



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

**PENDING REVISION PER MR. KREISBERG'S COMMENTS
DURING THE JULY 13, 2015 MEETING APPROVAL OF
MINUTES.**

**PLANNING & ZONING BOARD MEETING
MONDAY, JUNE 8, 2015**

Attendees:

Members -

Chair Evan Piper

V. Chair Julian Kreisberg

Michael Mosher

Saul Smukler

Jeffrey Lynn

Joseph Litowich (absent)

Hector Marrero (absent)

Carlos Rivero, City Planner

Richard Lorber, Assistant City Manager

Sarah Johnston, Assistant City Attorney

Giselle Deschamps, Assistant Planner

Jose Smith, City Attorney

Lisa Edmondson/Prototype, Inc., Board Clerk

1. Pledge of Allegiance

Chair Piper called the meeting to order at 6:07 p.m. The Pledge of Allegiance was recited.

2. Roll Call of Board Members

Roll was called. It was noted that a quorum was present.

3. Approval of Minutes - Meeting of Monday, May 11, 2015

Motion made by Vice Chair Kreisberg, seconded by Mr. Lynn, to approve the minutes of the May 11, 2015, meeting. In a voice vote, the motion passed unanimously.

4. Public Hearing Procedures

Chair Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

5. Old Business

- Item 15-001: Conditional Use and Site Plan Approval – 152 NW 168 Street, North Miami Beach, FL

Approved by the board unanimously on Monday, May 11, 2015. The date for City Council has not yet been set.

- Item 15-006: Zoning and Land Development Code Amendment (elimination of banner bonds and clarifying the frequency and number of signs allowed). - North Miami Beach, FL
Approved by the board unanimously on Monday, May 11, 2015. This item is scheduled for first reading before the City Council on June 16, 2015.

6. New Business

Item 15-004: Site Plan Approval and Variance– 18200 NE 19th Avenue, North Miami Beach, FL:

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT A 4,562 SQUARE FOOT, TWO-STORY PROFESSIONAL OFFICE BUILDING ON A 7,589 SQUARE FOOT PARCEL OF LAND, AS PROPOSED; AND GRANTING A VARIANCE FROM SECTION 24-51 (D) (3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE 16 FEET OF THE MINIMUM REQUIRED FRONT YARD SETBACK OF 25 FEET, WHERE A FRONT YARD SETBACK OF 9 FEET IS PROPOSED, AND TO WAIVE THE ENTIRE MINIMUM REQUIRED CORNER SIDE YARD SETBACK OF 20 FEET, WHERE A CORNER SIDE YARD SETBACK OF 0 FEET IS PROPOSED; IN THE B-1, LIMITED BUSINESS ZONING DISTRICT, ON PROPERTY LEGALLY DESCRIBED AS: LOTS 16 & 17, BLOCK 205 OF "FULFORD BY THE SEA SECTION K", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 29, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. ALSO KNOWN AS 18200 NE 19 AVENUE, NORTH MIAMI BEACH, FLORIDA.

Mr. Rivero provided a summary of the staff report. He noted the applicant has agreed to all conditions for the construction of the new building. Two variances are requested: front and side setbacks.

Applicant Stephanie Halfen - 96 Golden Beach Drive, Golden Beach, Florida - representing Rising Assets LLC, described the lot and plans for building. She stated that the adjacent buildings all go to the front of the setback and sides of the setback. However, she believed the Code changed, not allowing the subject building to go to the setback. Ms. Halfen said they are requesting the variance in order to have coherence on the street.

Ms. Halfen clarified that the front setback is the one facing 19 Avenue; she said the building would be nine feet from the property line to allow for landscaping and a walk-through area. The side setback faces 182 Street; she added that there would be parking on the swale. Mr. Rivero commented that the owner would be performing the public property improvements for the parking.

Mr. Lorber remarked that the build pattern on the street goes to the front property line, and the building is a "perfect fit" for the area.

Chair Piper opened the meeting for public comment; hearing none, Chair Piper closed the meeting for public comment.

Mr. Rivero stated that the Planning and Zoning Department recommended approval of the project, subject to the conditions that are outlined in the staff report. The applicant accepted the conditions.

Motion made by Vice Chair Kreisberg, seconded by Mr. Mosher, to approve the site plan approval with the variances for Item 15-001 as per staff recommendations. In a roll call vote, the **motion** passed 5-0.

