So.2d 717 (Fla. 1951). All development orders, including variances, must be consistent with duly adopted Comprehensive Plan policies, objectives and goals under Florida Statutes 163.3215 (which also establishes procedures to challenge variances on the grounds of consistency with comprehensive plan policies). Machado v. Musgrove, 519 So. 629 (Fla. 3rd DCA 1987). And the remedy awarded by courts if a development order is found to be inconsistent with a comprehensive plan policy can include demolition of offending structures. Pinecrest Lakes v Shidel, 795 So. 2d 191 (Fla. 4th DCA).

. **Burden of Proof. The burden to prove the existence of the required hardship and unique conditions is always on the applicant**. Gomez v. City of St. Petersburg, 550 So.2d 7 (2 DCA 1989). **Therefore, if the owner presents no evidence that the property cannot be used without the variance, there must be a denial.** Herrera v. Miami, 600 So.2d 561 (3DCA 1992).

As per the above, I respectfully request that the Hillsboro Beach Board of Zoning and Appeals follow settled Florida law and deny the request for variance.

Sincerely,

Charles Doherty
1194 Hillsboro Beach #27
Hillsboro Beach, FL 33062

--
Thank you,
cd

--
Thank you,
cd

Town Clerk

From: Svetlana Zikratova <lana.zikr@gmail.com>
Sent: Tuesday, December 7, 2021 9:41 AM
To: TownClerk@townofhillsborobeach.com
Subject: Variance to allow for Additional Height and Number of Stories located at 1174 -1185 Hillsboro Mile and Site Plan Approval – 1174-1185 Hillsboro Mile

Dear Sir/Madam:

Please register this email as our public vote for NOT SUPPORT in regards of the the Property Owner, Hillsboro Mile Property Owner, LLC and his authorized agent 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 as well as well as their request for site plan approval Per Sec. 12-48 of the Land Development Code (LDC) to construct 122 residential units within two vacant parcels located on the west and east side of Hillsboro Mile. The Applicant proposes to construct these units within a 15-story, 170-foot tower.
We believe that if these requests are approved, the East side development will negatively affect the entire surrounding community by eventually destroying the conservation area and decreasing the neighboring properties' values by obstructing the views and overcrowding the private beaches.

Sincerely,
Lana and George Zikratov
1194 Hillsboro Mile, Unit #24
****

A 1993 agreement with Broward County created a conservation area on Parcel B nearest the Atlantic Ocean comprising 102,526 square feet of land (subject to increased building height approval). This limits the developable area of Parcel B to 175,790 square feet or 4.04 acres nearest to SR A1A. The boundary of this conservation area appears to include the areas seaward of the Easterly Building Line along with existing dunes situated near the CCL.
The subject property is within "The Enclave at Hillsboro Beach" plat as recorded in Plat Book 154, Page 31 of the Broward County records. A restrictive plat note found on page 2 of this plat states that "This plat is restricted to 6 detached single-family homes on Parcel A, and 6 detached single-family homes on Parcel B". This effectively limits the subject property's development to 12 single-family homes.
****

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 8:46 AM
To: Town Clerk
Subject: Fwd: Correction Re: Please include this letter as public record

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: kristen@cdrinternational.net
Date: December 7, 2021 at 8:25:09 AM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Cc: Marc Gabrielle <cdrimarc@gmail.com>
Subject: Correction Re: Please include this letter as public record

One quick correction to our original letter to be entered as public record...

The deed restriction referenced in the original letter below contains a detail which needs corrected. I had meant to type that the current deed restriction is for 12, not 6, single family dwellings.

Thank you,
Kristen Maxx

> On Dec 6, 2021, at 9:39 PM, kristen@cdrinternational.net wrote:
>
> **Please include this letter as public record**
>
> To Our Town of Hillsboro Beach Elected Representatives,
>
> This letter is to express concerns for the proposed development project of the 1174-1185 Hillsboro Mile property. We all can agree that this is a very rare and valuable property. As a resident residing at Harborside (1170 Hillsboro Mile), both my husband and I imagined that, of course, one day this property would be developed. We agree with responsible and reasonable development of this very unique property. We do have concerns over various parts of this development proposal. Our concerns for the December 7th town meeting rest primarily with the developer's proposed height variance request for the two 15-story towers to be erected on the Eastern part of this property. We feel this is not a reasonable development, see that it does not fit into current town law, nor does it comply with the property's current deed restrictions.

