

BAL HARBOUR

- V I L L A G E -

OFFICE OF THE VILLAGE MANAGER

LETTER TO COUNCIL

NO. 023-2024

To: Mayor Jeffrey P. Freimark and Members of the Village Council

From: Jorge M. Gonzalez, Village Manager



Date: February 7, 2024

Subject: **Bal Harbour Shops Site Development Plan Application - Package is Incomplete**

The purpose of this Letter to Council (LTC) is to share with you a copy of the letter from the Village's Building Official and Consultant Planner regarding the Bal Harbour Shops Site Development Plan Application. The application has been deemed incomplete, and therefore, the review process can not proceed. The attached letter includes the reasons for the determination.

Should you receive any media inquiries, we ask that you refer the inquiry to the Village Manager's Office so that all responses are provided by, and reflect, the Village's position.

If you have any questions or need any additional information, please feel free to let me know.

BAL HARBOUR

- V I L L A G E -

ELIEZER PALACIO
BUILDING OFFICIAL

February 7, 2024

Bal Harbour Shops, LLC
420 Lincoln Road
Suite 320
Miami Beach, Florida 33139
Attn: Matthew Lazenby

Re: Site Development Plan Application - Initial Completeness Review
Revisions to Approved Bal Harbour Shops Master Site Plan
9700 Collins Avenue
Village Project No.: SP2024-0003
MMPA Acct. No.: 00-1103-0160C

Dear Sirs:

Please see the attached letter from Village Planner Michael J. Miller, AICP, assessing the completeness of your submission pursuant to Section 166.033(1), Florida Statutes.

There likely will be additional issues or questions that could arise from the review of the additional material and information requested. Upon receipt and review of the missing or incomplete items, the Village may find they are not adequate to address the incomplete determination and may request further information.

Please review and respond to the letter in accordance with the requirements of that statute.

Sincerely,



Eliezer Palacio
Building Official

CC: Jorge M. Gonzalez - Village Manager
Michael J. Miller, AICP - Consultant Village Planner
Susan L. Trevarthen, Esq. - Village Attorney

BAL HARBOUR

- V I L L A G E -

February 7th, 2024

Bal Harbour Shops, LLC
420 Lincoln Road
Suite 320
Miami Beach, Florida 33139
Attn: Whitman Family Properties, LLLP

Re: Site Development Plan Application – Initial Completeness Review
Revisions to Approved Bal Harbour Shops Master Site Plan
9700 Collins Avenue
Village Project No.: SP2024-0003
MMPA Acct. No.: 00-1103-0160C

Dear Sirs:

The community of Bal Harbour Village, Florida is in receipt of your recent application for a Site Development Plan review & approval for major revisions to the previously approved Bal Harbour Shops Regional Mall Master Plan approved by the Bal Harbour Village Council on May 16th, 2017, via Resolution No. 2017-1077. The subject site (BHS) is located within the Business B district. As part of the Village's approval of the Site Development Plan, a mandatory Development Agreement was negotiated, and approved a specific plan of development for the site, including allowable land uses, as well as conditions / terms of approval. The Development Agreement was subsequently signed & recorded in the public records of Miami-Dade County on July 28th, 2017 (ORB 30632 / Pages 3661-3793), as amended on December 20, 2018 (ORB 31269 / Pages 4587-4701), and with the Addendum approved by the Village Council on October 25, 2021.

Subsequent to the Village's approval of the Master Site Plan, various building permit applications have been filed and issued, and construction has commenced, and certain elements of the project are currently operational. A few minor revisions have been requested and approved by the Village since the original Site Development Plan in accordance with the specific terms set forth in the Development Agreement.

The municipality of Bal Harbour Village is a totally master-planned community designed in the mid-1940s after WW II. The Village was incorporated in 1946 and all of the land was platted and developed. The community is generally built-out, with occasional replacement of single-family homes within a gated area, multifamily housing (low-scale west of Collins Ave. / high-rise & hotel resorts east of Collins Ave., the Bal Harbour Shops mall, one other commercial site, various municipal facilities (Village Hall / Community Center), and parks & open space & beach.

The Village's 2017 Bal Harbour Shops Expansion and Enhancement approval granted the landowner the right to build an additional 350,000 square feet of Gross Floor Area (GFA) so that the Shops could include up to 850,000 square feet of GFA. A new multi-level "wing" of the mall was proposed with a new anchor store at the west edge of the site, new parking facilities and general aesthetic improvements.

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The entire Bal Harbour Shops site currently includes only commercial land uses per the Village's Comprehensive Plan, Zoning District & other Land Development Regulations (LDRs) allowances, and the mutually agreed upon recorded Development Agreement.

The proposed 2024 request appears to include a reduction in the commercial square footage to about 683,000 square feet, including the removal of the two existing major anchors stores (Saks & Neiman Marcus), the introduction of 528 dwelling units (DU), including 228 "Affordable" Housing DU), a proposed 70-room hotel, and an unspecified "private club" with 200 members / 40 employees.