Chair Evan Piper	Yes
Joseph Litowich	Absent
Julian Kreisberg	Yes
Saul Smukler	Yes
Michael Mosher	Yes
Hector Marrero	Absent
Jeffrey Lynn	Yes

Chair Piper recognized the presence of Councilmember Smith.

Item 15-007(A) - Comprehensive Plan Amendment – North Miami Beach, FL:

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA ADOPTING AMENDMENTS TO ITS COMPREHENSIVE PLAN, THE FUTURE LAND USE MAP AND TEXT CHANGES TO THE FUTURE LAND USE ELEMENT; AMENDING POLICY 1.8.2 OPEN WATER AND TRANSPORTATION CORRIDORS; AMENDING THE FUTURE LAND USE MAP TO CHANGE THE FUTURE LAND USE DESIGNATION OF CERTAIN PROPERTY AND APPLY THE AMENDED OPEN WATER AND TRANSPORTATION CORRIDORS DESIGNATION TO THOSE CERTAIN PROPERTIES (AS PROVIDED FOR IN THE ATTACHED EXHIBIT "A"); PROVIDING FOR CERTIFIED COPIES OF THIS ORDINANCE AND COMPREHENSIVE PLAN TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY AND ALL OTHER UNITS OF LOCAL GOVERNMENT OR GOVERNMENTAL AGENCIES AS REQUIRED UNDER CHAPTER 163, PART II, FLORIDA STATUTES; PROVIDING FOR ADOPTION PURSUANT TO SECTION 163.3184, FLORIDA STATUTES; PROVIDING FOR INCLUSION IN THE CITY OF NORTH MIAMI BEACH COMPREHENSIVE PLAN; PROVIDING FOR REPEAL OF CONFLICTS; SEVERABILITY; AND FOR AN EFFECTIVE DATE.

Item 15-007(B)-Zoning and Land Development Code Amendment-North Miami Beach, FL:

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING THE ZONING AND LAND DEVELOPMENT CODE OF THE NORTH MIAMI BEACH CODE OF ORDINANCES, BY AMENDING CHAPTER XXIV "NORTH MIAMI BEACH ZONING AND LAND DEVELOPMENT CODE" ARTICLE V "ZONING USE DISTRICTS" TO ADD SECTION 24-59 "CONSERVATION ZONING DISTRICT" CREATING A CONSERVATION ZONING DISTRICT; AMENDING THE OFFICIAL ZONING MAP, REFERENCED IN SECTION 24-31 OF THE NORTH MIAMI BEACH CODE OF ORDINANCES, TO ZONE CERTAIN PROPERTY AND APPLY THE CONSERVATION ZONING DISTRICT DESIGNATION TO THOSE CERTAIN PROPERTIES (AS PROVIDED FOR IN THE ATTACHED EXHIBIT "A"); PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR

PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

Mr. Rivero gave an overview of Item 15-007(A).

Mr. Lorber then shared his qualifications regarding his years of experience in land use issues:

- Worked in the field of city and regional planning for 23 years
- Certified Planner with the American Institute of Certified Planners for over 16 years
- Master's Degrees in Planning and Economics
- Taught college level planning courses at FAU
- Served a variety of leadership positions in the profession
- Certified by the U.S. Green Building Council as a LEED-accredited professional

Mr. Lorber stated he would present on both items - 15-007(A) and 15-007(B) - as they both deal with Maule Lake. He stated that the subject property consists of three contiguous parcels of submerged lands, making up the portion of Maule Lake located within North Miami Beach. They are privately owned by the Williams Trust. He clarified that the applicant is the City of North Miami Beach, not the property owner; the applications have been submitted at the request of the Mayor and City Council.

Mr. Lorber stated that Policy 1.8.2 of the Comprehensive Plan contains all the future land use designations. He said that the "Open Water and Transportation Corridors" policy would be changed to "Water." He added that the change would also designate the Maule Lake property as "Water" on the Future Land Use map.

Mr. Lorber continued, saying that Item 15-007 (B) would amend Chapter 24, Article 5, of the Zoning Code to add a new zoning designation, the Conservation Zoning District. It also amends the zoning map to zone the subject property as Conservation District. He said that the portion of Maule Lake that is in Aventura was designated as a Conservation District in 1999.

Mr. Lorber provided a description of Maule Lake, including its location, character, and adjacent properties. The vast majority of the Biscayne Bay Basin is government-owned and protected for conservation, except for Maule Lake and a few other areas. Maule Lake is now listed as a critical habitat for the endangered Florida Manatee.