We ask our commissioners to uphold our town's current height restriction of 35 feet. There is a current deed restriction for this property giving very specific limitation to the development of this land. As such, the deed restriction provides for up to 6 single family homes to be built, and in accordance with the current height limit of 35 feet. The developers knew our current building and zoning laws and the limitations of this property when they purchased it. One of the many reasons we love Hillsboro Beach is the unique character it has as you drive down A1A and particularly how our beautiful stretch of beach looks from the ocean. It is special, in that, our island does not look like Pompano Beach, or Boca Raton, or many of the other stretches of development along our neighboring Atlantic coastline. We see this as important to keep this feel in our town. This is why we moved here, and what we enjoy about our Mile.

The current height variance request with the developer's proposal is grossly over current height limitation. The argument that there is an "economic disadvantage" because of the 35 foot limitation is laughable given that the developers purchased this property for a fraction of its' value. My husband and I are business owners and understand the desire to maximize profits. Yet, it seems this group of developers is not only wanting to maximize profits, but in the process, change the rules completely in order to get the most profit out. As a resident, we hope that our commissioners would vote againstsuch a request, and instead stick to what our current limits allow for. There is still plenty of profit to be had. Many variance requests for this same property have been presented in the past and denied over time by the commission. Why would this developer get special privileges granted? Town residents should not suffer, just because big development cannot make the amount of profits they want. It sets the stage for more of this to become expectation for the future.

To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, **We object to a height variance to be granted for this development.**

Thank you for your service to our town and representation as our elected officials.

Very Sincerely,
Kristen Maxx and Mark Gabrielle
1170 Hillsboro Mile, #304
Hillsboro Beach, FL 33062

Sent from my iPhone

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 8:09 AM
To: Town Clerk
Subject: Fwd: Height variance proposal for 1174-1185 Hillsboro Mile

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Michael Boyna <likkrish@sbcglobal.net>
Date: December 6, 2021 at 3:59:18 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Cc: Wendy Walsh <wendyw1@mac.com>, ev <evelynw.ht@gmail.com>, Timothy Walsh <twalsh@amerlic.com>, Randy Nazette <rnazette@nazettelaw.com>, caroluweber@yahoo.com
Subject: Height variance proposal for 1174-1185 Hillsboro Mile

Good afternoon, Commissioners:

I am writing to voice opposition to granting the proposed height variances at the above-stated location and would like this communication to be made part of the public record.

As a family that has been among the longest-term residents at 1187 Hillsboro Mile, there are several components to our opposition, namely:

- A main attraction to this property has always been its homey feel, compared to more industrial high-rise and hotel structures. Erecting a building that is roughly 5 times the current height restriction, and with a reflective glass construction, hardly says "homey".
- The current height limits should not have come as a surprise to the developer; while it is reasonable that they need to build to a certain height/capacity for optimum profitability, there are certainly myriad other locations that would fit their needs without necessitating unwanted changes in/variances to existing building codes.
- Destroying the ambiance of this section of The Mile seems a bit self-centered on the developer's part, not to mention the disruption to the lifestyle of current residents, and adverse effects on the Local Area of Particular Concern (LAPC) and negative effects on the Intercoastal seawall (seen in the past due to construction that was on a much smaller scale than what is being proposed).
- Since previous requests for variances have been denied by the commission and given that the Commissioners are elected in part to protect the rights of Hillsboro Beach residents, it would seem inconsistent and inappropriate to grant a special variance privilege to this developer.
- It is my understanding that the developer has, understandably, tried to bolster the perceived benefits of their project by describing possible alternative developments in negative terms, i.e.: the kind(s) of less desirable thing(s) that *could* be developed on the property. While a valid marketing

strategy, it also makes the faulty assumption that installing something the neighbors don't want is the best possible development option.

We urge the commission NOT to grant the proposed height variance.

I plan to attend the meeting tomorrow via Zoom

Sincerely
Michael R Boyna
(for the Walsh family @ 1187 Hillsboro Mile #6W)
630.470.1086

Town Clerk

From: Carol Weber <caroluweber@yahoo.com>
Sent: Monday, December 6, 2021 9:58 PM
To: townclerk@townofhillsborobeach.com
Subject: Comments for Meeting of December 7, 2021 Concerning 1174-1185 Hillsboro Mile

To the Mayor and Commissioners of the Town of Hillsboro Beach

Our names are Carol Weber and Robert Weber and we own an east side cooperative unit (7E) at the Virginia Kaye, located next to
1174-1185 Hillsboro Mile. We would like to state for the record that we are 100% opposed to permitting the developers to build two 15-story high rise complexes on this property. We believe structures such as those would completely alter the wonderful character and charm of Hillsboro Beach and would forever negatively change this area. Before we purchased here we looked at several high rise units and we did not like how they dominated the look of the coastline and we did not like the tremendous shadows they cast as we walked on the beach.
The owners/developers knew the regulations when they purchased the land and even though they propose a lower density by building these structures, we would vote for keeping the original density for which it is zoned with structures within the original height limitations and denying this height variance request. If the town permits this height variance, then future owners/developers will likely use this ruling to argue if it is granted for one property, then it should be granted for other properties and on and on it will go. Owners/developers who have a lot of money/power/influence should not be able to flaunt this and get their way. We would ask that the variance be denied.