The multifamily residential component is requested through the Florida Live Local Act (Chapter 2023-17 Laws of Florida, which established Section 166.04151(7), Florida Statutes) which require review by the municipality in accordance with the local land development regulations for multifamily developments in areas zoned for such uses. Both the comprehensive plan requirements and the requirements of other land development regulations, including but not limited to setbacks and parking regulations, must be followed, along with all other applicable state and local laws and regulations.

The Village's review and approval of new and/or redevelopment projects is done by professional staff with the assistance of a long-established volunteer Architectural Review Board (ARB). The Village Council, via the Zoning Code, retains certain authority to review and approve specified land development applications (Oceanfront PD projects / B Business District approvals of major site plans). The Village does not have a separate "Administrative Site Plan" process – project reviews are done by the ARB approval of a Certificate of Appropriateness in the districts other than the B District, by the Village Council for new site plans and major site plan amendments in the B District considering the recommendation of the ARB, and by the Village Manager for minor site plans and aesthetic reviews in the B District considering the recommendation of the ARB. Therefore, the B District's minor site plan process, with the requirement for the review and recommendation of the ARB and then Village Manager approval, is most similar to an administrative approval process under the new state law and will be followed for this submission. The Village's ARB application form will need to be filled out and submitted along with the specified submittal documents associated with it. Finally, the Village Code contains specified submittal requirements for development in the "B" Business District; certain of these submittals are missing as specified below.

Because of the size and low rate of development activity within the Village, the community engages the services of consultants to perform certain functions such as Planning and Zoning, Engineering and Legal services. The Village's Building Department staff coordinates all land development activities.

Michael Miller Planning Associates, Inc. (MMPA) has functioned as the Village Planning and Zoning staff for many years. One of their primary functions is to assist in the review and processing of land development requests.

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As the Village receives land development requests, the applications are forwarded to their offices for an initial completeness review to ensure all of the minimum Code and supplemental information is provided. The Village seeks to make informed decisions and needs a certain amount of information to make such decisions.

The Village staff and MMPA has inspected the information submitted with your recent application and finds that **the application package is INCOMPLETE** at this time, as some of the documents are incomplete or missing. The initial application package contained a Village Planning Application form, a boundary survey, proposed Site Development Plans dated January 5th, 2024, including preliminary building elevations, floor plans, preliminary landscape plans and a photometric plan. However, the application package does not contain several of the information items specified in the Village's Code and site plan checklist. Following is an initial listing of the missing information and/or details that must be provided in order to have a complete submission:

Missing / Insufficient Information / Request for Information:

As an overall observation, we note that the set of plans submitted is extremely vague and conceptual and insufficient to allow an adequate review. In order for the Village to properly review and render a decision on the application pursuant to all regulations, more information is required. The following is a summary of the needed information:

- 1) **Traffic Study Missing / Required.** Section 21-320 of the "B" Business District requires the submission of a detailed Traffic Survey / Study for any major Site Plan submission. None was provided. Therefore, the application is deemed incomplete.
- 2) **Infrastructure Analysis** - The Village's infrastructure system (potable water / sanitary sewer / pumps / etc. was designed and sized for the current land uses in the Village. The proposed new uses are unexpected and likely negatively impact the Village / WASAD. BHS has struggled to get a sewer allocation adequate to its currently approved expansion, which suggests there could be substantial issues with the adequacy of infrastructure for the proposed development. Provide an Infrastructure Analysis identifying the impact of the proposals and the proposed mitigation of any impact. Therefore, the application is deemed incomplete.
- 3) **Hurricane Evacuation Study from Coastal High Hazard Area (CHHA)** - State law, the SFRPC Regional Plan and Village Comprehensive Plan heavily discourages and prohibits any new permanent residential density on the coastal barrier islands, due to the limited roadways / clearance times to evacuate people from the coastal barrier islands for Hurricanes / Tropical Storms. Provide an analysis of the expected impacts to evacuation times to the Village and surrounding communities given the limited evacuation routes and facilities. Therefore, the application is deemed incomplete.

