

BAL HARBOUR

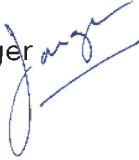
- V I L L A G E -

OFFICE OF THE VILLAGE MANAGER

LETTER TO COUNCIL

NO. 058-2024

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

From: Jorge M. Gonzalez, Village Manager 

Date: April 5, 2024

Subject: **Bal Harbour Shops Site Development Plan Application - #2 Completeness Review Revisions - 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, even though some required documentation has been received. Therefore, the review process cannot 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. tact me.

BAL HARBOUR

- V I L L A G E -

ELIEZER PALACIO
BUILDING OFFICIAL

April 3, 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

April 3rd, 2024

Re: Site Development Plan Application - #2 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 Mr. Shubin,

Bal Harbour Village is in receipt of your correspondence dated March 5, 2024, Re: Response to the February 7, 2024, Bal Harbour Village Letter entitled "*Site Development Plan Application – Initial Completeness Review Revisions to Approved Bal Harbour Shops Master Site Plan.*" The material provided has been reviewed for completeness pursuant to state and local regulations.

As you know, upon receipt of the initial application on January 9th, 2024, the Village staff and MMPA inspected the information submitted with the application and found that the application package was **INCOMPLETE**, as some of the required documents were incomplete or missing. On February 7th, 2024, the Village issued its initial application "Completeness" letter to the applicant detailing the missing documents, information, and analysis. On March 5th, 2024, the Village received a response letter from the applicant's law firm but only some of the missing information listed in the Village's initial letter was provided.

The Village disagrees with your assertion under Section I. of your letter that MMPA fails to comply with the "Particularity" requirement of Section 166.033(1), Florida Statute. However, by voluntarily agreeing to respond to your March 5, 2024, supplemental submission and voluntarily providing additional information, Bal Harbour Village does not waive and expressly reserves all of its rights in this matter.

Your correspondence also asserts that the January 9, 2024, submission is not a "Site Development Plan review and approval for major revisions"; however, page G-001 of the submission material titles the submission as a "Major Site Plan Amendment". In addition, pursuant to Section 21-322(a)(4), a site plan application is presumed to be a major site plan. Section 21-322(b) further provides that the application shall be in a form prescribed by the Village Manager or designee. Therefore, the materials requested in our February 7, 2024, correspondence remain outstanding, in order to finalize our "Completeness Review."

The Village acknowledges that additional material has been provided in response to the Completeness Review. However, the application remains **INCOMPLETE**. The application package still does not contain all of the information items specified in the February 7, 2024, Initial Completeness Review, the Village's Comprehensive Plan, the Village Code and the Site Plan submittal checklist. Below is a summary of your application and the still outstanding items. For ease of reference, it is organized in a similar format as was used for the Village's February 7, 2024, correspondence. In order to proceed with the review of your submission, a complete application is required. Please provide the material identified.

Missing/ Insufficient Information/ Request for Information:

As an overall observation, we note that the set of plans submitted continues to be 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.

- 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.

Update – Received March 5, 2024. Upon the Village’s review, additional information and analysis may be necessary.

- 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 / WASD. 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.

Update – Received March 5, 2024. Upon the Village’s review, additional information and analysis may be necessary.

- 3) **Hurricane Evacuation Study from Coastal High Hazard Area (CHHA)** - State law, the SFRPC Regional Plan, and Village Comprehensive Plan heavily discourage and prohibit 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.

Update – INCOMPLETE - Not Received March 5, 2024. Please refer to Sec. 163.3178(2)(d), Florida Statutes, and the Village’s adopted Comprehensive Plan (CME Goal 2 and implementing Objectives and Policies) which can be found on the Florida Papers website, <https://flcom.my.salesforce-sites.com/papers>

- 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 parking 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.

Update – INCOMPLETE - Not Received March 5, 2024. Please refer to Village Code Sec. 21-385(q), and the 2017 Development Agreement.

- 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 MDCPS impact report. Therefore, the application is deemed incomplete.

Update – INCOMPLETE - Not Received March 5, 2024. The Village staff will contact the Miami-Dade County School District to obtain an analysis of the proposed project’s impact on public schools. Upon the Village’s receipt and review of the School District analysis, additional information and analysis may be necessary.

- 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.

Update – INCOMPLETE - Not Received March 5, 2024. Please refer to Village Code Sec. 21-322(f)(4) and Sec. 14-8(a).

- 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.

Update – Received March 5, 2024. Upon the Village's review, additional information and analysis may be necessary.

- 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.

Update – INCOMPLETE - Not Received March 5, 2024. Sec. 166.04151(7), Florida Statutes, entitled Affordable Housing (LLA), requires at least 40% of the proposed dwelling units to be "Affordable," as defined by Section 420.0004, Florida Statutes, for a minimum of 30 years. An analysis is required to illustrate the expected occupant characteristics, and how many Very Low Income / Low Income / Moderate Income units are proposed. Please refer to Village Code Sec. 21-322(i)(5).

- 9) **Village Application Fee** - A personal check from an employee of BHS was submitted with the application. This needs to be a corporate check.

Update – INCOMPLETE – Not Received March 5, 2024. Please provide a corporate check for the \$3,500 application fee to the Village together with your next correspondence/submission.

- 10) **Flood Impacts (FEMA / Storm Surge/ Sea Level Rise)** An analysis of the impacts of this very dense development needs to be provided.

Update – INCOMPLETE – Not Received March 5, 2024. Please refer to the Village's adopted Comprehensive Plan (Goals, implementing Objectives and Policies) Future Land Use Element (FLUE) 2nd Goal, 4th Objective, 5th Policy which can be found on the Florida Papers website <https://flcom.my.salesforce-sites.com/papers> and the Village's Site Plan Submission Checklist.

- 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.

Update – Received March 5, 2024. Upon the Village's review, additional information and analysis may be necessary.

- 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.

Update – Received March 5, 2024. Upon the Village's review, additional information and analysis may be necessary.

- 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.

Update – INCOMPLETE - Not Received March 5, 2024. The submitted plans do not include any preliminary water / sewer / drainage plans or calculations; there is only a partial parking lot layout plan (Sheet C-140). Please refer to the Village Code Section 21-322(b) and the Village's Site Plan Application Checklist.

- 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.

Update – INCOMPLETE – Not Received March 5, 2024. Please refer to the Village Code Sections 21-322 and 21-51(a).

- 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.

Update – INCOMPLETE - Not Received March 5, 2024. Please refer to the Village Code Section 21-322 and the Village's Site Plan Application Checklist.

- 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.

Update – INCOMPLETE - Not Received March 5, 2024. Please refer to the Village Code Section 21-322(h) and Section 163.3221 Florida Statutes entitled Florida Local Government Development Agreement Act for purpose, contents, and legal effect. The proposed application will require an amendment to the Development Agreement. Please provide the suggested amendments required to complete the project proposed in your application.

Again, the Village has determined that the initial application remains **INCOMPLETE** at this time. Please address all of the submittal completeness deficiencies. The Village has attempted to list the missing informational items and address what we feel will be the most important design issues for this application. 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 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.

Sincerely,



Michael Miller

cc: Jorge Gonzalez, Village Manager
Eliezer Palacio, Village Building Official
Susan Trevarthen, Village Attorney