Town Clerk

From: Sharon Wilcox <smwilcox602@outlook.com>
Sent: Tuesday, December 7, 2021 7:37 AM
To: TownClerk@townofhillsborobeach.com
Subject: Condo Height Restrictions

To Whom It May Concern,
We purchased a unit at Overlook Condominiums because of the height restrictions in the area. The small home-town feel will be lost if any developer builds a 15 story building within Hillsboro Mile. Traffic is already challenging in season as is beach parking. If the 15 story building is approved, Hillsboro Mile will lose its appeal as well as many of its residents. This beautiful area as we know it, along with our peaceful beach will be forever changed. Do not allow any such changes please. Respectfully yours, Sharon Wilcox (Overlook #602)

Sent from my iPhone

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 8:03 AM
To: Town Clerk
Subject: Fwd: Please include this letter as public record

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: kristen@cdrinternational.net
Date: December 6, 2021 at 9:39:43 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Cc: Marc Gabrielle <cdrimarc@gmail.com>
Subject: Please include this letter as public record

Please include this letter as public record

To Our Town of Hillsboro Beach Elected Representatives,

This letter is to express concerns for the proposed development project of the 1174-1185 Hillsboro Mile property. We all can agree that this is a very rare and valuable property. As a resident residing at Harborside (1170 Hillsboro Mile), both my husband and I imagined that, of course, one day this property would be developed. We agree with responsible and reasonable development of this very unique property. We do have concerns over various parts of this development proposal. Our concerns for the December 7th town meeting rest primarily with the developer's proposed height variance request for the two 15-story towers to be erected on the Eastern part of this property. We feel this is not a reasonable development, see that it does not fit into current town law, nor does it comply with the property's current deed restrictions.

We ask our commissioners to uphold our town's current height restriction of 35 feet. There is a current deed restriction for this property giving very specific limitation to the development of this land. As such, the deed restriction provides for up to 6 single family homes to be built, and in accordance with the current height limit of 35 feet. The developers knew our current building and zoning laws and the limitations of this property when they purchased it. One of the many reasons we love Hillsboro Beach is the unique character it has as you drive down A1A and particularly how our beautiful stretch of beach looks from the ocean. It is special, in that, our island does not look like Pompano Beach, or Boca Raton, or many of the other stretches of development along our neighboring Atlantic coastline. We see this as important to keep this feel in our town. This is why we moved here, and what we enjoy about our Mile.

The current height variance request with the developer's proposal is grossly over current height limitation. The argument that there is an "economic disadvantage" because of the 35 foot limitation is laughable given that the developers purchased this property for a fraction of its' value. My husband and I are business owners and understand the desire to maximize profits. Yet, it seems this group of developers is not only wanting to maximize profits, but in the process, change the rules completely in order to get the most profit out. As a resident, we hope that our commissioners

would vote againstsuch a request, and instead stick to what our current limits allow for. There is still plenty of profit to be had. Many variance requests for this same property have been presented in the past and denied over time by the commission. Why would this developer get special privileges granted? Town residents should not suffer, just because big development cannot make the amount of profits they want. It sets the stage for more of this to become expectation for the future.

To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, **We object to a height variance to be granted for this development.**

Thank you for your service to our town and representation as our elected officials.

Very Sincerely,
Kristen Maxx and Mark Gabrielle
1170 Hillsboro Mile, #304
Hillsboro Beach, FL 33062

Sent from my iPhone

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 8:04 AM
To: Town Clerk
Subject: Fwd: The Residences at Hillsboro Mile

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Mark Raphael <MRaphael@riverrealty.com>
Date: December 6, 2021 at 9:08:14 PM EST
To: dtarrant@atownofhillsborobeach.com, lkirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldassarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Cc: Deb Raphal <deabiraphaelraphael@me.com>
Subject: The Residences at Hillsboro Mile

Dear Mayor and Commissioners:

It is with dismay that I write this email to you regarding the proposal for the vacant lot at 1174-1185 Hillsboro Mile. I own several condominiums adjacent to this property and do not support this proposal; specifically constructing a 15 + story building of 175 ft where the mandatory height is 3 stories (35 ft) in conformity with other buildings adjacent to this property. Note that for 3/4 miles from 1172-73 Hillsboro Mile (directly to the South of this property) and north to the Embassy Suites, all buildings conform to this height.

I imagine that this height restriction of three stories was instituted for a reason; that is, to maintain the aesthetics and feel of the area of limited height buildings and multi-million-dollar single family homes to the South of this property. The only multi-unit building that was constructed since 2004 when I became an owner on the Mile, is the one at 1200 Hillsboro Mile which is 3 stories and in conformity with its neighboring properties.