Mr. Lorber stated that approval of the proposed amendment would be in support of the City's Comprehensive Plan policy to ensure reasonable protection of natural resources and the Environmentally Sensitive Plan as well as clarify the lake's status as conservation land. There would not be any ambiguity about the potential for any large-scale development there.

Mr. Lorber continued, stating the valuation of the entire lake (\$52,800), which is very low, indicates that the Miami-Dade Property Appraiser's office finds it undevelopable. Private, open water areas would be permitted to be used for recreational, commercial boating facilities, passive outdoor recreational uses, fishing, boating, camping facilities, and other water-oriented uses that do not conflict with water management and wildlife protection.

Mr. Rivero read the analysis and recommendations of the Planning and Zoning Department for Item 15-007(A).

Mr. Lorber stated that the north end of Maule Lake is located within Aventura and is owned by the same owner of the North Miami Beach portion of the lake. He did not believe the tax value of the Maule Lake property would be changed by Item 15-007(A).

Vice Chair Kreisberg wondered if the private owner of the lake could restrict certain uses, such as requiring boaters to pay a fee. He expressed concern about why the property should be designated for conservation, since the owner was not taxed at the highest use. There was a brief discussion about zoning of the properties on Eastern Shores.

Vice Chair Kreisberg also expressed concern that the proposed zoning would inhibit boating activities. He asked why they are proposing the action today as opposed to last year or some other time in the past. Mr. Lorber replied that nobody had pulled a permit for development. He added that at some time in the last year, a preliminary application was submitted to the Planning and Zoning Department by Dutch Docklands Company for the floating homes development in Maule Lake. Many questions were left unanswered, and the application has not progressed. Mr. Lorber stated that the City believes now is the time to clarify the zoning for the area; the amendment was initiated at a discussion item in front of the City Council on April 21, 2015. He added that the matter did not come up "all of a sudden."

Mr. Smukler was curious why the other canals on the map were not shaded, who they belong to, and what their zoning is. Mr. Lorber responded that they utilized the online records of the Property Appraiser, which does not reveal any information on the canals. At this point, the southernmost canal is clearly shown as being owned by the Evert M. Williams Trust. Mr. Lorber stated they are still researching Sky Lake and would include information on the remaining canals as part of the research.

Mr. Mosher wondered what the classification of zoning would be for the floating houses. Mr. Lorber said they would not be vessels, but he believed they would be considered houses.

Chair Piper wondered if yacht moorings could be set up for rental there. Mr. Lorber said there are no uplands associated with the parcel – it is entirely within the lake. Dry land

development (parking, access, etc.) would have to be considered with any yacht moorings.

Chair Piper opened the meeting for public comment for Item 15-007(A).

Frank Behrens, Executive Vice President of Dutch Docklands USA, 15051 Royal Oaks Lane, North Miami, said the company remained "very committed" to the project on Maule Lake and want to go forward with 29 floating villas. He spoke about the positive attention it will bring to North Miami Beach. Less than five percent of the total lake surface would be taken up by the islands; views of the lake and boat traffic would not be interrupted. The islands would generate an ad valorem tax benefit of no less than \$2.793 million annually, 24% of the City's total budget. He lamented the actions taken by the City Council which would preclude the Dutch Docklands development. Mr. Behrens described how their company is very environmentally responsible.

Kerri Barsh, attorney for Dutch Docklands USA, with the law firm of Greenberg Traurig, 333 Avenue of the Americas, Miami, said that she appeared before the U. S. Supreme Court in a case about the floating structures. She strongly opposed the requested Comprehensive Development Master Plan change and the zoning for the following reasons: a singular focus preventing property owner from developing; and it deprives the public and decision-makers from having the opportunity to evaluate the project. Ms. Barsh said they "strongly disagree" with the staff's reliance on the property values as defined by the County Property Appraiser.

Chris Williams, Williams Family Trust, 1023 NE 46 Court, Oakland Park, represented the owner of the property. He said they always had expectations of high value of the lake; they have had many developers approach them. Mr. Williams noted that they took steps to make sure they are good stewards of the land and were amazed by the environmental plan of Dutch Docklands. He asked that the City give them an opportunity to explain their plan and go through the normal permit process.

Ronald Glantz, 2693 NE 165 Street, Lakeview Townhomes, said he enjoys a view of the "pristine lake." Mr. Glantz opposed the development, declaring it is about more money for the City; he did not think the manatees would be able to navigate through the floating islands and did not agree with developing.