- 4) Parking Study / Parking Operational Plan** – The application proposes a significant increase in total area to the site, as well as new uses. The application appears to propose additional parking structures. However, no parking analysis accompanies the proposal. The plans show parking garages at the base of Buildings “L” and “K” but no parking at all in Building “Z”. Required parking is required to be part of a development, be designated by land use type, and be easily accessible. There is no parking operational plan or explanation as to how the parking will occur by land use type. Provide a Parking Study conducted by professional parking consultants, identifying where parking for each land use type / building is anticipated. Provide a Parking Operational Plan setting forth how / where / hours of parking / vehicle stacking for the Village’s consideration. Therefore, the application is deemed incomplete.
- 5) Public School Impacts** – Due to the proposed affordable / market rate residential uses, a number of school-aged children will likely occupy the site. Provide a MDPS impact report. Therefore, the application is deemed incomplete.
- 6) Public Safety Impacts** – Due to the proposed residential / transient uses there is expected to be an impact on the Village’s Police & MD Fire Departments. There are Concurrency LOS in the Comprehensive Plan. Provide an analysis of the expected impacts. Mitigation may be required. Therefore, the application is deemed incomplete.
- 7) Dwelling Unit Details** – The application does not include floor plan layouts, and no room layouts (BR / kitchen / living room / baths / etc.). or unit square footage. Nor do the Plans indicate what level of affordability is contemplated. Although there are currently no LDRs in the “B” Business District for residential uses, based on the proposal assumption that the density from the highest residential category (OF) is being used, the minimum DU square footage from that district will also be used. Zoning Code Section 21-289 sets forth the minimum DU square footage by bedroom type in OF, and similar requirements apply in all residential zoning districts. Revise Sheet Z-001 to include basic Zoning information of required / provided DU sizes. Provide more detailed floor plan layouts for all areas. For each residential building, list in the table the proposed number of dwelling units. Therefore, the application is deemed incomplete.
- 8) Affordable Housing Details** – While conceptual plans are submitted, due to the use of the Live Local Act residential use allowance, more detail is required to ensure the “Affordable” housing units will be preserved for the mandatory 30-year timeframe. Provide more details on covenants. Also missing are the details of the proposed housing: what level of affordability is proposed, and what is the configuration of units and unit sizes? Therefore, the application is deemed incomplete.

- 9) **Village Application Fee** – A personal check from an employee of BHS was submitted with the application. This needs to be a corporate check.
- 10) **Flood Impacts (FEMA / Storm Surge / Sea Level Rise)** – An analysis of the impacts of this very dense development needs to be provided.
- 11) **Parks & Open Space Impacts** - The adopted Level of Service (LOS) in Miami-Dade County (applies in each municipality) for parks & open space is 2.75 acres per 1,000 permanent resident population. Based on the 528 DU proposed, it can be expected that the Village will experience a significant increase in its population. An analysis of the expected impacts is required, as well as mitigation measures if there is a deficiency. Therefore, the application is deemed incomplete.
- 12) **Concurrency Analysis** – Section 14-8 of the Village Code sets forth the Concurrency analysis requirements for new development in the community. A concurrency Impact Analysis Report (IAR) for each listed infrastructure item is required for a site plan application. No IAR was submitted as required. Therefore, the application is deemed incomplete.
- 13) **Civil Engineering Plans** - No preliminary Civil Engineering plans were submitted as required (water / sewer / drainage / parking lots & pavement). Therefore, the application is deemed incomplete.
- 14) **Major Anchor Outparcels** – It is our understanding that the major anchor stores at the Shops (Saks Fifth Ave. / Neiman Marcus) have long-term leases with many years remaining. The site plan shows the elimination of those major anchor stores with new land uses. The Village has received correspondence from Saks expressing that they have not been consulted about the proposal and are objecting to this request. We are unaware of the situation with regard to Neiman Marcus. Provide documentation that the two (2) leaseholders have been informed and have consented to the application, so that it is properly authorized. Therefore, the application is deemed incomplete.
- 15) **Shadow Study** – As this request involves the possibility of high-rise buildings on the BHS site, which is limited via the Zoning Code and Village Charter to 56' in height (exception for 42,600 sq. ft. carve out area at 69'), when the Village receives OF Oceanfront site plan applications, a Shadow Study has been required to demonstrate the impacts of shadows at different times of the year / day from the proposed high-rise structure. Due to the proximity of the BHS site to low density single-family homes and low-density multifamily developments in the gated area, the Village requires a Shadow Study for the proposed high-rise residential structures. Therefore, the application is deemed incomplete.

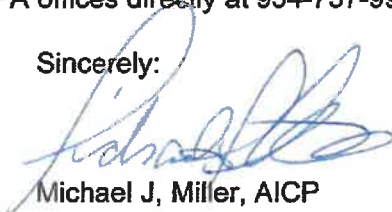
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16) Proposed Development Agreement - The Zoning Code (Sec. 21-322(h) mandates that, as part of a Major Site Plan application, a Development Agreement (DA) is required to be approved and recorded in the public records memorializing the exact type & site design of the project, and any required conditions / terms. No proposed Development Agreement was submitted. Therefore, the application is deemed incomplete.

Again, the Village has determined that the initial application is **INCOMPLETE** at this time. The Village has attempted to list the missing informational items and address what we feel will be the most important design issues for this petition. There likely will be additional issues or questions that could arise from the review of the additional material and information requested. Please address all of the submittal completeness deficiencies. Upon receipt and review of the above missing or incomplete items, the Village may find they are not adequate to address the incomplete determination and may request further information. Please revise the plan set, and provide the missing documents required as part of the Village's local land development regulations.

Please feel free to contact the Village Building Department at 305-865-7525 or the MMPA offices directly at 954-757-9909 to discuss the issues or answer questions.

Sincerely:



Michael J. Miller, AICP
Consultant Village Planner

CC: Jorge M. Gonzalez – Village Manager
Eliezer Palacio – Village Building Official
Susan L. Trevarthen, Esq. – Village Attorney