From the renderings that I have seen from the developers showing neighboring buildings against the backdrop of this proposed building on the East side of A1A, the only thing I can think of is that this building "sticks out like a sore thumb"--its obtrusive and totally incompatible with its neighboring properties.

This is not the only thing that is concerning. Being next door to this property, my family will have to endure several years of the noise, dust and disturbance to traffic by the construction crews for this massive building. If there was a more modest building constructed, there would be considerably less environmental disturbance in the area.

I also don't agree with the rationale that a building of this size, with the massive amount of space in the units needs to be built on this site so that the developers can make a maximum profit while destroying the ambience of our community.

In my zoom meeting in the summer with the developers and their representatives, I expressed concern that this tall building would negatively affect the amount of sun on the beach for this stretch of land. I was promised that a shade study was done and it addressed this concern. To date, I have not received or seen this study. I can only judge this from other properties with 1/2 the height to my south that have very little sun on their beach all afternoon particularly in the late fall and winter months.

It also seems to me that the developers are trying to buy their way into the hearts and votes of our town officials through promise of a higher tax base, beach access to the town for renourishment, underground utilities and pictures of lush landscaping along A1A. I would imagine that these perks would be included in any case with a smaller scale development.

I urge the Mayor and Commissioners to vote no to a variance to construct a 15+ story building on the East side of A1A, and only consider a plan that is more in keeping with the current height requirements.

Very truly yours,

Mark Raphael
owner of 1172 Hillsboro Mile Bldg 4 unit 2 and 1189 Hillsboro Mile #3, #6, #12 and #16
845-656-2226

mraphael@riverrealty.com

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 8:06 AM
To: Town Clerk
Subject: Fwd: Dezer/Related Project

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Gary Ecoff <ge@bambrellausa.com>
Date: December 6, 2021 at 8:42:51 PM EST
To: dtarrant@townofhillsborobeach.com
Cc: bbaldasarre@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: Dezer/Related Project

Dear Mayor Tarrant and Hillsboro Beach Commissioners,

Please know that while not as vocal of a group, there are many residents on the Mile that are supportive of the proposed project.

The lower density per acre, tax roll enhancement , and future access to the beach for renourishment projects are all positive for the community.

Let's figure out how to encourage world class development while still respecting the current communities needs and concerns. Development is inevitable and Hillsboro Beach can continue to be the gem it already is with projects of this stature in our town.

Regards,
Gary Ecoff
1223 Hillsboro Mile

Gary Ecoff
President

BambrellaUSA, Inc.
www.BambrellaUSA.com



Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 8:07 AM
To: Town Clerk
Subject: Fwd: 1174-1185 VARIANCE CHANGE

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Sabino Tollis <stollis47@comcast.net>
Date: December 6, 2021 at 5:55:26 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeam@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Subject: 1174-1185 VARIANCE CHANGE

Dear Hillsboro Beach Commissioner's:

It is with great concern I write to you regarding a variance request by the developers of the two parcels on the north end of town. The parcels I am referring to are 1174-1185.

When my wife and I purchased our condo at 1160 Hillsboro Mile, Hillsboro Island House, never did it cross our minds that a part of this exceptional community could be at risk of becoming a Sunny Isles, Boca Raton, or Pompano Beach. We did not purchase our home in either one of those beach communities for that reason.

These developers have known about these parcels since the early 2000's. They knew when they purchased the two properties, what they would be up against with the strict State environmental and turtle restrictions along the beach.

They are attempting to buy your approval with their offerings of the easement to the beach for future beach nourishment and helping financially with the underground utilities.

We the residents can not be bought. I hope the same for you Commissioner's who represent the residents.

The residents do want the parcels developed, but NOT with two 15 story high rises. There is nothing wrong with the charm and character of Hillsboro Beach. We are the envy of many people of other towns/cities.

The developers are planning to make this a hardship due to the environmental restrictions and loss of land they can build on.

PLEASE DO NOT GRANT THE HEIGHT VARIANCE REQUEST BY THE DEVELOPERS!

I object to a variance change as to the height. Have them stay within the town CODE. THERE WAS A REASON THE FOUNDING FATHER'S IMPLEMENTED THESE CODES!

Please include my letter as public record.