Fortuna Smukler, 3207 NE 168 Street, spoke on behalf of Eastern Shores Property Owners Association (ESPOA). ESPOA President Chuck Arsano asked her to read the following into the record: "ESPOA supports fully the zoning and land development code amendments proposed in the ordinance, which will result in the application of the Conservation Zoning District designation to that portion of Maule Lake falling within the boundaries of the North Miami Beach. There has been overwhelming support of the residents of Eastern Shores to have the City enact this ordinance. We trust this body will act accordingly to recommend its passage." Ms. Smukler added that her email list from Eastern Shores shows that the residents fully support the amendment. She spoke

about the boats currently on the lake which are apparently allowed by the owner of the lake.

Claudia Gallegos, 16558 NE 26 Avenue (Reef Club), said they were approached by a representative from Dutch Docklands to use part of their property for lake access. She wanted to protect the lake from development.

Carol Paine, 16546 NE 26 Avenue (Reef Club), was against any development on the lake. While acknowledging the tax revenue that the City would get from the Dutch Docklands project, Ms. Paine said many residents would be unhappy as a result. She said there are other developments (The Harbor and Marina Palms) around the lake that will bring in tax revenue.

Richard Paiz, 16546 NE 26 Avenue (Reef Club), reviewed the discussion that the Reef Club Board had regarding the Dutch Docklands project, ultimately ending in a vote against the project. Mr. Paiz expressed concern about the effects of a hurricane on the floating islands, particularly the building roofs.

Tammy Isikoff, 3206 NE 168 Street, said the issue is about Maule Lake, not Dutch Docklands, and spoke in support of the amendment. She enjoys the wildlife she sees in the lake. She maintained that property on Eastern Shores was sold as a “pristine waterfront area.”

Stacey Raskin, 3225 NE 167 Street, said they bought in Eastern Shores mainly because of the lake. She opposed development and was in favor of conservation. Ms. Raskin feared the houses would be “party houses” and generate problems. She suggested the City consider buying the lake to prevent mooring of yachts and such items.

Barry Schuger, 3220 NE 165 Street, bought in Eastern Shores because of the lake and proximity to fishing. He spoke in favor of conservation and said he enjoys seeing the manatee and dolphins in the lake.

Bruce Lamberto, 3420 NE 165 Street, stated that the residents of Eastern Shores proposed the amendment to the City. He hoped that it would be approved. He thanked the Williams Family Trust for allowing use of the lake.

Rachel Orly Averbach, 12669 NE 164 Street, spoke in favor of the conservation amendment, citing Maule Lake as an amenity for those who live on its shores.

Leslie Sardinia, 16480 NE 29 Avenue, said they live right on the lake and have enjoyed the sea rays, dolphins and manatee. She was against development, citing the probability of trash blowing around the surface of the lake.

Elizabeth Winter, 16558 NE 26 Avenue (Reef Club), spoke in favor of the amendment and mentioned that the anticipation of the Dutch Docklands development is what has prompted the community to respond. She wondered if a floating home could be taxed for real estate purposes.

Hearing no further comments, Chair Piper closed the meeting for public comment for Item 15-007(A).

Vice Chair Kreisberg thought they should consider if the amendment is the method they want to take to stop the development in the future. He thought there may be unintended consequences, such as a lawsuit.

Jose Smith, City Attorney, stated that the primary mission of the Board is to consider good, sound, reasonable planning principles. He felt the reasons were given by staff why they believe the zoning is appropriate for the property. Possible litigation and so forth are beyond the jurisdiction of the Board. Mr. Smith researched the matter "extensively" and said the City would not be exposed to Bert Harris or takings claims; he cited prior histories from other cities. He reiterated the Board should consider the planning issues only.

Motion made by Mr. Smukler, seconded by Mr. Lynn, to recommend approval of the amendment to the Maule Lake Comprehensive Plan, Item 15-007(A), as per the staff recommendation. **Motion** passed 4-1.

Chair Evan Piper	Yes
Joseph Litowich	Absent
Julian Kreisberg	No
Saul Smukler	Yes
Michael Mosher	Yes
Hector Marrero	Absent
Jeffrey Lynn	Yes

Mr. Rivero provided the staff report on Item 15-007(B). He said that, based on the Comprehensive Plan Goals and Objectives, the Planning and Zoning Department recommends the approval of the amendment as proposed.

Chair Piper opened the meeting for public comment for Item 15-007(B).

