

EXECUTIVE BRIEF SPECIAL MEETING

AGENDA DATE: May 11, 2021

DEPARTMENT: Community Sustainability

TITLE:

Appeal by Alfred Malefatto, Esq. on behalf of Marlin Industrial Park Owners Association of PZB Project # 20-01400035 commonly referred to as "Umdasch/Doka," which included site plan, sustainable bonus and conditional use approvals to allow for the construction of a +/-47,000 square foot distribution facility and repair and maintenance uses within the Industrial Park of Commerce (I-POC) zoning district

SUMMARY:

Alfred Malefatto, Esq. on behalf of Marlin Industrial Park Owners Association, is appealing a final order of the Planning and Zoning Board (PZB) to allow the construction of a +/-47,000 square foot distribution facility and repair and maintenance uses at 2209 7th Avenue North. The subject project was approved unanimously with conditions at the January 6, 2021 Planning and Zoning Board meeting for a major site plan with sustainable bonus and conditional use permit.

PROJECT REVIEW HISTORY:

The subject property is currently vacant. The site was vacant and undeveloped until the 1950s when land was cleared on the southern end of the parcel and used as a landfill. The filling operations appeared to have ceased in the late 1970s and the property became overgrown and remained undeveloped until 2011. At that time, there was an expansion of the pond at the north end of the parcel. Since then, the property has remained undeveloped. The applicant, Lisa Reves of Saul, Ewing, Arnstein and Lehr, applied on behalf of Umdasch Real Estate USA, Ltd. for entitlement approval to develop the subject site with a +/-47,000 square foot distribution facility and repair and maintenance uses.

The application included the following:

- 1.) Major Site Plan for the development of an industrial building in excess of 7,500 square feet.
- 2.) Sustainable Bonus Program Incentive to gain an increase in increase in building height to 31 ft.
- 3.) Conditional Use Permit to establish "distribution facility" and "repair and maintenance – major" uses greater than 7,500 square feet.

At the January 9, 2021 Planning and Zoning Board meeting, staff presented a summary of the attached staff report, which contained the review of the proposed plans, documentation and materials provided by the applicant for consistency with the applicable standards found in the City of Lake Worth Beach's Land Development Regulations (LDRs), Comprehensive Plan and Strategic Plan. The PZB approved the project with a vote of 7-0 for approval with conditions.

QUASI-JUDICIAL PROCESS:

Section 23.2-17(b) of the City's code outlines the process for appealing decisions of the Planning and Zoning Board and Historic Resources Preservation Board to the City Commission. It requires the appealing party to submit a basis of appeal, which the appealing party has done (it is attached). At the hearing, each party will be given 10 minutes to present its argument. Thereafter, the commission members may make comments, ask questions, request clarification and discuss the information presented at the PZB meeting. The Commission's decision upholding or overturning the decision should be based on competent, substantial evidence.

The courts have defined substantial evidence as that which will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. It is such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. Competent means that the evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. See e.g., Village of Palmetto Bay v. Palmer Trinity Private School, Inc. 128 So. 3d 19 (Fla. 3d DCA 2012).

POTENTIAL MOTIONS:

1. I find that the evidence presented in the application materials, presentations, testimony and the staff report was competent and substantial, and therefore move to uphold the decision of the Planning and Zoning Board approving major site plan, sustainable bonus incentive and conditional use approvals at 2209 7th Avenue North with conditions of approval as set forth in the development order.
2. I find that the evidence presented was not competent and substantial [based upon specified reasons], and therefore, move to overturn and reverse the decision of the Planning and Zoning Board approving major site plan, sustainable bonus incentive and conditional use approvals at 2209 7th Avenue North as set forth in the development order.

ATTACHMENT(S):

PZB #20-01400035 Development Order
January 6, 2021 PZB Meeting Minutes
Appellant's Basis of Appeal
Staff's Presentation on January 6, 2021
Applicant's Presentation on January 6, 2021
PZB #20-01400035 PZB Staff Report
PZB Staff Report Attachment Site Plan Package
PZB Staff Report Attachment Supporting Documents