Best,

Sabino Tollis
1160 Unit 303

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 8:07 AM
To: Town Clerk
Subject: Fwd: Save Hillsboro Public record requested

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Michael Topper <michaelatopper@gmail.com>
Date: December 6, 2021 at 5:52:29 PM EST
To: jreiser@townofhillsborobeach.com
Subject: Save Hillsboro Public record requested

Jane

- When we purchased here, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and that was a comfort to us. If we had wanted our community to build higher rise buildings as a norm, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.
- The developer bought the property fully knowing what the height limitations were (3 story height) with its easements.
- This developer purchased the property with this full disclosure but are now trying to obtain a variance because their proforma doesn't allow as much profit as they would like.
- An economic disadvantage due to the developer's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling them to a variance.
- To allow the development of this parcel of land from 3 stories zoning to anything above without regard to its surrounding designations is a special privilege to this developer. Many variance requests have been made (Previous owners of the property are one) over time for this property as well as others along the mile, that were denied by the commission.
- A project of this proposed magnitude and its effects on adjacent and much lower, older buildings and the strain of years of heavy, heavy construction – Developer said at least 150 pilings that run 150 feet deep is of particular concern! Surfside allegations come to mind. A smaller project in line with the code, would have a much lesser affect.
- The town residents should not suffer because Big Development cannot make money.
- The RESIDENTS are THE CITY and not the commissioners who are their ELECTED officials to preserve residents' rights.
- The perks the developer is offering the town (taxes, landscaping, underground lines, etc.) will come in any case from the development of the property so those used as a basis for the development are disingenuous at best.

- The developer does not have a right to change the height zoning when it could be deemed as injuring the rights of others, especially adjacent property owners, regardless of the perks they claim the height variance will provide the town.
- The developer is using scare tactics such as the use of words like "ugly" and "monolith" and "rental property" and other negative words when it relates to what could be built on the property, WITHIN CODE, should not be accepted. This developer is well known for a lot of things (both positive and negative) and I am certain that with the acreage they can make a beautiful rendering with MUCH less height. They simply would not put their name to this project on an ugly structure – won't happen, never has with them.
- To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, I object to a variance as to a change in height.
- If the commission votes no... the developer will have to go off and come up with another proposal. Which is what the developers said they are willing to do. A lower height would be preferred.
- If the commissioners vote to approve .. There will be potential lawsuits to fight this project plus lawsuits from future developers asking for their own variance up and down the mile.
- WE THE RESIDENTS OF HILLSBORO BEACH DO WANT the parcel developed but not 15 stories plus the 7-foot elevator, etc.
- Please do NOT GRANT THIS HEIGHT variance for this developer

Sincerely
Michael Topper
Hillsboro Windsor Resident

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 8:08 AM
To: Town Clerk
Subject: Fwd: Save Hillsboro Public Record requested

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Dana <fanadink@gmail.com>
Date: December 6, 2021 at 5:36:25 PM EST
To: jreiser@townofhillsborobeach.com
Subject: Save Hillsboro Public Record requested

Jane

- When we purchased here, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and that was a comfort to us. If we had wanted our community to build higher rise buildings as a norm, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.
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- If the commissioners vote to approve .. There will be potential lawsuits to fight this project plus lawsuits from future developers asking for their own variance up and down the mile.
- WE THE RESIDENTS OF HILLSBORO BEACH DO WANT the parcel developed but not 15 stories plus the 7-foot elevator, etc.
- Please do NOT GRANT THIS HEIGHT variance for this developer

--
Thanks much
Dana Topper
201-638-0663

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 8:09 AM
To: Town Clerk
Subject: Fwd: Height variance proposal for 1174-1185 Hillsboro Mile

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: Michael Boyna <likkrish@sbcglobal.net>
Date: December 6, 2021 at 3:59:18 PM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Cc: Wendy Walsh <wendyw1@mac.com>, ev <evelynw.ht@gmail.com>, Timothy Walsh <twalsh@amerlic.com>, Randy Nazette <rnazette@nazettelaw.com>, caroluweber@yahoo.com
Subject: Height variance proposal for 1174-1185 Hillsboro Mile

Good afternoon, Commissioners:

I am writing to voice opposition to granting the proposed height variances at the above-stated location and would like this communication to be made part of the public record.

As a family that has been among the longest-term residents at 1187 Hillsboro Mile, there are several components to our opposition, namely:

- A main attraction to this property has always been its homey feel, compared to more industrial high-rise and hotel structures. Erecting a building that is roughly 5 times the current height restriction, and with a reflective glass construction, hardly says "homey".
- The current height limits should not have come as a surprise to the developer; while it is reasonable that they need to build to a certain height/capacity for optimum profitability, there are certainly myriad other locations that would fit their needs without necessitating unwanted changes in/variances to existing building codes.
- Destroying the ambiance of this section of The Mile seems a bit self-centered on the developer's part, not to mention the disruption to the lifestyle of current residents, and adverse effects on the Local Area of Particular Concern (LAPC) and negative effects on the Intercoastal seawall (seen in the past due to construction that was on a much smaller scale than what is being proposed).
- Since previous requests for variances have been denied by the commission and given that the Commissioners are elected in part to protect the rights of Hillsboro Beach residents, it would seem inconsistent and inappropriate to grant a special variance privilege to this developer.
- It is my understanding that the developer has, understandably, tried to bolster the perceived benefits of their project by describing possible alternative developments in negative terms, i.e.: the kind(s) of less desirable thing(s) that *could* be developed on the property. While a valid marketing

strategy, it also makes the faulty assumption that installing something the neighbors don't want is the best possible development option.