Chris Williams, Williams Family Trust, 1023 NE 46 Court, Oakland Park, said they partnered with Dutch Docklands for environmental reasons. He said they are trying to establish the health of the lake for the next 100 years, and said the Dutch Docklands was the best project they looked at that they felt would increase marine life. He said that any future developers could not come close to what Dutch Docklands has proposed

in terms of the environment. He clarified that they have not allowed boats to dock there. Mr. Williams asserted that the Aventura designation 16 years ago was done illegally.

Richard Paiz, 16546 NE 26 Avenue, said that Dutch Docklands was looking for a place to “experiment.” He continued that tax flow has rebounded.

Tammy Isikoff, 3206 NE 168 Street, spoke in favor of the item, noting that “all of North Miami Beach” enjoys Maule Lake, not just those who live on its shores. She emphasized that the agenda item has nothing to do with Dutch Docklands; they are just ensuring the future quality and use of the lake. She wondered what was represented regarding the lake’s future when the area was subdivided.

Claudia Gallegos, 16558 NE 26 Avenue, said that people are using and enjoying the lake every day. She asserted they need to make sure the lake area can still be enjoyed by the City and its neighbors.

Stacey Raskin, 3225 NE 167 Street, spoke against development, saying that Eastern Shores provides a large proportion of the City’s tax base - they do not need Dutch Docklands for tax revenue.

Carol Paine, 16546 NE 26 Avenue, brought up the negative issue of noise emanating from development on a lake (noise travels over water).

Fortuna Smukler, 3207 NE 168 Street, pointed out that no residents had spoken in favor of the Dutch Docklands project or against conservation. She asserted that she will approach the Police Department regarding the boats on the lake since Mr. Williams said he did not give the boats permission to be on the lake.

Kerri Barsh, 333 Avenue of the Americas, on behalf of Dutch Docklands, requested that her previous comments under Item 15-007(A) be reiterated for this item.

Richard Lorber, Assistant City Manager, also wanted his previous comments from Item 15-007(A) reiterated for Item 15-007(B).

Hearing no further comments, Chair Piper closed the meeting for public comment for Item 15-007(B).

Mr. Lorber responded to Ms. Isikoff’s comment regarding the research done on the development of Eastern Shores and what was presented to home buyers. He said they researched that, even going to the Historical Museum and looking through the plats; he said there is not much there with any meaning to help a prospective buyer know what would be there. Some sales brochures for Eastern Shores indicated a beautiful, pristine lake, but that does not have the force of law. Mr. Lorber continued that a potential buyer could inquire about the existing zoning.

Mr. Lorber stated that at this time, the lake parcels are not zoned; they are now proposing zoning them as a Conservation District. This is the first time they have been zoned. Why they are doing it now is because there is a potential use or activity being considered. Without any zoning in place, there is ambiguity as to what uses would be permitted. The City is correcting a situation that should have been corrected earlier.

Chair Piper asked if the zoning could be changed again at some point, and Mr. Smith replied it could – it is not irreversible. Mr. Lorber added that the zoning could be changed through amendment or rezoning.

Mr. Smith asserted that he bought a lot on the water in Eastern Shores in 1974 and said he would not have bought if he thought there would be a future project built on Maule Lake. The plat says “Maule Lake,” not “future home of floating homes.” He said it was very clearly represented by the developers of Eastern Shores in the early 1970s (and before that) there would not be any type of developments on the lake.

Vice Chair Kreisberg read the permitted uses on Maule Lake from the amendment, and wondered why the developer could not propose a plan that falls under those uses. Mr. Lorber responded that non-listed uses are not permitted, such as residences.

Mr. Smukler thanked the representatives from Dutch Docklands for their presence and also all the residents who attended.

Motion made by Mr. Smukler, seconded by Mr. Lynn, to recommend approval as per the staff recommendation for Maule Lake Zoning Amendment, Item 15-007(B). **Motion** passed 4-1.

Chair Evan Piper	Yes
Joseph Litowich	Absent
Julian Kreisberg	No
Saul Smukler	Yes
Michael Mosher	Yes
Hector Marrero	Absent
Jeffrey Lynn	Yes

7. Public/Citizen Comments - none

Chair Piper opened the public hearing. Hearing no comments, Chair Piper closed the public hearing.

8. Adjournment

Upon motion duly made and seconded, Chair Piper adjourned the meeting at 8:10 p.m.

[Minutes prepared by J. Rubin, Prototype, Inc.]