We urge the commission NOT to grant the proposed height variance.

I plan to attend the meeting tomorrow via Zoom

Sincerely
Michael R Boyna
(for the Walsh family @ 1187 Hillsboro Mile #6W)
630.470.1086

Town Clerk

From: Jane Reiser <jreiser@townofhillsborobeach.com>
Sent: Tuesday, December 7, 2021 8:46 AM
To: Town Clerk
Subject: Fwd: Correction Re: Please include this letter as public record

Jane Reiser
Commissioner
Town of Hillsboro Beach

Begin forwarded message:

From: kristen@cdrinternational.net
Date: December 7, 2021 at 8:25:09 AM EST
To: dtarrant@townofhillsborobeach.com, ikirdahy@townofhillsborobeach.com, vfeaman@townofhillsborobeach.com, bbaldasarre@townofhillsborobeach.com, jreiser@townofhillsborobeach.com
Cc: Marc Gabrielle <cdrimarc@gmail.com>
Subject: Correction Re: Please include this letter as public record

One quick correction to our original letter to be entered as public record...

The deed restriction referenced in the original letter below contains a detail which needs corrected. I had meant to type that the current deed restriction is for 12, not 6, single family dwellings.

Thank you,
Kristen Maxx

> On Dec 6, 2021, at 9:39 PM, kristen@cdrinternational.net wrote:
>
> **Please include this letter as public record**
>
> To Our Town of Hillsboro Beach Elected Representatives,
>
> This letter is to express concerns for the proposed development project of the 1174-1185 Hillsboro Mile property. We all can agree that this is a very rare and valuable property. As a resident residing at Harborside (1170 Hillsboro Mile), both my husband and I imagined that, of course, one day this property would be developed. We agree with responsible and reasonable development of this very unique property. We do have concerns over various parts of this development proposal. Our concerns for the December 7th town meeting rest primarily with the developer's proposed height variance request for the two 15-story towers to be erected on the Eastern part of this property. We feel this is not a reasonable development, see that it does not fit into current town law, nor does it comply with the property's current deed restrictions.

We ask our commissioners to uphold our town's current height restriction of 35 feet. There is a current deed restriction for this property giving very specific limitation to the development of this land. As such, the deed restriction provides for up to 6 single family homes to be built, and in accordance with the current height limit of 35 feet. The developers knew our current building and zoning laws and the limitations of this property when they purchased it. One of the many reasons we love Hillsboro Beach is the unique character it has as you drive down A1A and particularly how our beautiful stretch of beach looks from the ocean. It is special, in that, our island does not look like Pompano Beach, or Boca Raton, or many of the other stretches of development along our neighboring Atlantic coastline. We see this as important to keep this feel in our town. This is why we moved here, and what we enjoy about our Mile.

The current height variance request with the developer's proposal is grossly over current height limitation. The argument that there is an "economic disadvantage" because of the 35 foot limitation is laughable given that the developers purchased this property for a fraction of its' value. My husband and I are business owners and understand the desire to maximize profits. Yet, it seems this group of developers is not only wanting to maximize profits, but in the process, change the rules completely in order to get the most profit out. As a resident, we hope that our commissioners would vote againstsuch a request, and instead stick to what our current limits allow for. There is still plenty of profit to be had. Many variance requests for this same property have been presented in the past and denied over time by the commission. Why would this developer get special privileges granted? Town residents should not suffer, just because big development cannot make the amount of profits they want. It sets the stage for more of this to become expectation for the future.

To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, **We object to a height variance to be granted for this development.**

Thank you for your service to our town and representation as our elected officials.

Very Sincerely,
Kristen Maxx and Mark Gabrielle
1170 Hillsboro Mile, #304
Hillsboro Beach, FL 33062

Sent from my iPhone

---------- Forwarded message ---------
From: **Celinda Sawtelle** <celindasawtelle@gmail.com>
Date: Fri, Dec 3, 2021, 4:03 PM
Subject: Hillsboro mile
To: <ikirdahy@townofhillsborobeach.com>

Hello Irene,
You have done some really good things on the commission. Now I'm asking you to be the voice of the people as we cry out to not change the building codes because some multi millionaire wants to make more money.

Drilling a two level garage and then putting another 190 feet on top of it makes my head spin. This is not the kind of structures that Hillsboro mile is known for. Please maintain the quality of our town.

Many of us that moved to Hillsboro mile did so because of the pristine beach and the peace and quiet and the wonderful small town quaint flavor. Allowing a variance for this builder is just going to open the door for more and more tall buildings.
Please make this letter a part of public record. We will all see you on the seventh

Sent from my iPhone

From: Danielle Dinapoli <ddinaps314@aol.com>
Date: December 3, 2021 at 10:12:35 AM EST
To: ikirdahy@townofhillsborobeach.com, Deborah Tarrant <dtarrant@townofhillsborobeach.com>, bbaldasarre@townofhillsborobeach.com
Subject: New condo project

Greetings all,
I am a resident of Hillsboro mile 1169 and initially was against the 15 story high rise proposed.

I attended the embassy suite meeting and was excited to see the beauty's ii of the natural landscaping and care in minimizing the width of the building.

I spoke at the meeting the landmark is not a fair comparison it is 2 miles away, but buildings within our mile radius is a fair comparison and would not stand out as an isolated structure.

After the meeting and speaking with other home owners a fair compromise would be to keep the building width footprint but reduce to the height to 10/11 stories. This of course would be without compromising the architectural building design as communicated by the architect.

I am looking forward to the meeting next week.
Danielle DiNapoli

Sent from my iPhone

From: "Frank J. Kolb, Jr." <fjk@ehlaw.com>
Date: December 4, 2021 at 9:18:25 AM EST
To: "nt:" <dtarrant@townofhillsborobeach.com>, "Vice Mayor Irene Kirdahy:" <ikirdahy@townofhillsborobeach.com>, "Commissioner Vicky Feaman:" <vfeaman@townofhillsborobeach.com>, "Commissioner Barbara Baldasarre:" <bbaldasarre@townofhillsborobeach.com>, "Commissioner Jane Reiser:" <jreiser@townofhillsborobeach.com>
Subject: 1174-1185 Hillsboro Mile Variance request

Frank J. Kolb, Jr | 1173 Hillsboro Mile 1-1

Please see below to be included in the public record. Thank you.

- When we purchased here, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and that was a comfort to us. If we had wanted our community to build higher rise buildings as a norm, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.
- The developer bought the property fully knowing what the height limitations was (3 story height) with its easements.
- This developer purchased the property with this full disclosure but are now trying to obtain a variance because their proforma doesn't allow as much profit as they would like.
- An economic disadvantage due to the developer's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling them to a variance.
- To allow the development of this parcel of land from 3 stories zoning to anything above without regard to its surrounding designations is a special privilege to this developer. Many variance requests have been made (Previous owners of the property are one) over time for this property as well as others along the mile, that were denied by the commission.
- A project of this proposed magnitude and its effects on adjacent and much lower, older buildings and the strain of years of heavy, heavy construction – Developer said at least 150 pilings that run 150 feet deep is of particular concern! Surfside allegations come to mind. A smaller project in line with the code, would have a much lesser affect.
- The town residents should not suffer because Big Development cannot make money.
- The RESIDENTS are THE CITY and not the commissioners who are their ELECTED officials to preserve residents' rights.
- The perks the developer is offering the town (taxes, landscaping, underground lines, etc.) will come in any case from the development of the property so those used as a basis for the development are disingenuous at best.

- The developer does not have a right to change the height zoning when it could be deemed as injuring the rights of others, especially adjacent property owners, regardless of the perks they claim the height variance will provide the town.
- The developer is using scare tactics such as the use of words like "ugly" and "monolith" and "rental property" and other negative words when it relates to what could be built on the property, WITHIN CODE, should not be accepted. This developer is well known for a lot of things (both positive and negative) and I am certain that with the acreage they can make a beautiful rendering with MUCH less height. They simply would not put their name to this project on an ugly structure – won't happen, never has with them.
- To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, I object to a variance as to a change in height.
- If the commission votes no... the developer will have to go off and come up with another proposal. Which is what the developers said they are willing to do. A lower height would be preferred.
- If the commissioners vote approve .. there will be potential lawsuits to fight this project plus lawsuits from future developers asking for their own variance up and down the mile.
- WE THE RESIDENTS OF HILLSBORO BEACH DO WANT the parcel developed but not 15 stories plus the 7-foot elevator, etc.
- Please do NOT GRANT THIS HEIGHT variance for this developer
- Also, the setbacks North and South are not in keeping with current codes.

Frank J. Kolb, Jr., Esq.
Kolb & Associates, P.C.
1173 Hillsboro Mile 1-1
Hillsboro Beach, FL 33062.
203-469-4475

Marcus Broszio

From: Marcus Broszio <marcbros@t-online.de> on behalf of Marcus Broszio <marcbros@t-online.de>
Reply-To: Marcus Broszio <marcbros@t-online.de>
Date: Monday, December 6, 2021 at 7:20 AM
To: Deborah Tarrant <dtarrant@townofhillsborobeach.com>
Subject: voting

good morning deb ,
my best wsihes for nikolaus day, as we call it in berlin , to you and the rest of the team.
according to the voting about the absurd idea to allow a 15 story building here is my clear NO and matching arguments :

- When we purchased here, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and that was a comfort to us. If we had wanted our community to build higher rise buildings as a norm, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.
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- WE THE RESIDENTS OF HILLSBORO BEACH DO WANT the parcel developed but not 15 stories plus the 7-foot elevator, etc.
- Please do NOT GRANT THIS HEIGHT variance for this developer

herzliche Grüße

Marcus Broszio

Sherry D. Henderson Michael Topper

From: Irene Kirdahy <ikirdahy@townofhillsborobeach.com> on behalf of Irene Kirdahy
Sent: Monday, December 6, 2021 6:12 PM
To: Sherry D. Henderson
Subject: Fwd: Save Hillsboro Public record requested

---------- Forwarded message ---------
From: **Michael Topper** <michaelatopper@gmail.com>
Date: Mon, Dec 6, 2021, 5:49 PM
Subject: Save Hillsboro Public record requested
To: <ikirdahy@townofhillsborobeach.com>

Irene,

- When we purchased here, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and that was a comfort to us. If we had wanted our community to build higher rise buildings as a norm, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.
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- WE THE RESIDENTS OF HILLSBORO BEACH DO WANT the parcel developed but not 15 stories plus the 7-foot elevator, etc.
- Please do NOT GRANT THIS HEIGHT variance for this developer

Sincerely
Michael Topper

Sherry D. Henderson

Manny Penate = Harborside Condo

From: Manny Penate <mpenate@icloud.com> on behalf of Manny Penate
Sent: Saturday, December 4, 2021 6:47 PM
To: Vicky Feaman
Cc: shenderson@townofhillsborobeach.com
Subject: Re: Height variance 1174-1185

Thank you.

On Dec 4, 2021, at 6:24 PM, Vicky Feaman <vfeaman@townofhillsborobeach.com> wrote:

I have forwarded your email to the town clerk to be recorded into record of meeting.
Thank you for your email
Vicky

Sent from my iPad

On Dec 4, 2021, at 10:51 AM, Manny Penate <mpenate@icloud.com> wrote:

Hi Vicky,

My name is Manny Peñate. I serve on the Harborside board and strongly oppose the height variance for all the reasons listed below. Hope you'll support the community in this decision.

- When we purchased here, we did so knowing that the empty lot at 1174-1185 was only subject to a 3 story limit and that was a comfort to us. If we had wanted our community to build higher rise buildings as a norm, we would have chosen to live in those places that allow Big Development. Hillsboro Mile was not that kind of place, and we wish it to remain as such.

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- To allow the development of this parcel of land from 3 stories zoning to anything above without regard to its surrounding designations is a special privilege to this developer. Many

variance requests have been made (Previous owners of the property are one) over time for this property as well as others along the mile, that were denied by the commission.

- A project of this proposed magnitude and its effects on adjacent and much lower, older buildings and the strain of years of heavy, heavy construction – Developer said at least 150 pilings that run 150 feet deep is of particular concern! Surfside allegations come to mind. A smaller project in line with the code, would have a much lesser affect.

- The town residents should not suffer because Big Development cannot make money.

- The RESIDENTS are THE CITY and not the commissioners who are their ELECTED officials to preserve residents' rights.

- The perks the developer is offering the town (taxes, landscaping, underground lines, etc.) will come in any case from the development of the property so those used as a basis for the development are disingenuous at best.

- The developer does not have a right to change the height zoning when it could be deemed as injuring the rights of others, especially adjacent property owners, regardless of the perks they claim the height variance will provide the town.

- The developer using scare tactics such as the use of words like "ugly" and "monolith" and "rental property" and other negative words when it relates to what could be built on the property, WITHIN CODE, should not be accepted. This developer is well known for a lot of things (both positive and negative) and I am certain that with the acreage they can make a beautiful rendering with MUCH less height. They simply would not put their name to this project on an ugly structure – won't happen, never has with them.

- To be clear, as a resident of Hillsboro Beach and as to the proposed building project at 1174-1185 Hillsboro Mile, <u>I object to a variance as to a change in height</u>.

- WE THE RESIDENTS OF HILLSBORO BEACH DO WANT the parcel developed but not 15 stories plus the 7-foot elevator, etc.

- Please do NOT GRANT THIS HEIGHT variance for this developer

Thank you in advance,
Manny Peñate
Harborside Board